

# **CITY OF WELLSVILLE, KANSAS**

## **ZONING REGULATIONS**



Adopted by:  
The Wellsville City Council

Ordinance Number: \_\_\_\_\_

DATE: \_\_\_\_\_

Prepared by:  
The Wellsville Planning Department  
and  
The Wellsville Planning Commission

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## **ARTICLE ONE WELLSVILLE METROPOLITAN PLANNING COMMISSION**

### **18.100 Planning Commission Created**

There is hereby created the Wellsville Metropolitan Planning Commission as authorized by K.S.A. 12-744 through 747, as amended. The term Planning Commission as it appears in the following sections shall mean the Wellsville Metropolitan Planning Commission.

### **18.101 Membership**

The Planning Commission shall consist of seven members. Two members must reside in Franklin County outside of but within three miles of the corporate limits of the city. (K.S.A. 12-744) Every member must be a resident of Franklin County and shall hold no salaried or elected office with either the city or county government. Members shall serve without compensation, but they may be reimbursed for expenses incurred in the performance of assigned duties.

### **18.102 Terms**

- A. For the initial appointment, the city shall have three appointees whose terms shall be for one year, three appointees whose terms shall be two years, and one appointee whose term shall be three years. Thereafter all appointments shall be for terms of three years, except that appointments made to fill a vacancy that occurs before the expiration of a member's term shall be for the remainder of that expired term on. Members whose terms have expired shall serve until their successors have been re-appointed according to City Ordinances.
- B. The terms of the original members of the Planning Commission shall commence on the 1st meeting in June, and shall expire on the 1st day of June of the year for which the term is completed; election of officers (chairman and vice-chairman) will take place at this meeting.
- C. The Commission shall adopt bylaws and have them approved by the City Council.

### **18.103 Meetings / Officers**

- A. The Planning Commission shall elect officers and determine times and places of future meetings, which said meeting, shall be not less frequent than once a month. One member shall be elected as Chairperson, and one member as Vice-Chairperson. The terms shall be for one year or until a successor shall have been elected and qualified. The secretary shall be a city employee appointed by the City Council.
- B. Special Meetings may be called by the Chairperson or in the Chairperson's absence, by the Vice-Chairperson. A quorum of the Wellsville Metropolitan Planning Commission shall consist of four members.
- C. Members may be removed by the Mayor and City Council upon written charges and after a public hearing for: failure to follow the defined criteria and / or absences for 3 consecutive meetings.

### **18.104 Powers / Duties**

- A. The Planning Commission shall have such powers and duties as are authorized by state law, and provide herein. The primary function is as follows:
  - 1. Review of applications for rezoning;
    - a. Procedures located in [18-2218 through 18-2223](#)
  - 2. Review Site Plans
    - a. Procedures located in [18-2211 through 18-2217](#)
  - 3. Review plats
    - a. Procedures located in Subdivision Regulations.
  - 4. Review Uses Permitted Upon Review

- a. Procedures located in [18-2224 through 18-2228](#)
- 5. Responsible for the preparation, adoption, and maintenance of long-range comprehensive plans to guide the future development of the Wellsville City land area.
  - a. The Comprehensive Plan must be reviewed at least once each year. The Planning Commission shall review or reconsider the plan or any part thereof and may propose amendment to the same.
  - b. The procedure for adoption of any such amendment shall be the same as required for the adoption of the original plan. However, the Planning Commission shall inform the City Council of any recommendation made. It shall become effective upon publication of the respective adopting ordinance by the City Council.
  - c. A copy of the Comprehensive Plan shall be made available to the general public for a fee that is on file at the City Hall.

**18-105 Rezoning District**

- A. The Planning Commission may recommend that the City Council rezone property into only those zoning districts that are expressly authorized to be permitted within the City.
- B. No rezoning shall be granted unless it complies with all of the applicable provisions of these regulations.

**18-106 Rezoning District: Criteria For Change**

- A. Each of the following criteria must be examined so that a finding of fact concerning each point can be presented at the public hearing and reported to the City Council. The following issues are examined to make a decision:
  - 1. The character of the neighborhood;
  - 2. The zoning and uses of properties nearby,
  - 3. The suitability of the subject property for the uses to which it has been restricted;
  - 4. The extent to which removal of the restriction will detrimentally affect nearby property;
  - 5. The length of time the subject property has remained vacant as zoned;
  - 6. The relative gain to the public health, safety, and welfare to the hardship imposed upon the individual landowner; and
  - 7. If the zoning is in keeping with the Comprehensive Plan.
  - 8. The recommendation of the Planning Director
- B. The Planning Commission may require additional items:
  - 1. Is the proposed amendment requested because of changed or changing conditions in the area affected and, if so, what is the change?
  - 2. Is the subject property suitable for the uses that are permitted by the proposed district reclassification?
  - 3. Would the proposed amendment correct an error in the application of these regulations as applied to the subject property?
  - 4. Do adequate utilities and streets exist or will they be provided to serve the uses that would be permitted by the proposed district reclassification?
  - 5. Does the subject property need to be platted or replatted for dedications of right-of-way, easements, access control or building setbacks?
  - 6. Should a screening plan be required and, if so, what criteria should be used?

7. In the event the subject property as reclassified would be available for business or industrial uses, are such uses, particularly in the vicinity of the subject property, desirable to provide business or industrial services or employment opportunities?
8. Is the general amount of vacant land that currently has the same district classification as is proposed for the subject property, particularly in the vicinity of the subject property, available for development?

C. Application information and procedures are located in [18-2218 through 18-2223](#)

**18-107 Uses Permitted Upon Review**

- A. The Planning Commission may recommend to the City Council that it issue a UPR for only those UPR's that are expressly authorized to be permitted in a particular zoning district or in one or more zoning districts.
- B. No UPR shall be granted unless it complies with all of the applicable provisions of these regulations.
- C. Specific examples of UPR's are in [Article 16](#), while those that may be allowed within a district are stated in District tables located in [18-609](#), [18-706](#), [18-807](#)

**18-108 Uses Permitted Upon Review: Guidelines for Review**

- A. In order to accomplish the purpose and intent of the zoning ordinance, it is necessary to give special consideration to certain uses because they are unique in nature, require large land areas, require greater density, are potentially incompatible with existing development or because effects of such uses cannot definitely be foreseen, or more intensely dominate the area in which they are located than do other uses permitted in the district. However, the nature of such use makes it desirable that it be permitted to locate therein. Therefore, these uses must be specifically placed into the development pattern, which exists at the time of their arrival.
- B. In order to properly review the proposed "Uses Permitted Upon Review," the following guidelines shall be used by the Planning Commission and City Council in considering the application:
  1. The proposed use and site plans conform to the purpose and intent of this ordinance; and
  2. The proposed use and site plan will not under the circumstances of the particular case regarding setback, height, density, and similar aspects be objectionable or be detrimental to the general welfare of the community and neighborhood in which it is proposed to be located.

**18-109 Uses Permitted Upon Review: Application**

For procedures see [18-2224 through 18-2228](#)

**18-110 Uses Permitted Upon Review Hearing and Notice**

A hearing on the application for a UPR shall be held and notice thereof given as specified in [18-2225 through 18-2226](#)

**18-111 Uses Permitted Upon Review: Standards**

- A. The Planning Commission may recommend that the City Council issue a UPR when the Planning Commission makes specific written findings of fact based upon the particular evidence presented to it at the hearing which support conclusions that:
  1. The proposed Use Permitted Upon Review complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards, unless a concurrent application is in process for a variance.
  2. The proposed Use Permitted Upon Review will not cause substantial injury to the value of other property in the neighborhood and is compatible with existing land use.
  3. The location and size of the Use Permitted Upon Review, the nature and intensity of the operation involved in or conducted in connection with it, and location of the site with respect to streets giving access to it are such that the Use Permitted Upon Review will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in

accordance with the applicable zoning district regulations. In determining whether the Use Permitted Upon Review will so dominate the immediate neighborhood, consideration shall be given to:

- a. The location, nature and height of buildings, structures, walls and fences on the site; the hours of operation; and
  - b. The nature and extent of landscaping and screening on the site.
4. Off-street parking and loading areas will be provided in accordance with the standards set for in [Article 17](#) of these regulations. Such areas may be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
  5. Adequate utility, drainage, streets, sidewalks and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
  6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
  7. Orderly land use planning will be achieved in keeping with the goals and proposals of the Comprehensive Plan.

**18-112**

**Uses Permitted Upon Review: Conditions**

- A. In recommending a UPR, the Planning Commission may advocate that the City Council attach such conditions upon the premises and/or the applicant benefited by the UPR as may be necessary to comply with the standards set out in this Article to reduce or minimize any potentially injurious affect upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Such conditions may include, but not be limited to:
  1. Further restrictions on bulk regulations;
  2. Time of operation and ownership limitations;
  3. Screening, landscaping and fencing;
  4. Provision of utilities, drainage, streets, sidewalks and other public improvements;
  5. Additional access or access control;
  6. Off-street parking and loading requirements; and
  7. Platting, dedications and/or guarantees such as bonding.

After a building permit and/or occupancy certificate is issued for the Use Permitted Upon Review, failure to comply with any of the conditions placed on such use shall constitute a violation of these regulations.

- B. In lieu of actual construction of a required off-street parking lot or the initial provisions for screening, the City Council may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the City Council and conditioned upon actual completion of such improvement within a specified time. Such securities shall be filed with the City Clerk. The City Council may enforce such securities by all equitable means.

**18-113**

**Uses Permitted Upon Review: Off-Street Parking Separated from Structure Use**

- A. In order to provide for off-street parking spaces on a parking area separated from the same zoning lot as the principal or an accessory structure or use served, the Planning Commission may recommend that the City Council issue a UPR permit for the establishment of parking areas in any zoning district under the following provisions:
  1. Location - Parking provided under this section must be within 300 feet (along lines of public access) from the boundary of the use for which the parking is provided.
  2. Uses - The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment,

materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

3. Must adhere to all items in [Article 14](#) and [Article 17](#)
4. The Commission shall determine the necessity of additional improvements in order to protect adjacent property owners and the public interest. Such improvements shall include, but not be limited to proper drainage, setbacks, screening wall, grass, shrubs, trees and the maintenance thereof; and the extent of access permitted to the public streets or alleys.

**18-114 Uses Permitted Upon Review: Decisions and Records**

Based upon a majority vote of all of the members, the Planning Commission shall render a written decision containing specific findings of fact on an application for a UPR without unreasonable delay after the close of the hearing, but in all cases within 45 days from the close of the hearing. The Building Inspector shall maintain complete records of all actions of the Planning Commission with respect to applications for UPR's.

**18-115 Uses Permitted Upon Review: Period of Validity**

- A. No UPR granted by the City Council shall be valid for a period longer than 180 days from the date on which the Council grants the UPR, unless within such period: A building permit is obtained and the requested UPR is started; An occupancy certificate is obtained and a use commenced.
- B. The Planning Commission may grant additional extensions not exceeding 180 days each, upon written application, without further notice of a hearing.

**18-116 Uses Permitted Upon Review: Temporary Uses**

- A. The following uses of land are permitted in each district upon review and finding by the Planning Director or the City Council that proposed use is in the public interest:
  1. Permits for carnivals, circuses, musical festivals or similar outdoor events may be approved with conditions by the City Council. Such uses need not comply with the bulk of lot size 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 30 feet of the intersection of the curb line of any two streets.
  2. Christmas tree sales in any business or industrial district for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations; provided that no trees shall be placed in such a manner as to obstruct the vision of traffic within 30 feet of the intersection of the curb line of any two streets.
  3. Contractor's office and equipment sheds or mobile homes accessory to a construction project and to continue only during the duration of such project.
  4. Seasonal sale of farm produces grown on the premises in a single-family residential district to continue for not more than six months per year. Structures incidental to such sale need not comply with the applicable front yard requirements.
  5. Periodic conduct of what is commonly called "garage or yard sales" which do not exceed a period of more than three days at any one sale and no more than four sales at a dwelling during any calendar year.
  6. Promotional activities of retail merchants involving the display of merchandise may be conducted outside of enclosed buildings for a period of not more than two consecutive weeks in any three month period subject to the following conditions:
    - a. No portion of the display shall be on publicly owned property unless the applicant shall first have obtained approval for such use from the City; and
    - b. These provisions shall in no way be deemed to authorize the outdoor display or the sale of used furniture, used appliances, used plumbing, used housewares, used building material or similar display or sale in the C-1 Central Business District and only in other business and

industrial districts as may be authorized by the City Council as a Use Permitted Upon Review unless permitted by other sections of these regulations.

7. Recycling centers, small and large, periodically operated not for profit in business and industrial districts only for not more than 10 days in one period and for no more than three times during any 12-month period consistent with adequate provisions for public health and safety.
- B. Filing Fee as stated in Article 18-2238, will accompany the application submission for permits, which require approval by the City Council.
- C. The Planning Department shall review said application for conformity with the Zoning Ordinance.
- D. The Planning Director may recommend approval / disapproval of an application to the City Council. In approving a "Temporary Use Permitted Upon Review" the Planning Department or the City Council may impose any reasonable condition relative to location, character or other feature of the proposed use. Those conditions imposed shall be in addition to any condition imposed by the Zoning Ordinance on a particular temporary use.
- E. When, in the judgment of the Planning Department, the use proposed has characteristics that may impact adjacent properties, notice shall be given to adjacent property owners prior to final action on the application.

**18-117 Annual Budget**

The Planning Commission shall prepare an annual budget and submit it to the City Council for the expenses and costs of staff services, office space, equipment, contractual services, and other relevant expenses required to carry out the purposes and functions of the Planning Commission.



## **ARTICLE TWO: ZONING ORDINANCE**

### **18.200 Title**

These regulations herein, including the zoning district map(s) made a part thereof shall be known and may be cited as the "Zoning Regulations of the City of Wellsville, Kansas" and shall hereinafter be referred to as "these regulations."

### **18.201 Purpose**

A. The general purpose of this chapter are enacted to:

1. Promote the health, safety, morals, and general welfare of the Wellsville community and specifically to:
  - a. Lessen congestion in the streets;
  - b. Secure safety from fire, flood and other dangers;
  - c. Provide adequate light and air;
  - d. Prevent the overcrowding of land and undue concentration of population;
  - e. Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
  - f. Protect property against blight and depreciation;
  - g. Protect the tax base;
  - h. Secure economy in governmental expenditures; and
  - i. Protection from environmental hazards

### **18.202 Authority**

The regulations set forth herein are adopted under authority established by K.S.A. 12-741et seq., as amended, and other relevant portions of the Kansas statutes, and it is intended to exercise broadly the powers granted to the City.

### **18.203 Zoning Jurisdiction**

These regulations shall apply to all structures and land within the corporate limits of the City of Wellsville as presently exists or is hereafter established and within the following land descriptions which are located outside of the City; however, that such land is not otherwise zoned by a resolution of the Franklin County Board of County Commissioners: The City of Wellsville contains the following area: Ordinance No. 627 (legal description)

### **ARTICLE THREE: ZONING DISTRICTS**

#### **18.300 Zoning Districts Established**

A. Zoning districts are hereby established for the City of Wellsville. These districts are designated as follows:

1. Residential Districts:
  - a. R-1: Single Family Residential
  - b. R-2: Duplex Residential
  - c. R-3 Multiple-Family Dwelling Residential
  - d. (left open for future use)
2. Commercial Districts:
  - a. C-1: Neighborhood Retail
  - b. C-2: General Commercial
3. Industrial Districts:
  - a. I-1: Light Industrial
  - b. I-2: Heavy Industrial
  - c. I-3 Industrial Park
4. Mixed Use Districts:
  - a. MRC: Mixed-Residential and Commercial
5. Floodplain Overlay District
  - a. FW: Floodway Overlay District
  - b. FF: Floodway Fringe Overlay District
6. Central Business Overlay District
7. Highway 33 Overlay District

#### **18.301 Combined Zoning Districts**

A. Elsewhere in this ordinance, including the table showing permitted uses by district and district regulations, certain districts are grouped and represented as a single district. The combined districts and the component districts of which they are composed are as follows:

1. Combined District	Component District
MRC – Mixed Residential & Commercial	R-2
	R-3
	C-1
	C-2

C

B. Whenever in this chapter there is a reference to the district described above as a "Combined District," the reference is to all the component districts, which together constitute the combined district.

**ARTICLE FOUR: ZONING DISTRICTS MAP, BOUNDARIES and ANNEXED AREAS**

**18.400 Zoning District Map**

- A. The Boundaries of the zoning districts are hereby established as shown on the Wellsville City Map designated as the "Wellsville Zoning District Map", and said map is hereby made a part of this ordinance. A copy of said map will be kept on file in the Office of the City Clerk.
- B. The map and all notions, references, data and other information shown thereon shall be and are hereby adopted and made a part of this chapter.
- C. The Floodplain Overlay District Map shall be read in conjunction with the zoning map for areas lying within the regulatory floodplain. The standards and regulation in Article Ten of this chapter shall be imposed in addition to the underlying zoning restrictions when an area is within the regulatory floodplain

**18.401 Zoning District: Boundaries**

- A. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the zoning map, the following rules shall apply:
  - 1. The district boundaries are the center lines of streets or alleys or specified distance therefrom;
  - 2. Railroad right-of-way lines, or property lines as they existed at the time of the enactment of this ordinance;
  - 3. Floodway and floodway fringe overlay district boundaries shall be the same as provided by in the Flood Insurance Administration (FIA) on the Flood Insurance Rate Maps. Actual ground location of floodway and floodway fringe boundaries shall be determined by the developer by field survey using the reference marks and/or vertical controls provided by the F.I.A. study.

**18.402 Zoning District: Interpretation of Boundaries**

- A. Where uncertainty exists as to the boundaries of the zoning districts or when the street or property existing on the ground is at variance with that shown on the zoning districts map, the Planning Director, upon written application or upon its own motion, shall determine the location of such boundaries. In cases where the interpretation is contested, the Board of Zoning Appeals upon written application shall resolve the dispute.
- B. Where interpretation of floodway or floodway fringe overlay district boundaries are disputed, the Planning Director shall make the necessary interpretation. In cases where the interpretation is contested, the Board of Zoning Appeals upon written application shall resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the District boundary on the land.

**18.403 Zoning: Annexed Areas**

- A. All territory, which may hereafter be included within the zoning jurisdiction of the City of Wellsville, shall be immediately classified into the most restrictive zoning district currently contained within these Zoning Regulations at the point of annexation.



## **ARTICLE FIVE: SUPPLEMENTAL REQUIREMENTS**

### **18.500 General Provisions**

- A. No zoning permit shall be issued for any development or use of land unless the activity is in compliance with all applicable supplementary use regulations specified in this Section.
- B. In the case of conflict with zoning district dimensional regulations or other regulation of this Zoning Code, the more restrictive requirement shall apply unless otherwise specifically provided or clearly intended.

### **18.501 Existing Lots of Record**

- A. An individual lot that existed as a platted or an unplatted parcel recorded in the Franklin County Register of Deeds office prior to Jan 1, 2000 which has less than the required minimum lot area, lot width, or lot depth, and where no adjoining undeveloped land fronting on the same street was under the same ownership on said date, may be occupied according to the permitted uses of the district on which the lot is located. The following provisions are allowed:
  - 1. The minimum lot area per dwelling unit requirement in the R-1, R-2 Districts may be reduced up to 20 percent.
  - 2. In all zoning districts all front, side and rear yard requirement shall be met; and
  - 3. All of the requirements of this Chapter, or amendments thereto, shall be complied with.

### **18.502 Number of Structures and Uses on a Zoning Lot**

- A. Where a lot or tract is used for other than a single-family or two-family dwellings, more than one principal use and structure may be located upon the lot or tract, but only when the structure or structures conform to all requirements for the district in which the lot or tract is located.

### **18.503 Front Yard Exceptions and Modifications**

- A. Where established yards for existing platted lots or tracts of record existing prior to Jan 1, 2000 differ from required yard provision the following exceptions and modification apply:
  - 1. In any district where 35 percent or more of the frontage on one side a street between 2 intersecting streets is improved with building whose front yards do not vary more than 10 feet from the required front yards of that district, any new building erected may conform with the average front yard so established by the existing buildings.
  - 2. In determining the percentage of frontage that is developed, the widths of developed lots shall be used.
  - 3. In determining the average front yard, the widths of building fronting on the street shall be used.

### **18.504 Rear Yard Exceptions and Modifications**

- A. In computing the required depth of a rear yard for any building where such yard abuts on an alley, the depth of the lot may be considered as extending to the center of said alley, and the required depth of the rear yard as being measured from the centerline of said alley.
- B. On the corner lots in R-1 and R-2 Districts, the owner may, at his or her option, locate a structure at an angle with the long axis of the lot so that it faces the intersecting street lines. In such cases, the front and side yards shall be as required in [Article 18-607](#).
- C. In the R-1, R-2, and R-3 Districts, a principal building may be located no closer than 20 feet to the nearest property line opposite the front line, provided that the rear yard area is no less than 30 percent of the total lot area.
- D. Covered porches, whether enclosed or unenclosed, shall be considered a part of the building and shall not project into the required rear yard.

**18.505 Side Yard Exceptions and Modifications**

- A. The distance between residential structures on the same lot may be varied, when authorized by the Board of Zoning Appeals, where the side wall of a residence is not parallel with the side wall of the adjacent residence or is broken or otherwise irregular. In such case the average distance between residences shall not be less than the otherwise required least distance; provided that such distance shall not be less at any point than  $\frac{1}{2}$  of the otherwise required distance.
- B. The width of one side yard may be reduced, when authorized by the Board of Zoning Appeals, to a width not less than 4 feet; provided further that the sum of the widths of the 2 side yards on the same lot is not less than the combined required minimum for both side yards. Such reduction may be authorized only when the Board finds it to be warranted by the location of existing buildings or conducive to the desirable development of 2 or more lots.

**18.506 (left open for future use)**

**18.507 Sight Triangle**

- A. An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2 to 2  $\frac{1}{2}$  feet and 8 feet above the grades of the outside edge of the street surface of the intersecting streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets.
- B. All driveways and sidewalks access points shall have at least a 25 feet visual.
- C. The City Engineer shall establish sight distance triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO).

**18.508 Access to Business and Industrial Districts**

- A. No land, which is located in a Residential District (R-1, R-2, or R-3), shall be used for a driveway; walkway or access to any land which is located in any business or industrial district.

**18.509 Determination of Structure Setback line**

- A. The structure setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure.

**18.510 Projections Beyond Determined Setback Lines**

- A. Exception may be made for certain architectural projections listed below may extend beyond the structure setback line, subject to the following conditions:
  - 1. Canopies and/or awnings may be permitted to overhang a public way in any commercial or industrial district provided that they meet the conditions as stated in [Article 18-505](#) and [Article 18-1908](#).

**18.511 Height**

- A. No part of any structure shall project through such building plane except:
  - 1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located; and signs where permitted by [Article 19](#).
  - 2. Flag poles, water towers and tanks, steeples and bell towers, carillons, monuments, cupolas, electric transmission line towers, wind energy conversion systems outside the City only; and communication structures, antennas (not satellite) and aerials which do not exceed 60 feet in height in agricultural, business and industrial districts only. In all districts, applicants may

apply to the Planning Commission for a UPR permit to exceed the height limitations for such communication structures, antennas and aerials.

**18.512 Common Open Space**

- A. Common open space shall be substantially free of structures, but may contain such improvements as are approved as a part of the Site plan and are appropriate for the recreation of residents of the planned unit development.

**18.513 Fences**

- A. No fence shall be constructed which will constitute a traffic hazard.
- B. No fence shall be constructed in such a manner or be of such design, that would be hazardous or dangerous to persons or animals.
- C. Principal fence construction materials shall include wood, vinyl, chain link, wrought iron, aluminum, or masonry materials. Metal sheeting manufactured for the purposes of siding or roofing for a principal or accessory structure shall not be allowed for fence construction. Barbed wire fences shall only be permitted in association with an established or proposed agricultural use.
- D. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or which fence shall adversely affect the public health, safety and welfare.
- E. An opaque screen may be required along all lot boundaries where the premises abut areas used for residential uses. Where there is a difference in elevation on opposite sides of the screen, the height shall be measured from the highest elevation.
- F. Fences shall not exceed the following height requirements:
  - 1. Front Yard – 4 feet
  - 2. Side Yard – 8 feet
  - 3. Rear Yard – 8 feet
- G. The Planning Commission may authorize the construction of a fence higher than the above requirements, or the construction of a fence using alternate materials if the Planning Commission finds the alternative height or materials is consistent with the spirit and intent of these regulations and the public welfare is served.
- H. Additional screening information can be found in [Article 18-1806](#).

(Ordinance 799: 8/22/07)

**18.514 Home Occupations**

- A. Home occupations shall be permitted in all districts permitting dwellings.
- B. Further information concerning Home Occupations are located in [18-1412 through 18-1413](#)

**18.515 Swimming Pools**

- A. Public or private swimming pools, bathhouses and hot tubs shall be located at least 10 feet from the nearest property line, or meet the yard setback requirements of the zoning district, whichever is greater.
- B. All private swimming pools, hot tubs and spas shall meet the requirements of Appendix G of the 2003 International Residential Code, as amended by the City of Wellsville.
- C. Bathhouses, pool equipment sheds, spas, and hot tubs shall meet the yard requirements for the zoning district in which they are located.
- D. Additional requirements concerning pools are located in [Section 18-1417](#). (Ordinance 823: 1/13/10)

**18.516 Livestock and Animals**

- A. Keeping livestock in the City shall be restricted by City Code and subject to further regulation by the County Health Officer.
- B. No accessory structure for housing livestock shall be nearer than 50 feet from any side or rear yard lot line.

**18.517 Specific Use Requirements**

**A. Bed and Breakfast**

- 1. Bed and breakfast establishments may be allowed in any district upon issuance of a special use permit and subject to the following conditions:
  - a. The establishment is located in a dwelling unit permanently occupied by the owner or manager, wherein as an accessory use to the residential use, rooms are rented to the public for not more than 14 consecutive nights.
  - b. 2 off-street parking spaces with 1 additional off-street parking space per lodging room shall be provided, and said spaces shall be adequately screened from neighboring property.
  - c. A time period shall be established for each bed and breakfast establishment.
  - d. A limit may be established on the number of lodging rooms allowed.

**B. Clubs, Private**

- 1. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available.
- 2. Alcoholic Beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all applicable federal, State, County and local laws.

**C. Condominium**

- 1. Independent condominium units, as defined in [Article 18-2805](#) may be used for residential, office, business, industrial and other uses as permitted by the respective zoning districts. The contents of the declaration as required by K.S.A. 58-3111 shall also include a provision for the City to carry out the obligation to maintain the common areas and facilities in order to avoid having them become a public nuisance.
- 2. In the event that the City assumes such responsibilities, the costs for such maintenance shall be assessed against the condominium units and shall become a tax lien thereon. The Planning Director must be satisfied that such a provision is included in the declaration before a zoning permit or occupancy certificate will be approved.

**D. Fraternal and /or Service Clubs**

- 1. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. Food, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available.
- 2. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws.

**E. Greenhouse**



1. Retail and wholesale sales are permitted of plants grown, including sales of seeds, fertilizers, pesticides and the like, but not lawn equipment and furniture.

**F. Industrial Park**

1. Such developments are designed, planned, constructed, managed and equipped as an integrated and coordinated facility to accommodate a community of businesses or industries, providing them with all necessary facilities and services with special attention to on-site vehicular circulation, parking, utility needs, open space, and building design and orientation compatible with surrounding buildings.

**G. Manufactured Homes**

1. A structure transportable in one or more sections, which is designed to be used as a dwelling, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities and which is constructed to meet the National Manufactured Home Construction and Safety Standards (HUD, June 15, 1976). For floodplain management and for flood insurance purposes the term "manufactured home" does not include a vehicle which is:
  - a. Built on a chassis;
  - b. Less than 400 square feet when measured at the largest horizontal projection;
  - c. Designed to be self-propelled or permanently towable by a light duty truck;
  - d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreation, camping, travel, or seasonal use.
2. A manufactured home built before 6/15/1976 cannot be moved into the City.
3. Further specifications can be located in the Subdivision Regulations.

**H. Mini Warehouse**

1. Outdoor storage may also be permitted. The operation shall not include a transfer and storage business where the use of vehicles is part of such a business.

**I. Motorized Recreational Vehicle / Trailer**

1. In no case shall any of these vehicles be considered structures for residential use of temporary or permanent nature. This category of trailer is excluded from manufactured home parks.
2. Further information regarding Motorized Recreational Vehicle / Trailer is located in 18-1406.

**J. Recycling Facilities**

1. As distinguished from salvage yards, such materials are limited to aluminum and steel cans, glass, papers and plastic and reusable containers and the like. A center must be maintained in a litter-free condition on a daily basis. The name and phone number of a responsible party must be clearly posted in case a problem occurs. Such a center may be further classified as follows:
  - a. Small recycling collection center: A center for collection containers or reverse vending machines not exceeding 100 square feet in ground area which may be approved by the Zoning Administrator as an accessory use in all institutional business and industrial districts and on church and public property. Such a center may be located in the required front yard in business and industrial districts and on public property if proper vehicular safety and parking standards can be maintained.
  - b. Large recycling collection center: A center for collection containers larger than 100 square feet in ground area, on-site trailers, bulk-feed reverse vending machines, vehicles on-site during operating hours only and the like. Such a center may be approved as a conditional use for an accessory use in all institutional, business and industrial districts and on church and public property.

- c. Recycling processing center: A principal use in industrial districts only for handling the collection and processing of large volumes of bulky materials, some of which may originate at other recycling centers. Mechanical equipment may be used such as forklifts, balers, compactors and other related equipment. Outdoor storage may be permitted.

K. Salvage Items

1. In Residential Districts, this definition shall not prevent the storing of any more than two inoperable or unlicensed motor vehicles for a period of more than 72 hours which are in the process of restoration to operating condition, unless such vehicles are stored inside a structure or screened from public view.

**18.518 Moving a Structure**

1. A permit shall be required prior to moving a structure within the City Limits or through the City.
2. The Planning Director, or City designee, shall issue the permit.
3. The fee is on file in the Office of the City Clerk at City Hall.

**18.519 Demolition of a Structure**

1. A permit shall be required prior to the demolition of a structure within the City limits.
2. The Planning Director or City designee shall issue the permit.
3. The fee is on file in the Office of the City Clerk at City Hall.

**18.520 Vested Rights**

- I. For the purpose of single-family residential development in the R-1, R-2, or R-3 districts, development rights for land shall vest upon recording of the final plat for such land. If construction has not begun within 5 years of recording the plat, the development rights shall expire unless an extension is granted.
- II. For all non-single family development, development rights for land shall vest upon the recording of a final plat or approval of the site plan or specific construction documents for such land. If all permits required for such development have not been issued and the start of construction and the completion of substantial amounts of work under the validly issued permits has not begun within 1 year of approval of the site plan, the development rights shall expire unless an extension is granted.
- III. The Planning Commission may for good cause as presented by the applicant grant a single extension of vested rights. Vested rights for single-family development shall not be extended for more than 1 year. For all non-single-family development, an extension of not more than 6 months may be granted. Applicants seeking an extension shall submit a statement in writing, justifying the extension. In considering an extension, the Planning Commission shall consider the following factors, as well as other relevant considerations:
  1. Undue or unnecessary hardship placed upon the property owner;
  2. The extent to which the current regulations would hinder to complete development;
  3. Extent to which the property can be made to conform with current regulations; and
  4. Conformance with the general spirit and intent of the Zoning and Subdivision Regulations.
5. Nothing in this subsection shall be construed to exempt development from the provisions of Zoning and Subdivision Regulations except to the extent that the construction or development is expressly shown on the approved final plat or site plan. For example, the right to complete a building in accordance with previously-approved site plans shall not include the right to erect signs or make other site improvements in accordance with such plan unless such signs or improvements were expressly shown on the plans and cannot, as shown, be revised to conform to the provisions of the Zoning Regulations as amended.

## **ARTICLE SIX: RESIDENTIAL DISTRICTS**

### **18.600 General Purposes**

- A. The regulations for the Residential Districts are designated to:
  - 1. Protect the residential character of the included areas by excluding commercial and industrial activities;
  - 2. Encourage a compatible environment for dwellings by permitting such neighborhood facilities as churches, schools, and playgrounds;
  - 3. Permit certain appropriate institutions to be located in residential neighborhoods;
  - 4. Preserve the openness of the areas and avoid overcrowding by requiring certain minimum yards, open spaces, and site areas, and;
  - 5. Make available a variety of dwelling types and densities in a variety of locations to serve a wide range of individual requirements.

### **18.601 Single-Family Residential Districts (R-1)**

- A. The purpose of R-1 Districts are designed for those areas where the land is presently being used, or where development appears desirable, for single-family dwellings.
- B. R-1 District Regulations are set forth under [18-606](#)
- C. Permitted uses are set forth under [18-608](#) and [18-609](#)

### **18.602 Duplex Residential Districts (R-2)**

- A. The purpose of R-2 Districts are designed for those areas where the land is presently being used, or where development appears desirable for medium population density and provide a buffer between R-1 and R-3 Districts.
- B. R-2 District Regulations are set forth under [18-606](#)
- C. Permitted uses are set forth under [18-608](#) and [18-609](#)

### **18.603 Multiple-Family Residential Districts (R-3)**

- A. The purpose of R-3 Districts are designed for those areas where land is presently being used, or where development appears desirable for high population density.
- B. R-3 District Regulations are set forth under [18-606](#)
- C. Permitted uses are set forth under [18-608](#) and [18-609](#)

### **18.604 (LEFT OPEN FOR FUTURE USE)**

### **18.605 Mixed Residential and Commercial Districts (MRC)**

- A. The purpose of MRC Districts are designed to provide areas for professional offices, medical and dental clinics and similar types of uses that are compatible with and can be located adjacent to or in combination with R-2, and R-3 Districts without undue harmful effects to the residential uses.
- B. MRC District Regulations are set forth under [18-606](#)
- C. Permitted uses are set forth under [18-608](#) and [18-609](#)

## 18.606 Residential District Regulations

- A. All lot or yards created in any residential district shall meet the minimum requirements as set forth in [Section 18-607](#)
- B. All building or structures erected or enlarged in any residential district shall not exceed the height limit requirements as set forth in [Section 18-607](#)
- C. All principal building or structures erected or enlarged in any residential district shall not exceed the maximum lot coverage as set forth in [Section 18-607](#)
- D. All accessory building or structures erected or enlarged in any residential district shall not exceed the maximum lot coverage as set forth in [Section 18-607](#)
- E. All Uses Permitted Upon Review shall be followed as required in [Article 16](#) and procedures as in [18-2224 through 18-2228](#)
- F. All parking and off-street unloading shall meet the minimum requirements as set forth in [Article 17](#)
- G. All lighting and landscape shall meet the minimum requirements as set forth in [Article 18](#)
- H. All signs shall meet the minimum requirements as set forth in [Article 19](#)

## 18.607 Residential District Requirements

ZONING DISTRICTS	LOT/AREA		LOT/WIDTH	LOT/DEPTH	YARDS						HEIGHT		PRINCIPAL STRUCTURE	ACCESSORY STRUCTURE
	Minimum		AT	Minimum	MINIMUM (Feet)						MAXIMUM			
	(Square Feet)		BUILDING	(Feet)	FRONT	REAR		SIDE			STORIES	FEET	MAXIMUM	MAXIMUM
	PER LOT	PER DWELLING UNIT	FRONT LINE			SINGLE FRONTAGE	DOUBLE FRONTAGE	INTERIOR	EXTERIOR (Corner Lot)				LOT COVERAGE	LOT COVERAGE
			MINIMUM (Feet)			LOT	LOT		Backing up to side yard	Backing up to rear yard			MAXIMUM (percentage)	MAXIMUM (square feet)
<b>SINGLE FAMILY</b>														
R-1	8,250	8,250	75	115	35	25	20	7	15	10	2	35	40%	750
<b>DUPLEX</b>														
R-2	9,900	4,950	90	115	35	25	20	7	15	10	2	35	40%	375
<b>MULTI-FAMILY</b>														
R-3		2,500	90	115	35	20	20	7	15	10	3	47	50%	750
<b>Mixed Residential and Commercial</b>														
MRC	5,750	1,438	50	115	10	15	15	0	0	10	2	35	50%	750

## 18.608 Residential Permitted Uses

- A. Uses permitted in Residential Districts are shown by means of "Use Groups" established on the basis of similarity of function as well as compatibility with one another and with adjacent districts.
- B. Permitted "Use Groups" in each zoning district are shown by means of symbols in [Section 18-609](#)
  1. The letter "P" means the use is permitted as a use that is subject to:
    - a. Providing off-street loading in accordance with [18-1701](#)
    - b. Providing off-street parking in accordance with [18-1704](#)
    - c. Providing Lighting and Landscaping in accordance with [Article 18](#)
    - d. Adhering to Sign Requirements in accordance with [Article 19](#)
  2. The letter "S" means the use is permitted subject to the conditions specified for a Permitted Use, and the specific criteria referenced to in the by the use group for a Use Permitted Upon Review.
  3. The letter "N" means the use is not permitted in that district.
- C. No use shall be permitted in any district other than a use shown in the following tables. Additionally, no use shall be permitted in any such district unless the letter "P" or letter "S" appears opposite the "Use Group" within which the named use is listed and in the column headed by the designation of the district and all other requirements herein have been met.

18.609 **Permitted Uses by Use Group**

Use Group	Zoning Districts				Permitted Use Groups	Use Permitted Upon Review
	R-1	R-2	R-3	MRC		
<b>One</b>	P	S	N	N	<b>Agriculture - Animal Husbandry / Field Crops</b> <i>Agricultural uses and nearby residential uses</i> 1. Agricultural Uses 2. Accessory Uses Agricultural uses and accessory uses that are compatible with nearby residential uses:	
<b>Two</b>	P	P	S	N	<b>Residential Single-Family Detached</b> <i>Low-density single family detached residential uses and accessory uses.</i> 1. Residential Uses Single-family detached dwelling 2. Group homes of 10 or fewer individuals as per State Statute 3. Residential design manufactured homes, as defined 4. Accessory Uses	18-1603 18-1608 18-1612 18-1613
<b>Three</b>	S	P	P	N	<b>Residential Duplex</b> 1. Residential Uses (Single-family dwelling for duplex) 2. Accessory Uses	18-1608 18-1612 18-1613
<b>Four</b>	N	N	P	N	<b>Residential Multi-family</b> <i>Medium and high density multi-family residences</i> 1. Residential Uses: Multi-family dwelling (including duplex, rooming and/or boarding house, single family attached dwelling (row house or townhouse, or bed & breakfast establishment) 2. Accessory Uses	18-1612 18-1613
<b>Five</b>	N	N	P	N	<b>Residential Manufactured Home Park</b> 1. Residential Uses: Manufactured homes park 2. Accessory Uses	18-1612 18-1613
<b>Six</b>	S	P	P	S	<b>Community Facilities - Public Utilities</b> <i>a. May appropriately be located in residential areas to provide education, recreation, health, and other essential services, and</i> <i>b. Does not create significant objectionable influences in residential areas</i> 1. Community Facilities 2. Public Utilities 3. Similar Uses: All other uses, which are similar to the listed uses in, function, traffic-generating capacity, and effects on other land uses and are not included in any other use group). 4. Accessory Uses	18-1602 18-1607 18-1608 18-1610 18-1613
<b>Seven</b>	S	S	S	P	<b>Professional Offices / Inner Neighborhood Commercial Uses</b> <i>a. Offices for medical, professional and governmental purposes and accessory use (not including retail sales to the public, that are of a nature that may be located adjacent to or combined with residential uses without harmful effects to said residential uses.</i> <i>b. These uses are limited in development, intensity and traffic generating capacity to uses that are compatible with established residential neighborhoods.</i> 1. Medical and related offices: 2. Professional and governmental offices: 3. Veterinarian: Office and incidental boarding, with no open kennel or yard where animals are confined or exercised) 4. Financial institutions Studio for professional work for teaching of fine arts (photography, music, dancing, drama, etc) 5. Other offices: All other offices that are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses and are not included in any other use group). 7. Inner Neighborhood Commercial Uses: 8. Accessory Uses	18-1608 18-1632

Use Group	Zoning Districts				Permitted Use Groups	Use Permitted Upon Review
	R-1	R-2	R-3	MRC		
<b>Eleven</b>	S	S	S	S	<b>Temporary Uses</b> <i>a. Uses of a non-residential nature which need to be located in residential areas on a temporary basis.</i> <i>b. Uses of a commercial nature which are temporary and where in duration, traffic-generation, or intensity, is allowable in residential neighborhoods or as accessory commercial uses to established commercial operations.</i> 1. Temporary Uses - Non-residential nature Automobile parking lot (special event); Construction building and/or yard; Earth moving and excavation (depositing construction materials, clay, earth, gravel, minerals, rock, sand or stone on the ground); Off-street parking and loading; Tract office All other uses that are similar to the listed uses in function, traffic generating capacity, and effects on other land uses and are not included in any other use group). 2. Temporary Uses - Commercial Nature: Special events; Temporary outdoors sales area as an accessory use to an established commercial operation;	
<b>Twelve</b>	S	S	P	P	<b>Off-Street parking</b> <i>Off-street parking areas and accessory uses for customer parking or parking for a fee.</i> 1. Off-street parking Off-street parking lot (fee or customer)	

18.610

### Open Space Density Bonus

In some cases, the Planning Commission or Governing Body may grant an open space density bonus, providing the proposed subdivision meets the following criteria. This bonus will only be granted when, in the judgment of the Planning Commission or Governing Body, the spirit and intent of the zoning and subdivision regulations can be met and the general welfare of the public is preserved.

- A. Criteria: All of the following criteria must be met.
1. A minimum of 30% of proposed development shall be dedicated to open space.
  2. The development should be at least 14 parcels.
  3. Agreements must be made as to who shall provide maintenance to the open space (Homeowner Association, City or other entity).
  4. A significant attempt must be made to dedicate areas of significance (Creeks, Forests, meadows, and views).
  5. A significant majority of open space should be contiguous and should maximize the number of lots that shall have direct access to the open space.
  6. Shall still submit all required site plan information as stated in [Article 22](#)
- B. Bonus: The Planning Commission or Governing Body may grant none, any, or all of the following waivers:
1. R-1 lots may be a minimum of 6,000 sqft where the minimum width may be 60 feet. In the case of nonrectangular lots, this width shall be measured at the front building line.
  2. Front yard setback may be a minimum of 20 feet.
  3. Driveways can be shared for two R-1 parcels.
  4. Alternative storm sewers may be used if approved by the City Engineer.
  5. Eyebrow streets (one-way) may be used if approved by the City Engineer.
  6. Residential street paved area may be reduced to a total of 24 feet if approved by the City Engineer.

## **ARTICLE SEVEN: COMMERCIAL DISTRICTS**

### **18.700 General Purposes**

- A. The regulations for the Commercial Districts are designated to:
  - 1. Provide a full range of retail sales and services including opportunities for a complete variety of goods for comparative shopping.
  - 2. Allow certain activities not basically conducted within an enclosed structure (Ex. Used car lots).
  - 3. Stabilize and protect the essential characteristics of the district.
  - 4. Promote and encourage a suitable environment for providing service to the trade area and to prohibit activities of industrial nature.

### **18.701 C-1: Neighborhood Retail Districts**

- A. C-1 Districts are designed for those areas where the land is presently being used, or where development appears desirable, for general neighborhood services.
- B. C-1 District Regulations are set forth under [18-703](#)
- C. Permitted uses are set forth under [18-705](#) and [18-706](#)

### **18.702 C-2: General Commercial Districts**

- A. C-2 Districts are designed for those areas where the land is presently being used, or where development appears desirable, for providing a full range of retail sales and services that may require access to main thoroughfares.
- B. C-2 District Regulations are set forth under [18-703](#)
- C. Permitted uses are set forth under [18-705](#) and [18-706](#)

### **18.703 Commercial District Regulations**

- A. All lot or yards created in any commercial district shall meet the minimum requirements set forth in [Section 18-704](#)
- B. All building or structures erected or enlarged in any commercial district shall not exceed the height limit requirements as set forth in [Section 18-704](#)
- C. All principal building or structures erected or enlarged in any commercial district shall not exceed the maximum lot coverage as set forth in [Section 18-704](#)
- D. All accessory building or structures erected or enlarged in any commercial district shall not exceed the maximum lot coverage as set forth in [Section 18-704](#)
- E. All UPR's shall be followed as required in [Article 16](#) and [18-2224 through 18-2228](#)
- F. All parking and off-street unloading shall meet the minimum requirements as set forth in [Article 17](#)
- G. All lighting and landscape shall meet the minimum requirements as set forth in [Article 18](#)
- H. All signs shall meet the minimum requirements as set forth in [Article 19](#)

**18.704 Commercial District Requirements**

ZONING DISTRICTS	Minimum Lot Area (Square Feet)	Minimum Lot Width at Front Building Line (Feet)	Minimum Lot Depth (Feet)	Minimum Yards (Feet)										Maximum Lot Coverage for Principal and Accessory Structures	Maximum Accessory Structure Size (Square Feet)
				Front	Rear		Side				Maximum Height				
					Single Frontage Lot	Double Frontage Lot	Interior		Exterior		Stories	Feet			
							When Abutting Property in Residential District	When Abutting Property in Non-residential District	Backing up to Abutting Side Yard	Backing up to Abutting Rear Yard					
Neighborhood Commercial															
C-1	10000	100	100	None	15	25	10	0	0	10	2	35	100% of Building Envelope	100	
General Commercial															
C-2	5000	50	100	25	15	20	10	10	15	15	3	45	75% of Lot Area	100	

- A. Accessory structure maximum lot coverage is included in the total percentage for principal and accessory maximum lot coverage.

**18.705 Commercial Permitted Uses**

- A. Uses permitted in Commercial Districts are shown by means of “Use Groups” established on the basis of similarity of function as well as compatibility with one another and with adjacent districts.
- B. Permitted “Use Groups” in each zoning district are shown by means of symbols in [18-706](#)
4. The letter “P” means the use is permitted as a use that is subject to:
    - e. Providing off-street loading in accordance with [18-1701](#)
    - f. Providing off-street parking in accordance with [18-1704](#)
    - g. Providing Lighting and Landscaping in accordance with [Article 18](#)
    - h. Adhering to Sign Requirements in accordance with [Article 19](#)
  2. The letter “S” means the use is permitted subject to the conditions specified for a Permitted Use, and the specific criteria referenced to in the by the use group for Use Permitted Upon Review.
  3. The letter “N” means the use is not permitted in that district.
- C. No use shall be permitted in any district other than a use shown in the following tables. Additionally, no use shall be permitted in any such district unless the letter “P” or letter “S” appears opposite the “Use Group” within which the named use is listed and in the column headed by the designation of the district and all other requirements herein have been met.



18.706

**Permitted Uses by Use Group**

Use Group	Zoning Districts				Permitted Use Groups	Use Permitted Upon Review
	C-1	C-2				
<b>Five</b>	S	S			<b>Residential Multi-family</b> <i>Medium and high density multi-family residences</i> 1. Residential Uses: Multi-family dwelling (including duplex, rooming and/or boarding house, single-family attached dwelling (row house or townhouse, or bed & breakfast establishment) 2. Accessory Uses	18-1609 18-1613
<b>Six</b>	P	P			<b>Community Facilities - Public Utilities</b> <i>a. May appropriately be located in residential areas to provide education, Recreation, health, and other essential services, and</i> <i>b. Does not create significant objectionable influences in residential areas</i> 1. Community Facilities: 2. Public Utilities; 3. Similar Uses: All other uses that are similar to the listed uses function, traffic generating capacity, and effects on other land uses and are not included in any other use group). 4. Accessory Uses	18-1602  18-1607  18-1610 18-1611 18-1613
<b>Seven</b>	P	P			<b>Professional Offices / Inner Neighborhood Commercial Uses</b> <i>a. Offices for medical, professional and governmental purposes and accessory use (not including retail sales to the public, that are of a nature that may be located adjacent to or combined with residential uses without harmful effects to said residential uses.</i> <i>b. These uses are limited in development, intensity and traffic generating capacity to uses that are compatible with established residential neighborhoods.</i> 1. Medical and related offices: 2. Professional and governmental offices 3. Veterinarian 4. Financial institutions 5. Inner Neighborhood Commercial Uses 6. Similar Uses All other offices that are similar to the listed uses in function, traffic-generating capacity, and affects on other land uses and are not included in any other use group). 7. Accessory Uses	18-1605 18-1607 18-1608 18-1613
<b>Eight</b>	P	P			<b>Retail Stores - Personal / Automotive / Wholesale Sales and Services</b> <i>Certain types of retail stores and service establishments which</i> <i>a. Provide for a wide variety of local consumer and transient needs; and</i> <i>b. Have a small service area and are, therefore, not distributed widely throughout the City</i> <i>c. Primarily automotive service establishments and accessory uses (including consumer and non-consumer retail goods and services not appropriate for the neighborhood shopping district, including certain goods and services for agriculture, industrial, commercial, or institutional use).</i> <i>d. Consumer and non-consumer type retail and wholesale stores and service establishments and accessory uses that serve a wide area (including the entire City and surrounding trade area).</i> 1. Retail stores and service establishments: 2. Automotive Services: Retail Sales:  3. Retail - wholesale and goods and services: 4. Similar Uses: Other uses which are similar to the listed uses in function, traffic generating capacity, and effects on other land uses and are not included in any other use group. 6. Accessory Uses	18-1605 18-1606  18-1607  18-1608  18-1614
<b>Nine</b>	N	P			<b>Amusement, Recreational and Cultural Facilities</b> <i>Uses similar in nature and traffic-generating capacities that appeal to large groups of people or that provide uses with high density (people to space) ratios whose primary intent is one of amusement or recreational pursuits or cultural enrichment.</i> 1. Indoor recreational amusement cultural facilities 2. Outdoor amusement, recreational or cultural facilities: 3. Similar Uses: Other uses not specifically mentioned in this or any other use group which are similar in function and traffic-generating capacity to those specifically listed in this use group. 4. Accessory Uses	18-1603 18-1606 18-1607

Use Group	Zoning Districts				Permitted Use Groups	Use Permitted Upon Review
	C-1	C-2				
<b>Ten</b>	N	P			<b>Manufacturing - Uses of Industrial Character</b> <i>a. Primarily manufacturing uses and which are of non-objectionable nature and are not harmful to nearby residential and commercial areas.</i> <i>b. Research or testing laboratories and other uses which are not harmful to nearby residential and commercial areas.</i> <i>c. Non-manufacturing and manufacturing uses and accessory uses which have a medium range of objectionable ratings with respect to the emission of smoke, noise, glare, vibration, and other objectionable elements.</i> <i>d. Non-manufacturing and manufacturing uses and accessory uses which either involves considerable danger of fire, explosion or other hazards to public health or safety, or cannot economically be designed to eliminate these hazards.</i> <i>e. Salvage and junkyards for storage, dismantling, processing and wholesaling or retailing of used materials and equipment.</i> 1. Manufacturing Uses 2. Recycling Uses Salvage and junkyards for storage, dismantling, processing and wholesaling or retailing of used materials and equipment. 3. Non-manufacturing Uses 4. Similar Uses Other manufacturing uses which are similar to the listed uses in function, traffic generating capacity, and effects on other land uses, and are not included in any other use group. 6. Accessory Uses	18-1606  18-1607  18-1614
<b>Eleven</b>	P	P			<b>Temporary Uses</b> <i>a. Uses of a non-residential nature which need to be located in residential areas on a temporary basis.</i>  <i>b. Uses of a commercial nature which are temporary and where in duration, Traffic generation, or intensity, are allowable in residential neighborhoods or as accessory commercial uses to established commercial operations.</i> 1. Temporary Uses - Non-residential nature Automobile parking lot (special event); Patching plant, asphalt or Portland cement concrete, noncommercial Construction building and/or yard; Earth moving and excavation (depositing construction materials, clay, earth, gravel, minerals, rock, sand or stone on the ground); Off-street parking and loading; Tract office All other uses that are similar to the listed uses in function, traffic generating capacity, and effects on other land uses and are not included in any other use group). 2. Temporary Uses - Commercial Nature: Special events; Temporary outdoors sales area as an accessory use to an established commercial operation;	
<b>Twelve</b>	P	P			<b>Off-Street parking</b> <i>Off-street parking areas and accessory uses for customer parking or parking for a fee.</i> 1. Off-street parking Off-street parking lot (fee or customer)	

## **ARTICLE EIGHT: INDUSTRIAL DISTRICTS**

### **18.800 General Purposes**

- A. The regulations for the Industrial Districts are designated to:
  - 1. Provide an industrial park type environment to accommodate a wide range of manufacturing, wholesaling, warehousing and other industrial activities of light or heavy intensity;
  - 2. Ensure that residential and commercial districts are protected from nuisances involved with industrial uses; and
  - 3. Minimize traffic congestion by limiting the districts to areas that have direct highway or arterial road access.

### **18.801 Light Industrial (I-1)**

- A. I-1 Districts are designed for those areas where the land is presently being used, or where development appears desirable, for light or moderate industrial uses.
- B. I-1 District Regulations are set forth under [18-804](#)
- C. I-1 Permitted uses are set forth under [18-806](#) and [18-807](#)

### **18.802 Heavy Industrial (I-2)**

- A. I-2 Districts are designed for those areas where the land is presently being used, or where development appears desirable, for concentrated industrial uses.
- B. I-2 Districts Regulations are set forth under [18-804](#)
- C. I-2 Permitted uses are set forth under [18-806](#) and [18-807](#)

### **18.803 Industrial Park (I-3)**

- A. I-3 Districts are designed for those areas where development appears to be desirable for the creation of an Industrial Park.
- B. I-3 District Regulations are set forth under [18-804](#)
- C. I-3 Permitted uses are set forth under [18-806](#) and [18-807](#)

### **18.804 Industrial District Regulations**

- A. All lot or yards created in any industrial district shall meet the minimum requirements set forth in [Section 18-805](#)
- B. All building or structures erected or enlarged in any industrial district shall not exceed the height limit requirements as set forth in [Section 18-805](#)
- C. All principal building or structures erected or enlarged in any industrial district shall not exceed the maximum lot coverage as set forth in [Section 18-805](#)
- D. All accessory building or structures erected or enlarged in any industrial district shall not exceed the maximum lot coverage as set forth in [Section 18-805](#)
- E. All UPR's shall be followed as required in [Article 16](#) and procedures [18-2224 through 18-2228](#)
- F. All parking and off-street unloading shall meet the minimum requirements as set forth in [Article 17](#)
- G. All lighting and landscape shall meet the minimum requirements as set forth in [Article 18](#)
- H. All signs shall meet the minimum requirements as set forth in [Article 19](#)

**18.805 Industrial District Requirements**

ZONING DISTRICTS	LOT AREA Minimum (Square Feet) <i>unless specified as other</i>	LOT WIDTH AT BUILDING FRONT LINE Minimum (Feet)	LOT DEPTH Minimum (Feet)	YARDS, MINIMUM (Feet)				HEIGHT MAXIMUM		PRINCIPAL And ACCESSORY STRUCTURE MAXIMUM LOT COVERAGE Maximum (percentage)
				When Abutting a Street Right-Of-Way (B)		When Abutting Other Property Lines		STORIES	FEET	
				When Across Street From Residential District	When Across From a NonResidential District Minor Thoroughfare	When Across From a NonResidential District Major Thoroughfare	When Abutting Property in a Residential District	When Abutting Property in a NonResidential District		
<b>Light Industrial</b>										
I-1	20,000	100	50	50	25	50	25	15	3	35
<b>Heavy Industrial</b>										
I-2	20,000	150	150	50	25	50	50	15	3	35
<b>Industrial Park</b>										
I-3	3 acres	150	175	50	25	50	50	15	3	35

- A. In the I-1 and I-2 Districts there shall be no exterior storage of industrial supplies, goods, equipment, or trucks within the front yard setback.
- B. In any industrial district where a yard abuts a railroad right-of-way a minimum width of 50 feet, no structural setback from said right-of-way would be required.

**18.806 Industrial Permitted Uses**

- A. Uses permitted in Industrial Districts are shown by means of "Use Groups" established on the basis of similarity of function as well as compatibility with one another and with adjacent districts.
- B. Permitted "Use Groups" in each zoning district are shown by means of symbols in [18-807](#)
  1. The letter "P" means the use is permitted as a use that is subject to:
    - i. Providing off-street loading in accordance with [18-1701](#)
    - j. Providing off-street parking in accordance with [18-1704](#)
    - k. Providing Lighting and Landscaping in accordance with [Article 18](#)
    - l. Adhering to Sign requirements in accordance with [Article 19](#)
  2. The letter "S" means the use is permitted subject to the conditions specified for a Permitted Use, and the specific criteria referenced to in the by the use group for Uses Permitted for Review.
  3. The letter "N" means the use is not permitted in that district.
- C. No use shall be permitted in any district other than a use shown in the following tables. Additionally, no use shall be permitted in any such district unless the letter "P" or letter "S" appears opposite the "Use Group" within which the named use is listed and in the column headed by the designation of the district and all other requirements herein have been met.

18.807 **Permitted Uses by Use Group**

Use Group	Zoning Districts				Permitted Use Groups	Use Permitted Upon Review
	I-1	I-2	I-3			
<b>One</b>	P	P	S		<b>Agriculture - Animal Husbandry / Field Crops</b> <i>Agricultural uses and nearby residential uses</i> 1. Agricultural Uses; 2. Accessory Uses Agricultural uses and accessory uses that are compatible with nearby residential uses:	18-1605 18-1610
<b>Six</b>	P	P	P		<b>Community Facilities - Public Utilities</b> <i>a. May appropriately be located in residential areas to provide education, recreation, health, and other essential services, and</i> <i>b. Does not create significant objectionable influences in residential areas</i> 1. Community Facilities; 2. Public Utilities; 3. Similar Uses: All other uses which are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses and are not included in any other use group). 4. Accessory Uses	18-1602 18-1605 18-1606 18-1607  18-1610 18-1611 18-1613
<b>Seven</b>	S	S	S		<b>Professional Offices / Inner Neighborhood Commercial Uses</b> <i>a. Offices for medical, professional and governmental purposes and accessory use (not including retail sales to the public, that are of a nature that may be located adjacent to or combined with residential uses without harmful effects to said residential uses.</i> <i>b. These uses are limited in development, intensity and traffic-generating capacity to uses which are compatible with established residential neighborhoods.</i> 1. Medical and related offices 2. Professional and governmental offices 3. Veterinarian 4. Financial institutions 5. Other offices All other offices which are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses and are not included in any other use group). 6. Inner Neighborhood Commercial Uses: 7. Accessory Uses	18-1605 18-1606
<b>Eight</b>	S	S	S		<b>Retail Stores - Personal / Automotive / Wholesale Sales and Services</b> <i>Certain types of retail stores and service establishments which</i> <i>a. Provide for a wide variety of local consumer and transient needs; and</i> <i>b. Have a small service area and are, therefore, not distributed widely throughout the City</i> <i>c. Primarily automotive service establishments and accessory uses (including consumer and non-consumer retail goods and services not appropriate for the neighborhood shopping district, including certain goods and services for agriculture, industrial, commercial, or institutional use).</i> <i>d. Consumer and non-consumer type retail and wholesale stores and service establishments and accessory uses that serve a wide area (including the entire City and surrounding trade area).</i> 1. Retail stores and service establishments 2. Automotive Services: Retail Sales 3. Manufacturing Uses 4. Retail - wholesale and goods and services: 5. Similar Uses: Other uses which are similar to the listed uses in function, traffic generating capacity, and effects on other land uses and are not included in any other use group. 6. Accessory Uses	18-1605 18-1606 18-1614

Use Group	Zoning Districts				Permitted Use Groups	Use Permitted Upon Review
	I-1	I-2	I-3			
<b>Ten</b>	S	P	P		<b>Manufacturing - Uses of Industrial Character</b> <i>a. Primarily manufacturing uses and which are of non-objectionable nature and are not harmful to nearby residential and commercial areas.</i> <i>b. Research or testing laboratories and other uses which are not harmful to nearby residential and commercial areas.</i> <i>c. Non-manufacturing and manufacturing uses and accessory uses which have a medium range of objectionable ratings with respect to the emission of smoke, noise, glare, vibration, and other objectionable elements.</i> <i>d. Non-manufacturing and manufacturing uses and accessory uses which either involve considerable danger of fire, explosion or other hazards to public health or safety, or cannot economically be designed to eliminate these hazards.</i> <i>e. Salvage and junkyards for storage, dismantling, processing and wholesaling or retailing of used materials and equipment.</i> 1. Manufacturing Uses: 2. Advertising displays: 3. Recycling Uses: 4. Laboratory, research or testing, and ancillary uses 5. State and Federal Government offices 6. Professional engineering offices 7. Veterinarian with no kennel 8. Non-manufacturing Uses: 9. Similar Uses: Other manufacturing uses which are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses, and are not included in any other use group. 10. Accessory Uses Salvage and junkyards for storage, dismantling, processing and wholesaling or retailing of used materials and equipment. 11.	18-1601  18-1602  18-1603  18-1605  18-1606 18-1614
<b>Eleven</b>	P	P	P		<b>Temporary Uses</b> <i>a. Uses of a non-residential nature which need to be located in residential areas on a temporary basis.</i>  <i>b. Uses of a commercial nature which are temporary and where in duration, traffic-generation, or intensity, are allowable in residential neighborhoods or as accessory commercial uses to established commercial operations.</i> 1. Temporary Uses - Non-residential nature Automobile parking lot (special event); Batching plant, asphaltic or Portland cement concrete, noncommercial Construction building and/or yard; Earth moving and excavation (depositing construction materials, clay, earth, gravel, minerals, rock, sand or stone on the ground); Off-street parking and loading; Tract office All other uses which are similar to the listed uses in function, traffic-generating capacity, and effects on other land uses and are not included in any other use group). 2. Temporary Uses - Commercial Nature: Special events; Temporary outdoor sales area as an accessory use to an established commercial operation;	
<b>Twelve</b>	P	P	P		<b>Off-Street parking</b> <i>Off-street parking areas and accessory uses for customer parking or parking for a fee.</i> 1. Off-street parking Off-street parking lot (fee or customer)	

## **ARTICLE NINE: PLANNED DISTRICTS**

### **18.900 General Purposes**

- A. The regulations for the Planned Districts are designated to:encourage innovation in residential, commercial and industrial development by greater variety in type, design, and layout of buildings;
- B. encourage a more efficient use of land reflecting changes in the technology of land development;
- C. encourage the expansion of urban areas incorporating the best features of modern design while conserving the value of land;
- D. provide a procedure which relates the type, design, and layout of development to the particular site and the particular demand at the time of development in a manner consistent with the preservation of property values within established neighborhoods.

Although the specific conditions within the “P-D” District shall be predetermined, the location of a proposed district must be carefully reviewed to assure that these conditions can be met. As such, each application for “P-D” zoning shall include a development plan in accordance with the provisions and conditions that follow.

### **18.901 Permitted Uses**

- A. All uses may be permitted in the Planned Development District subject to Plan approval; however, each use included in a particular “P-D” must be specified on the Plan.
- B. The mix of residential and industrial uses within one Planned Development district is discouraged, and will only be permitted on developments of substantial size and with appropriate buffering and transitions between uses.

### **18.902 Use Regulations**

- A. SIZE: The minimum size allowed for a planned unit development shall be one (1) acre.
- B. The proposed development shall provide adequate access in such a way that the traffic generated by the development will not cause an unreasonably hazardous condition or inconvenience in the area.
- C. The site shall be accessible from public roads that are adequate to carry the traffic that will be generated by the proposed development. The streets and driveways on the site of the development shall be adequate to serve the residents or occupants of the proposed development. Streets may be either public or private streets, however all private streets shall meet all design and construction standards applicable to public streets. If it is determined that traffic control signals are

required to prevent traffic hazards or congestion upon adjacent streets, the control signals shall be provided at the developer's expense.

- D. Structures and traffic shall be arranged so that all principal structures are accessible to emergency vehicles.
- E. In general, off-street parking should be provided for all uses, in accordance with Article 17 of these regulations. Specific exemptions may be granted by the Planning Commission and Governing Body in regard to the number of off-street parking places required for a particular use or mix of uses after consideration of evidence provided by the applicant or developer showing that the parking needs of the development are less than would be required by Article 17. Parking shall be provided in a manner that reduces to a minimum its adverse physical impact in the area. Screening parking areas with landscaping or walls, breaking parking areas into smaller units by introducing landscaped areas or other physical separators are suggested approaches. The parking areas should be appropriately spaced to serve those units they represent.
- F. The availability of services and location of public utilities shall have the approval of each agency involved. Evidence to this effect shall be presented with the Preliminary Development Plans.
- G. A Planned Unit Development shall be consistent with the general standards for use of land, and the use, type, bulk, design, and location of buildings, the density or intensity of use, open space, public facilities and the development by geographic division of the site as set out in these regulations.
- H. In the case of residential Planned Development, the Planning Commission may permit in each unit or phase deviations from the number of dwelling units per acre established for the entire planned development, provided such deviation shall be adjusted for in other sections of the development so that the number of dwelling units per acre authorized for the entire planned development is not affected.
- I. The "P-D" shall include such provisions for the ownership and maintenance of the common open spaces as are reasonably necessary to insure its continuity, care, conservation and maintenance, and to insure that remedial measures will be available to the Governing Body if the common open space is permitted to deteriorate, or is not maintained in a condition consistent with the best interests of the planned development or of the entire community.
- J. In general, screening should be provided for all dissimilar uses, in accordance with Section 18-1806 of these regulations. When a commercial or industrial planned unit development or a commercial or industrial use within a mixed use development abuts a residential district, either adjacent to or within the planned development, a solid or semi-solid fence or wall from six (6) feet in height and having a visual density of not less than ninety percent (90%) per square foot shall be erected. Such fence or wall shall be on or within three (3) feet of the property line separating the



use from the residential zone. Screen plantings may be used provided the type, size and number are shown on the final development plan and are approved by the Planning Commission. All required screening and plantings shall be maintained by the residents of the PD district, or by a lawfully created homeowners association.

- K. Any modifications of the zoning or other regulations that would otherwise be applicable to the site may be permitted, providing the design of the Planned Development and the amenities incorporated in it are not inconsistent with the interest of the public generally.
- L. Sidewalks shall be built to City specifications along all public and private streets; however, an alternative pedestrian and sidewalk plan may be developed which provides pedestrian access between each use in the Planned Unit Development.
- M. All signs must conform to the City Sign Ordinance.
- N. Approval of the Final Development Plan may be conditioned by the Planning Commission to minimize any negative impact on the community.

#### **18.903 Application for Re-Zoning**

A petition to change to a "P-D" Planned District shall be filed with the City, along with the filing fee as set forth by separate ordinance. A Preliminary Development Plan shall be attached and shall include the elements set forth in these regulations. The public hearing and public notice requirements shall be the same as for any rezoning as provided by these regulations.

#### **18.904 Preliminary Development Plan Approval Procedure**

- A. Action by Planning Commission: After a Preliminary Development Plan per the requirements of this article is filed with the City and has been reviewed by staff and found to contain all of the required information as set out within these regulations, the Planning Commission shall hold a public hearing on said development after giving public notice. Said public hearing may be adjourned from time to time and, within a reasonable period of time after the conclusion of said public hearing, the Planning Commission shall prepare and transmit to the Governing Body and the applicant a report with respect to the extent which the Preliminary Development Plan complies with these regulations, together with its recommendations in respect to the action to be taken on the Preliminary Development Plan. The Planning Commission may recommend disapproval, approval, or approval with amendments, conditions, or restrictions.
- B. Action by Governing Body: The Governing Body shall either approve, disapprove, or approve with amendments, conditions or restrictions the Preliminary Development Plan and authorize the submitting of the Final Development Plan. If the Governing Body disagrees with the Planning Commission's initial recommendation, the application shall be returned to the Planning Commission with written comments for reconsideration.

- C. Substantial or significant changes in the Preliminary Development Plan shall only be made after rehearing and reapproval as required for the initial approval of the Preliminary Development Plan.
- D. For unplatted tracts or tracts being replatted, the approval of the Preliminary Development Plan shall be considered as the approval of a preliminary plat. To complete the platting process, the applicant need only submit a final plat. Said final plat shall be in accordance with the subdivision regulations and may be submitted with or incorporated with the Final Development Plan. The Planning Commission may review the Final Development Plan and the final plat concurrently.

#### **18.905 Preliminary Development Plan**

Copies of the Preliminary Development Plan shall be prepared and submitted in accordance with the City's Application and Review Schedule at a scale dimension of not more than 1"=100'. In addition to all data required for Preliminary Plats per the City of Wellsville Subdivision Regulations, plans shall include:

- A. Proposed land use patterns within the development;
- B. Phases of final development;
- C. Proposed schedule of construction;
- D. General landscape information including landscaping easements, dedicated open space, pedestrian circulation, buffering and fencing, and general design concepts;
- E. Conceptual exterior building elevations including materials and color palettes to be used;
- F. A description of any limitations to be placed on the range of permitted uses, the hours of operation, the structure and landscape materials to be used and other similar development requirements and/or restrictions in the form of the conditions of the Planned Development zoning; and
- G. A description of any deviations from any other provision of these regulations and the reason for such.

#### **18.906 Final Development Plan Approval Procedure**

- A. After approval of a Preliminary Development Plan by the Governing Body, the landowner shall file with the Register of Deeds a statement that such a plan has been filed with the Governing Body and has been approved and that such Planned Development is applicable to certain specified legally-described land and that copies of said plan are on file with the City. Such statement recorded with the Register of Deeds shall also specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such a plan. The recorded statement shall specify that the Preliminary Development Plan shall become binding upon all successors and assigns unless amended in conformance with this act.

- B. Prior to the issuance of any building permit or zoning certificate for construction on or use of the property the applicant shall submit a final development plan application for final approval. The final application may include the entire Planned Development or may be for a phase thereof as set forth in the approval of the Preliminary Development Plan. The application shall include copies of such drawings, specifications, covenants, easements, conditions and form of performance bond as set forth in the approval of the Preliminary Development Plan and in accordance with the conditions established in the zoning regulations for Planned Development.
- C. The Planning Commission shall approve the Final Development Plan if such plan meets the requirements of this article and is in substantial compliance with the approved Preliminary Development Plan. Final Development Plans shall be deemed to be in substantial compliance with the approved Preliminary Development Plan provided any modification to the plan does not:
  - (1) Vary the proposed gross residential density or intensity of use by more than five percent (5%) or involve a reduction in the area set aside for common open space, or the substantial relocation of such area, or;
  - (2) Substantially change the design of plan so as to significantly alter, as determined by the Planning Commission:
    - (a) Pedestrian or vehicular traffic flow.
    - (b) The juxtaposition of different land uses.
    - (c) The relation of open space to residential development.
    - (d) The proposed phasing of construction.
    - (e) The exterior appearance of buildings and/or structures.
- D. In the event that the Final Development Plan submitted contains substantial changes from the approved Preliminary Development Plan, the applicant shall submit a revised Preliminary Development Plan for approval per the Preliminary Development Plan Approval Procedure requirements. This resubmittal shall require a new public hearing in the same manner prescribed in this article for original Preliminary Development Plan approval.

**18.907 Final Development Plan**

Final Development Plan: Following Preliminary Development Plan approval and platting, if necessary, copies of the Final Development Plan shall be submitted in accordance with the City's Application and Review Schedule and shall include the following information:

- A. All residential development other than multi-family residential shall include the following:

- (1) All requirements of the Preliminary Development Plan (updated to show final sizes, dimensions and arrangement);
  - (2) Contour lines showing finished grading only;
  - (3) A landscaping plan per Article 18, Lighting and Landscaping Requirements, in addition to any additional requirements of the Preliminary Development Plan approval; and
  - (4) The location, height, size, materials and design of all proposed signage; and
  - (5) Conceptual exterior building elevations including materials and color palettes to be used.
- B. All non-residential or multi-family development shall include all information required per the Article 22, Section 2211 through 2217 of the Wellsville Zoning Regulations relating to Site Plans, with the exception of any approved deviation. Approval of each phase of the Final Development Plan shall also constitute site plan approval for that phase.

#### **18.908 Amendments**

Planned Development District ordinance or an approved preliminary or Final Development Plan may be amended in the same manner prescribed in this article for approval of a preliminary or Final Development Plan. Application for amendment may be made by the homeowner's association or 51% of the owners of property within the "PUD".

#### **18.909 Building Permits**

Building Permits: On final approval by the Planning Commission, the owner shall provide copies of the approved Final Development Plan to the City. Building permits shall be issued only in accordance with the approved Final Development Plan.

(Ordinance 817: 7/7/09)

## ARTICLE TEN – FLOODPLAIN OVERLAY DISTRICTS

### 18.1000

#### **Purpose**

- A. The floodplain management regulations set forth herein are enacted to protect persons and property from hazards caused by floods or flood waters. These regulations are adopted to minimize losses with provisions designed to:
1. Prohibit the placement of fill, materials, and structures, which would obstruct flood flows and decrease the storage capacity of the regulatory floodway.
  2. Require structures in the regulatory floodplain and public utilities vulnerable to floods are provided with flood protection at the initial construction stage.
  3. Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to the regulatory flood elevation.
  4. Minimize public expenditures for flood control projects and damage to public improvements within the regulatory floodplain.
  5. Maintain property values adjacent to the floodplain and minimize flood blight areas.
  6. Assure eligibility for property owners in the Federal Flood Insurance Program.

### 18.1001

#### **Statutory Authorization, Findings of Fact, and Purposes**

##### A. Statutory Authorization

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

##### B. Findings of Fact

1. Flood Losses Resulting from Periodic Inundation
  - a. The flood-prone areas of the City of Wellsville, 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.
2. General Causes of the Flood Losses
  - a. These flood losses are caused by:
    1. The cumulative effect of development in any flood-prone areas causing increases in flood heights and velocities; and
    2. The occupancy of flood-prone areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damage.

### 18.1002

#### **Lands to Which Ordinance Applies**

- A. This Article shall apply to all lands within the jurisdiction of the City of Wellsville identified by the community as being flood prone, and any future revisions thereto.
- B. In all areas covered by this article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City Council or its duly designated representative under such safeguards and restrictions as the City Council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in [18-1009](#)

**18.1003 Compliance**

- A. No development located within the flood-prone 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.

**18.1004 Abrogation and Greater Restrictions**

- A. It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this article shall prevail.
- B. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

**18.1005 Interpretation**

- A. In their interpretation and application the following items shall apply:
  - 1. The provisions of this article shall be held to be minimum requirements;
  - 2. They shall be liberally construed in favor of the governing body, and
  - 3. They shall not be deemed a limitation or repeal of any other powers granted by Kansas Statutes.

**18.1006 Warning and Disclaimer of Liability**

- A. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study.
- B. 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.
- C. This article does not imply that areas outside of flood-prone areas or land uses permitted within such areas will be free from flooding or damage.
- D. This article shall not create a liability on the part of the City of Wellsville, any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.

**18.1007 Severability**

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

**18.1008 Administration**

- A. These regulations are designed and intended to be administered in a manner which will:
  - 1. Restrict or prohibit uses dangerous because of water and erosion hazards or which will result in undue increases in erosion, flood heights, or velocities.
  - 2. Control grading (fill or evacuation), dredging, and development which unduly increase the potential for flood damage.
  - 3. Require that uses protect private and public investments by requiring flood proofing.
  - 4. Control alteration of floodplains, stream channels and natural barrier, which accommodate or channel floodwaters.
  - 5. Prevent or regulate construction of barriers that unnaturally divert floodwaters or cause increased flood hazards. Construction in regulatory floodplains shall be directed to the outer limits of the floodway fringe before it is allowed to encroach further into the regulatory floodplain.

**18.1009 Flood Insurance**

No part of this article or any regulation therein shall be construed as affecting the eligibility of any structure existing at the time of publication of the flood insurance rate maps.

**18.1010 Designation of Floodplain Administrator**

- A. The Planning Director is hereby appointed to administer the provisions of this article. It is the responsibility of the Planning Director to review all requests for floodplain development permits and to enforce the regulations in this section. Each permit request shall be reviewed in consideration of the following criteria:
1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permits requirements of this ordinance have been satisfied.
  2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits has been obtained from Federal, State or local governmental agencies from which prior approval is required by Federal, State or local law.
  3. 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.
  4. Issue floodplain development permits for all approved applications.
  5. Notify adjacent communities and the state-coordinating agency prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
  6. Assure that maintenance is provided within the altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

**18.1011 Floodplain Development Permit**

- A. A written application must be received at least 14 days prior to the approval of a development permit. A fee as stated in [18-2238](#) shall accompany the application. The application fee shall be made payable to the City of Wellsville and no part of the fee shall be returnable to the applicant after review of the permit request has begun

**18.1012 Floodplain Development Permit Application**

- A. Every floodplain development permit application shall have the following items included:
1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed building or work.
  2. Identify and describe the work to be covered by the floodplain development permit.
  3. Indicate the use or occupancy for which the proposed work is intended.
  4. Indicate the assessed value of the structure and the fair market value of the improvement.
  5. Give such information as reasonably may be required by the Planning Director.
  6. Be accompanied by plans and specifications for proposed construction.
  7. Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.

**18.1013 Provisions for Flood Hazard Reduction: General Standards**

- A. No permit for floodplain development shall be granted for new construction, substantial improvements, and other improvements, including the placement of manufactured homes, within any flood-prone area unless the conditions of this section are satisfied.



- B. All areas identified by the community pursuant to [18-1002](#) of this article are subject to flooding; however, the depth and extent of the flood hazard has not been quantified. Within these flood-prone areas, the community shall obtain, review, and reasonably utilize any flood elevation or other relevant data currently available from Federal, State, or other sources.
- C. All new construction, subdivision proposals, substantial-improvements, prefabricated buildings, placement of manufactured homes, and other developments shall require:
  - 1. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic loads, including the effects of buoyancy.
  - 2. Construction with materials resistant to flood damage.
  - 3. Utilization of methods and practices that minimize flood damages.
  - 4. 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.
  - 5. 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.
  - 6. 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.
- D. Storage, material, and equipment must adhere to the following standards:
  - 1. The storage or processing of material within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
  - 2. Storage of other 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.
- E. Agricultural Structures
  - 1. Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-flood proofed provided that there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this ordinance; and a floodplain development permit has been issued.
- F. Nonconforming Use
  - 1. In floodplains a structure, or the use of a structure or premises that was lawful before the passage or amendment of the article, but which is not in conformity with the provisions of this regulation, may be continued subject to the following conditions:
    - a. If such structure, use, or utility service is discontinued for 6 consecutive months, any future use of the building shall conform to this article.



b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing State or Local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

**18.1014 Provisions for Flood Hazard Reduction: Manufactured Homes**

- A. All manufactured homes to be placed within flood-prone areas shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frames ties to ground anchors.

**18.1015 Provisions for Flood Hazard Reduction: Recreational Vehicles**

- A. Require that recreational vehicles placed on sites within flood-prone areas shall adhere to the following:
1. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use \*, or
  2. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of these regulations.

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

**18.1016 Floodplain Management Variance Procedures**

- A. The Board of Zoning Appeals shall hear and decide all variances from the requirements of this article and shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the Director of the Planning Department in the enforcement or administration of this article.
- B. Responsibility of the BZA
1. Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the floodplain administrator, the applicant may apply for such floodplain development permit or variance directly to the BZA, as defined in [Article 18-1016.A.](#)
  2. The BZA 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 article.
- C. Further Appeals
1. Any person aggrieved by the decision of the BZA or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.
- D. Variances: Floodplain Management Criteria
1. In passing upon such applications for variances, the BZA shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this regulation and the following criteria:
    - a. The danger to life and property due to flood damage;
    - b. The danger that materials may be swept onto other lands to the injury of others;

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

**E. Variances: Floodplain Management Conditions for General Approval**

- 1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of ½ acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items [Article 18-1016.E.2](#) through [18-1016.E.6](#) have been fully considered. As the lot size increase beyond the ½ acre, the technical justification required for issuing the variance increase.
- 2. Variance may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the national Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- 3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- 4. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- 5. Variances shall only be issued upon:
  - a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;
  - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 6. A community shall notify the applicant in writing over the signature of a community official that:
  - a. The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage;
  - 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 regulation.

**F. Variances: Floodplain Management Conditions for Temporary Structures**

1. Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in [18-2309 through 18-2310](#)
2. A temporary structure may be considered for location within the 100-year floodplain only when all of the following criteria are met:
  - a. Use of a temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;
  - b. Denial of the temporary structure permit will create an undue hardship on the property owner;
  - c. The community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and
  - d. The community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.
3. Once all of the above conditions are met, an application for a Use Permitted Upon Review (UPR) permit must be made to the Wellsville City Council. The City Council shall consider all applications for special use permits for a temporary structure based on the following criteria:
  - a. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted Federal Emergency Management Agency/National Flood Insurance Program map shall require an approval UPR permit. The UPR permit shall be valid for a period not to exceed 180 days.
  - b. UPR permit applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.
  - c. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the UPR permit application for the placement of any temporary structure.
  - d. On or before the expiration of the end of the 180-day UPR permit, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.
  - e. To ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times.
  - f. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.
  - g. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.
  - h. Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, shall make the permit subject to revocation by resolution of the governing body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land and to the general public.
  - i. Any deviation from the approved site plan shall be deemed a violation of the special use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the UPR permit approval. In event of any violation, all permitted special uses shall be deemed a violation of this ordinance and shall be illegal; non-conforming uses and shall be summarily removed and abated.
4. If the temporary structure is to be returned to its previously occupied site, the process for issuing a UPR permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

G. See [18-2307](#) for further explanation of the procedure for filing an application for a variance.

**18.1017 Floodplain Management Variance: 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 the local newspaper. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulation are in compliance with the National Flood Insurance Program (NFIP) regulations.

**18.1018 Floodplain Management: Definitions**

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

**Actuarial Rates** – See “risk premium rates”

**Agricultural commodities** – agricultural products and livestock.

**Agricultural Structure** – any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

**Appeal** – a request for review of the Floodplain Administrator’s interpretation of any provision of this regulation or a request for a variance.

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

**Area of Special Flood Hazard** – the land in the floodplain within a community subject to a 1% or greater chance of flooding in any given year.

**Base Flood (100-year flood)** – the flood having a 1% chance of being equaled or exceeded in any given year.

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

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

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

**Existing Construction** – 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 the date. (“Existing construction” may also be referred to as “existing structures”)

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

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

**Flood or Flooding** – a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland and
2. The unusual and rapid accumulation or runoff of surface waters from any source.

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

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

**Floodplain or Flood-prone Area** – any land area susceptible of being inundated by water from any source (See flooding).

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

**Floodplain Management Regulations** – 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.

**Flood Proofing** – any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**Functionally Dependent Use** – 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.

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

**Map** – the Flood hazard Boundary Map (FHBM) or the Flood Insurance Rate Map (FIRM) for a community issued by the Federal Emergency Management Agency (FEMA).

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

**Principally Above Ground** – at least 51% of the actual cash value of the structure, less land value, is above ground.

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

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

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

**State Coordinating Agency** – that agency of the State government, 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.

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

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

**Substantial-Improvement** – any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% 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, anywhere, 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.”

**Violation** – 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 the documentation is provided.

## ARTICLE ELEVEN – MOBILE HOMES

18.1101	Location restrictions.
18.1102	Development plan-Special use permit-Application.
18.1103	Development plan-Special use permit-Hearing.
18.1104	Inspections.
18.1105	License fees and temporary permit fees.
18.1106	Minimum standards for mobile home parks.
18.1107	Site.
18.1108	Skirts.
18.1109	Lockers.
18.1110	Open space.
18.1111	Streets and drives.
18.1112	Parking.
18.1113	Lighting.
18.1114	Water supply.
18.1115	Sewage disposal.
18.1116	Refuse disposal.
18.1117	Electricity.
18.1118	Fire protection.
18.1119	Management.
18.1120	Trailers-Where permitted.
18.1121	Mobile homes and trailers as Nonresidential structures.
18.1122	Nonconforming uses.
18.1123	Violation-Penalty.

### 18.1101 Location Restrictions

Mobile homes and parks may be located in the city under the following conditions:

- A A mobile home park may be located in any part of the city; provided, however, that there is first obtained a special use permit for such location and a license therefor.
- B Each boundary of any mobile home park must be at least two hundred feet from any permanent residential building located outside the mobile home park unless separated therefrom by a natural or artificial barrier ( any artificial barrier must be at least five feet in height) or unless a majority of the property owners owning property within such two-hundred-feet consent in writing to the establishment of such mobile home park.
- C It is unlawful for any person to park, place or abandon any mobile home upon any street, alley, highway or any public place or upon any premises or tract of land located within the corporate limits of the city and which is situated outside a licensed mobile home park without first having secured a temporary permit as provided in this chapter.
- D It is unlawful for any person to park or place any mobile home upon the premises of a licensed mobile home park without first having secured a mobile home occupancy permit as provided in this chapter. The application for a mobile home occupancy permit for an individual mobile home as provided in this chapter shall be filed at the office of the city clerk. The application shall be in writing on forms provided by the city and shall include the following:
  - 1The name and address of the applicant;
  - 2The location of the licensed mobile home park in which the mobile home is to be placed and the location of the lot within such mobile home park upon which the mobile home is to be placed;
  - 3The size and license number of the mobile home;



4The signature of the applicant.

- E All applications for mobile home occupancy permits for individual mobile homes as provided in this chapter shall be approved by the city clerk or his properly designated representative in accordance with the provisions of this title and subject to any other limitations that may be imposed by other ordinances of the city. Upon such approval by the city clerk or his representative, the office of the city clerk shall issue the mobile home occupancy permit upon payment of the fees provided in this title.
- F The provisions of this section shall not apply to the following:
1. The emergency or temporary stopping or parking of any mobile home for twenty-four hours, subject to any other limitations that may be imposed by other ordinances of the city relative to parking;
  2. Unoccupied mobile homes for demonstration and sales purposes only which are located within any district in which such is permitted by this title;
  3. After a public hearing and approval by the city council, a mobile home may be placed upon premises or a tract of land located within the corporate limits of the city for purposes of temporary relief from a local disaster, such as fire, wind or flood damage; provided, however, that such mobile home shall be removed from the premises within six months of its original placement.
  4. A manufactured home situated on a foundation on a lot which complies with all of the requirements of the zoning and subdivision ordinances of the city. The proposed location of any manufactured home shall first be submitted to the planning commission for review and approval as to architectural conformity of such mobile home with the surrounding neighborhood, based upon the following:
    - a The physical condition of the structure is sound, well maintained, and of neat appearance.
    - b The proposed site of the structure is not in a neighborhood which contains homes of size and value sufficiently higher than will result from the establishment of the manufactured home that the contrast in appearance will depress property values in the neighborhood. (Ord. 557 §2.05.01, 1985)

18.1102 Development plan-Special use permit-Application.

Construction of a mobile home park within the city shall begin only after a special use permit has been granted by the city council, in compliance with the city zoning ordinance. No such permit shall be granted, however, until an application for a special use permit and a development plan for the proposed mobile home park have been prepared and submitted by the owner of the proposed mobile home park to the planning commission and found satisfactory by the commission and further submitted to the city council with a recommendation for approval. The application for a special use permit shall be in writing on forms provided by the city. The development plan shall be accurately drawn, at a scale acceptable to the city engineer, and shall show the following:

- A Proposed street and drive pattern;
- B Proposed mobile homes spaces and their approximate dimensions;
- C Any existing streets in or abutting the property;
- D Location and size of parking spaces;
- E Location and size of park and playground area;
- F Screening and landscaping;
- G Legal description of the tract;
- H Plans and specifications of all buildings, improvements and other facilities such as electrical wiring, water service pipes, gas service pipes and sewer service constructed or to be constructed within the mobile home park;
- I Name of the developer and the firm preparing the plan;



- J North point, scale and date;
- K Such other information as may be requested by the city planning commission to enable it to determine if the proposed mobile home park will comply with all the requirements of this chapter. (Ord. 557 § 2.05.02(a), 1985)

18.1103 Development plan-Special use permit-Hearing.

- A The planning commission shall, upon submission of three copies of the development plan and an application for a special use permit, publish notice and hold a hearing on the proposal in conformance with this title. The decision of the city planning commission to recommend approval or denial of the proposed mobile home park shall be based upon the following criteria:

1The proposed project will be in harmony, in general, with the comprehensive plan of the city;

2Compliance with minimum standards for mobile home parks as set forth in this title;

3Safe and efficient ingress and egress of vehicular and pedestrian traffic and an adequate level of utility and other services is assured;

4A safe and healthful living environment will exist for the occupants of the mobile home park:

- B Upon hearing and consideration of the project, the planning commission shall, within reasonable time, submit its recommendation and an endorsed copy of the development plan to the city council for final action. (Ord. 557 § 2.0.5.02Cb), 1985)

18.1104 Inspections

- A If upon inspection of any mobile home park, the building official or his representative designated for this purpose finds that conditions exist which are in violation of any provisions of this chapter, the city clerk shall give notice in writing, to the person to whom the license was issued. Unless such condition or practices are corrected within a reasonable period of time, to be determined by the building official, he shall give notice, in writing, to the person to whom the license was issued that the license has been revoked. Upon receipt of the notice of revocation, such person, or persons, shall cease operation of such mobile home park. All mobile homes shall be removed within three months of the date of revocation of a mobile home park license.

- B The application for a mobile home occupancy permit for an individual mobile home as provided in this chapter and required by Section 18-901 of this chapter shall be filed at the office of the city clerk. The application shall be in writing on forms provided by the city. After inspection of the mobile home by the building official or his designated representative, for conformance with the provisions of this chapter, and upon payment of the mobile home occupancy fee, the city clerk shall issue a mobile home occupancy permit, which shall be valid so long as the mobile home is not moved; provided, however, that no fee shall be charged for an occupancy permit for any mobile home located in a mobile home park on the date of adoption of the ordinance codified in this title.

- C The application for a temporary permit for an individual mobile home as provided in this chapter and required by Section 18-901 of this chapter shall be filed at the office of the city clerk. The application shall be in writing on forms provided by the city, and shall include the following:

1The name and address of the applicant;

2The location and legal description of the property or area on which the mobile home is to be parked temporarily;

3The dates that such mobile home will be temporarily parked;

4The license number of the mobile home;

5Certification by the occupant, owner or tenant that all plumbing fixtures may be sealed by the building official or his designated representative. In the event that such plumbing is sealed, the owner or occupant of such mobile home shall not permit such seal to be broken except by the direction of the building official or his representative;

6The signature of the applicant.

- D All applications for temporary permits for individual mobile homes as provided in this chapter shall be approved by the building official or his designated representative in accordance with the provisions of this title and subject to any other limitations that may be imposed by other ordinances of the city. Upon such approval by the building official or his designated representative, the office of the city clerk shall issue the temporary permit upon payment of the fee as provided in this title;
- E Any person whose application for a license, an occupancy permit or a temporary permit has been denied or any person whose license has been revoked may request and shall be granted a hearing on the matter before the city council upon filing an application for hearing before such body within three days following the day upon which such notice was received or such license or temporary permit was denied and the city council shall hold such hearing within thirty days after the filing of the application. The filing of such application shall not suspend any order of the building official in denying approval for such license or temporary permit but shall suspend any order of revocation of the license until the matter has been determined by the city council. (Ord. 557 § 2.05.03, 1985)

18.1105 License fees and temporary permit fees.

Fees for licenses and temporary permits for mobile homes and parks shall be as follows:

- A A license fee of one hundred dollars shall be paid by the owner of the mobile home park upon establishing the park and the annual renewal license fee for each mobile home park shall be ten dollars for each mobile home space occupied therein on the date of expiration of the previous license.
- B The fee for a mobile home occupancy permit for an individual mobile home as provided hereinabove shall be ten dollars.
- C The fee for a temporary permit for an individual mobile home as provided hereinabove shall be five dollars.
- D The annual renewal license fee for a mobile home park shall be for the calendar year, shall not be prorated, and shall expire on December 31st of each year. (Ord. 557§~.05.04,1985)

18.1106 Minimum standards for mobile home parks.

Mobile home parks shall conform to the minimum requirements set out in Sections 18-907 through 18-920 of this chapter. (Ord. 557 §2.05.05(a) (part), 1985)

18.1107 Site.

Any mobile home park shall be located on a site properly graded to insure proper drainage and to prevent stagnant pools of water. No mobile home park shall have a site smaller than will accommodate twenty mobile homes, or comprising less than three and one-third acres. The density will not exceed six mobile homes per acre. (Ord. 557 § 2.05.05(a)(1), 1985)

18.1108 Skirts.

Each mobile home shall be equipped with skirts on all sides, such skirts to be of a material harmonious to the mobile home structure. (Ord.557 § 2.05.05(a)(2), 1985)

18.1109 Lockers.

Each mobile home space shall be provided with a suitable locker of at least fifty cubic feet. (Ord. 557 § 2.05.05(a)(3), 1985)

18.1110 Open space.

Each mobile home shall be located on one mobile home space so that no part of one mobile home structure, including canopies, awning, car-ports and other protrusions, is closer than twenty feet to another mobile home, or to the edge of the surface of a drive. No mobile home shall be located closer than thirty feet from any permanent building within the mobile home park, or from any property line bounding the mobile home park. (Ord. 557 § 2.05.05(a)(4), 1985)

- 18.1111 Streets and drives.
- A All mobile home spaces shall have adequate access to a driveway of not less than twenty-seven feet in width, which shall have unobstructed access to a public street or highway and shall not be by an alley and all dead end driveways shall include adequate vehicular turning space or cul-de-sac.
- B All private drives shall have Portland cement curbs, and be surfaced with at least six inches of compacted stone base with two inches of hot mix bituminous concrete as the surface course (sealed within one year after completion), or such other materials as may be approved by the city engineer. (Ord. 557 § 2.05.05(a)(5), 1985)
- 18.1112 Parking.
- Off-driveway parking shall be provided within sixty feet of the mobile home and shall be maintained at a minimum ratio of two car spaces for each mobile home space. Such parking spaces shall be off the public street or private drive, and each shall be not less than nine feet by twenty feet in size and shall be surfaced to at least the standard set out above for drives. (Ord. 557 § 2.05.05(a)(6), 1985)
- 18.1113 Lighting.
- All driveways and walkways within the mobile home park shall be lighted at night with electric lamps of not less than one hundred watts each, spaced at intervals of not more than one hundred feet; or equivalent illumination as may be supplied by other approved sources. (Ord. 557 § 2.05.05(a)(7), 1985)
- 18.1114 Water supply.
- All water supply and distribution systems shall be approved by the city engineer prior to construction. The water supply shall be connected to the municipal water system and all plumbing shall be constructed and maintained in accordance with the city's plumbing code. Individual water service connections shall be provided for direct use by mobile homes and shall be so constructed that they will not be damaged by the parking of such mobile homes, or as required by the building official. The owner of a mobile home park may require individual water meters or a master meter for the entire water service, in which case the owner shall be responsible for payment of the water bill and sewage service charge. (Ord. 557 § 2.05.05(a)(9), 1985)
- 18.1115 Sewage disposal.
- All liquid waste shall be disposed of through a sanitary sewer system and treatment facility, the plans of which shall be approved by the city engineer prior to construction. All plumbing at the mobile home park shall comply with state and local plumbing laws and regulations. Each mobile home space shall be provided with at least a four-inch sewer connection. The sewer connections shall be provided with suitable fittings so that a water tight connection can be made between the mobile home drain and the sewer connection. Such individual mobile home connections shall be so constructed that they can be closed when not linked to a mobile home, and shall be trapped in such a manner as to maintain them in an odor-free condition. All sewer lines of the mobile home park shall be connected to the public sewer system. (Ord. 557 § 2.05.05(a)(10), 1985)
- 18.1116 Refuse disposal.
- All solid wastes shall be disposed of by accumulation in tight containers and removal at regular intervals by methods to be approved by the building official. (Ord. 557 § 2.05.05(a)(11), 1985)
- 18.1117 Electricity.
- A All electrical installations shall comply with the electrical code of the city.
- B Electrical outlets shall be weatherproof: An electrical outlet supplying at least one hundred fifteen volts shall be provided for each mobile home space with a minimum of 100 ampere individual service. Power lines, including service lines to the mobile homes, may be either above or underground and shall be installed in compliance with the standards of the utility corporation involved. (Ord. 557 § 2.05.05(a)(12), 1985)

- 18.1118 Fire protection.  
Standards for fire protection, use of portable fire extinguishers and location of fire hydrants in mobile home parks shall be as follows:
- A Each mobile home park shall be subject to the rules and regulations of the city and the fire prevention code of the city.
  - B Portable fire extinguishers of a type approved by the fire chief shall be kept in the service building and in such other buildings or locations named by the fire chief, and shall be maintained at all times in a good operating condition.
  - C Standard fire hydrants shall be located within four hundred feet of each mobile home. (Ord. 557 § 2.05.05(a)(14), 1985)

- 18.1119 Management.  
Each mobile home park or mobile home sub-division shall be operated in a sanitary, orderly and efficient manner, and shall maintain a neat appearance at all times. No damaged or deteriorated mobile homes shall be permitted to remain, and suitable and effective rules for regulating the outside storage of equipment, the removal of wheels and installation of skirtings, the collection of trash and garbage, and the attachment of appurtenances to the mobile homes shall be continually enforced. All drives, playground area and equipment, lawn and trees, and any recreation or accessory buildings shall be maintained at a level at least equal to the average residential neighborhood in the city. All portions of the mobile home park shall be open and accessible to fire, police and other emergency and protective vehicles and personnel, including city, county and state inspectors. (Ord. 557 §2.05.07, 1985)

- 18.1120 Trailers- Where permitted.  
Camping Trailers. Camping trailers may be parked in a camp ground or trailer park, provided such camp area is in conformance with this title and other ordinances of the city. Camping trailers may also be stored, on the basis of one per family, in private garages, or in the side or rear yard of private homes, businesses or industrial areas; provided, that no such trailer all be use residential purposes except in a licensed mobile home park as hereinafter provided, and subject to any other limitations that may be imposed by other ordinances of the City. Camping trailers may also be placed in a licensed mobile home park, provided an occupancy permit is obtained therefor and such trailer is in conformance with all provisions of this title pertaining to mobile homes which are placed upon licensed mobile home parks.(Ord.557 § 2.05.08, 1985)

- 18.1121 Mobile homes and trailers as nonresidential structures.  
One or more mobile homes or trailers may be used as a temporary office or other nonresidential structures on the site of a construction project provided such structures are removed upon completion of the project. Mobile structures may be used as temporary classroom facilities in connection with public schools or private schools with equivalent curriculum. {Ord. 557 §2.05.09, 1985)

- 18.1122 Nonconforming uses.
- A All mobile home parks designated as mobile home parks and having two or more spaces for rental of mobile homes on the date of the adoption of the ordinance codified in this title shall be considered existing mobile home parks. The owner of an existing mobile home park must, within sixty days from the date of the adoption of the ordinance codified in this title, apply for a special use permit and a license and pay the required renewal license fees as provided in this title. Existing mobile home parks shall not, at the time such applications are made, be required to conform with the provisions of this title except as to utility and sanitary systems requirements as provided in this title. All existing mobile home parks must conform to all the requirements of this Article within three years from the date of adoption of the Ordinance codified in this title, provided, however that no existing mobile home park shall be required to have a water supply system connected to the municipal water system and no existing mobile home park shall be required to conform to the following minimum standards for mobile home parks:
    - 1Site, drainage and size requirements;
    - 2Open space requirements, except that each mobile home located in an existing mobile home park shall be located on the mobile home space so that no part of one mobile home structure is closer than twenty

feet to another mobile home and no such mobile home shall be located closer than ten feet from the edge of the surface of a drive or from any property line bounding the existing mobile homes park.

3Streets and drives requirements, except that all mobile home spaces in an existing mobile home park shall have adequate access to a driveway of not less than twenty feet in width.

4Park and playground areas requirements, except that all existing mobile home parks shall contain park and playground space for occupants of the existing mobile home park and such park and playground space shall be of a minimum size of one thousand square feet.

- B All mobile home park utility and sanitary systems made nonconforming by this title shall be altered to conform to all utility and sanitary systems requirements contained in this title within thirty days after inspection by the building official or city engineer.
- C After adoption of the ordinance codified in this title, any mobile home which is presently located on a permanent or semi-permanent basis outside an existing mobile home park, as defined above, shall be construed as a permanent structure and subject to all the requirements of the building, plumbing, electrical, gas, fire prevention and sanitary code, and this title. No such mobile home may be replaced by a new mobile home.
- D In the event that a nonconforming use of any existing mobile home park is discontinued for a period of thirty days, the use of such premises or part thereof shall thereafter conform with all of the provisions of this title (Ord. 557 §2.05.10, 1985)

18.1123 Violation-Penalty.

Any person who neglects or refuses to comply with or violates or attempts to violate any of the provisions of this title, or any amendments or additions thereto, whether as owner, agent, officer, employee, tenant, occupant, lessee, or any other person who shall permit or take part in, or assist in, such violation or attempted violation, shall be deemed guilty of a misdemeanor, constituting a separate offense for each and every day, or portion thereof, during which such violation is committed, continued, permitted or attempted, and upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars, nor more than two hundred fifty dollars. The imposition of the penalties herein prescribed shall not preclude the city, or any other interested person from instituting injunction, mandamus or other appropriate action or proceeding authorized by law to prevent, correct or abate such violation. (Ord. 557 § 2.05.11, 1985)



## ARTICLE TWELVE – RESERVED





## ARTICLE THIRTEEN– RESERVED



## **ARTICLE FOURTEEN – ACCESSORY STRUCTURES / USES**

### **18.1400**

#### **Purpose**

- A. The purpose and intent of the accessory use and accessory structure, building and use regulations is to:
1. Maintain neighborhood integrity and preserve the existing character of the neighborhood by encouraging compatible land uses.
  2. Provide the resident of the City the opportunity to use their property to enhance or fulfill personal objectives as long as the use of the property is not incompatible with the land uses or character of the neighborhood.
  3. Establish criteria for operating home occupations in dwelling units within R-1 Districts.
  4. Assure that public and private services such as streets, sewers, water and electrical systems are not burdened by accessory uses to the extent that the accessory usage exceeds that which is normally associated with the primary use of the property.

### **18.1401**

#### **Building and Uses Permitted**

- A. The following items are considered accessory uses but are not limited to those stated in list and may be subject to specific standards and may only be allowed in certain zoning Districts:
1. Animals;
  2. Barbecue grills and stoves (permanent);
  3. Communication structures;
  4. Fences, walls, and trellises;
  5. Flag poles;
  6. Garages and Carports;
  7. Gates and guardhouses;
  8. Gift shops, newsstands and similar commercial activities operated primarily for the convenience of employees, residents, clients, patients or visitors to the principal use;
  9. Hobby Activities;
  10. Parking garages, off-street parking, and loading areas;
  11. Playhouses, tree-houses and cabanas;
  12. Patios, decks, porches, and incidental household storage buildings;
  13. Recreational and play facilities for the use of residents;
  14. Recreation areas and facilities for the use of employees;
  15. Recreational equipment and vehicles such as boats, camping trailers or motor homes;
  16. Refreshment stands and food and beverage sales located in uses involving public assembly;
  17. Satellite dish antennas;
  18. Solar energy systems;
  19. Soliciting and general fund-raising;
  20. Storage of recreational equipment and vehicles such as boats, camping trailers or motor homes;
  21. Swimming Pools bathhouses, and Hot tubs;
  22. Trash receptacles in commercial and industrial Districts; and
  23. Other necessary and customary uses determined by the Planning Director to be appropriate, incidental and subordinate to the principal use on the lot, subject to compliance with any development and performance standards imposed by the Planning Department as a means of ensuring land-use compatibility.
- B. A structure or building shall be considered an integral part of the main structure or building when it has any major physical part or a wall in common with the main structure or building, or is under an extension of the main roof and designed as an integral part of the main structure or building.

- C. Structures, building or uses that would be accessory to main structures, buildings or uses under some situations may by themselves be main structures, buildings or uses in situations where they are not integral part of or incidental or insubstantial to a main use on a lot.
- D. No accessory structure or use shall be constructed, occupied or commenced on any lot prior to the time of the application and approval of the building permit by the Building Inspector.

**18.1402**

**Determination for Accessory Structures, Buildings and Uses**

- A. The Planning Director shall make determination of whether a proposed structure, building or use would be an appropriate accessory.
- B. Such determination may be appealed to the Board of Zoning Appeals as provided in Article 23.

**18.1403**

**Accessory Use District Requirements**

**A. Location of Accessory Structures**

- 1. Accessory buildings and structures shall be located in the rear yard, subject to the following requirements and exceptions.
  - a. Accessory buildings and carports may be permitted to occupy side yards provided that they comply with the zoning district's setback requirements and are constructed with quality materials and are architecturally compatible with the dwelling unit.
  - b. The Planning Director may allow parcels larger than 1 acre to have accessory buildings and carports located in the front yard area but behind the required front and side setback lines where the principal structures within the established neighborhood generally maintain greater setbacks or other similar design diversity has been established. Such structures shall be constructed of quality materials and designed to be architecturally compatible with the dwelling unit.
  - c. Accessory structures may not be used as human living quarters, unless the structure meets the provisions of a guesthouse as defined in 18-2809.
  - d. Roof overhangs must adhere to setbacks.

**B. Floor Area:**

The total floor area of any and all accessory structures on a lot is subject to the following restrictions. For the purposes of calculating total floor areas of principal and accessory structures, the area for the principal structure and the accessory structure shall be based only on the footprint of the structure, and shall not include multiple stories or finished basement or attic spaces.

- 1. In residential districts (R-1, R-2, R-3 and MRC), the following criteria shall apply:
  - a. The total of all accessory buildings or structures shall not exceed the total square footage of the dwelling unit.
  - b. The maximum square footage of all accessory structures on a single parcel, or multiple parcels under common ownership, shall be as follows:

(See table next page)

Parcel(s) Square Footage			Maximum Accessory Structure Size (square feet)
0	to	6,000	375
6,001	to	8,700	525
8,701	to	13,000	750
13,001	to	16,000	1,000
16,001	to	20,000	1,250
20,001	to	25,000	1,500
25,001	to	30,000	1,750
30,001	to	40,000	1,850
40,001	to	43,560	2,000
43,561	to	87,122	2,250
Over 87,122			2,500

2. In non-residential districts (C-1, C-2, I-1, I-2, I-3), the total of all the maximum lot coverage (Principal structure + Accessory structure) shall not exceed a total land area of 75 percent of the lot and the accessory structures may not exceed 10% of the gross floor area of all structures on the lot.

**C. Setbacks**

1. The side yard setback shall be a minimum of 7 feet and/or no closer than 7 feet to a principal structure.
2. The rear yard setback shall be a minimum of 10 feet.
3. No accessory structure shall be erected in any required or established front yard.

**D. Height**

1. The height of the building shall not be greater than 20 feet (measured from the ground to the highest roof peak).

**E. Appearance**

1. Accessory structures and buildings shall be constructed of quality materials and shall be compatible in character with the dwelling unit.

(Ordinance 782: 8/29/06)

**18.1404**

**Animals**

**A. Domestic, Non-farm Animals:**

1. If more than 2 animals, the raising, keeping and breeding of domestic, non-farm animals for purely noncommercial purposes shall be considered a permitted accessory use in residential zoning districts.
2. Compliance with Wellsville City Code, Chapter 6 shall be required.

**B. Horses**

1. The raising, keeping and breeding of horses for noncommercial purposes shall be permitted only in Use Group 1 and 2 and only on lots with a minimum of 3 acres.

2. No stable, or corral shall be located within 50 feet of any dwelling unit on another lot or within 100 feet of the front lot line or within 50 feet of any side lot line or 50 feet of the rear yard line.

3. Compliance with Wellsville City Code, Chapter 6 shall be required.

C. Farm Animals

1. Farm animals, excluding horses shall be allowed in Use Group 1 and 2.

2. Compliance with Wellsville City Code, Chapter 6 shall be required.

D. Exotic/Wild Animals

1. The keeping of exotic or wild animals is prohibited in all zoning districts.

**18.1405 Fences and Walls: Permit Required**

A. Information pertaining to fence requirements is located in [18-1806](#) and [18-513](#)

**18.1406 Recreational equipment and vehicles on lots less than 1 acre**

A. Storage of major recreational equipment and vehicles such as boats, campers, trailers or motor homes shall be allowed provided that they are not utilized for living purposes.

B. Storage shall only be allowed on side or rear yard and be in compliance with the setbacks as listed in [18-1403.C](#)

**18.1407 Retaining Walls**

A. Retaining walls of 4 feet or less in height are permitted when they are reasonably necessary due to the topography of the site.

B. The wall shall be located at least 2 feet from any street, right-of-way and shall not extend more than 6 inches above the ground level of any land to be retained.

**18.1408 Easements**

A. Fences or walls constructed within the City or private easements may be removed to allow access to utilities.

B. The property owner shall be responsible for the reconstruction and replacement of any fence or walls removed.

**18.1409 Drainage**

A. All fences and walls shall be constructed to allow for proper surface drainage.

B. Retaining walls shall be designed to support lateral loads and to ensure proper surface drainage.

**18.1410 Fuel or Petroleum Storage**

Storage outside above or below ground level of petroleum products for fueling vehicles related to the operation of the principal use shall only be allowed in commercial and industrial zoning districts.

**18.1411 Hobby Activities**

Hobby activities shall be permitted as an accessory residential use by the occupant of the premises when conducted purely for personal enjoyment, amusement or recreation and when the activity does not conflict with any City Ordinance.

**18.1412 Home Occupations**

A. Home occupation is considered an accessory use and the standards are intended to:

1. Permit the establishment of certain incidental and accessory home occupation uses in residential neighborhoods zoned R-1 under condition that will ensure their compatibility with the residential character of the neighborhood;
2. Permit resident to engage in home occupations that are compatible with the residential land uses; and
3. Ensure that home occupation do not adversely affect the integrity of residential areas.

**18.1413 Home Occupations: Use Limitation**

- A. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:
1. Employees: No more than 1 other person in addition to members of the family residing on the premises shall be engaged in the home occupation at the place of residence.
  2. Size: A home occupation shall be clearly incidental and subordinate to the residential use of the dwelling unit.
    - a. No more than 25 percent of the total floor area of the dwelling, not including basement space, shall be used for the home occupation.
    - b. In no event shall more than 600 square feet be devoted to a home occupation.
  3. Appearance: There shall be no change in the exterior appearance of the dwelling unit or other visible evidence of the conduct of the home occupation except signs that meet requirements of Article 19.
  4. Accessory Buildings: Home occupations within accessory buildings shall be restricted to those occupation types that customarily take place within the living portions of the principal structure or home. Such uses include, but are not limited to the following:
    - Professional offices including architect, engineer, planner, lawyer, accountant, bookkeeper, and similar professions
      - Barber and beauty shops, day care homes and nurseries
      - Laundering or pressing
      - Home crafts and hobbies
      - Teaching or tutoring
      - Tailoring / seamstress
      - Computer or electronic equipment repair or consulting
      - Clergyman
      - Counselor
      - Photographic studios, offices for realtors, insurance agents, brokers, sales representatives, and manufacturing representatives
      - Artists
      - Cosmetologist

Accessory buildings may not be used for those home occupations which are typically carried out in the garage or other non-living portions of the principal structure. Such uses include, but are not limited to the following:

- Small appliance repair services
- Retail sales of second-hand merchandise, except occasional or seasonal yard or garage sales not to exceed two such sales per calendar year.
- Equipment rental
- Small motor repair
- Commercial repair of automobiles, appliances, equipment or other similar items

For proposed uses not listed above, the Building Inspector, or his designee, shall determine the appropriateness of the use for any accessory structure. This determination may be appealed to the Board of Zoning Appeals, in accordance with Article 23 of these regulations. The storage of materials and goods in connection with a home occupation shall be allowed within any accessory structure.

5. Hours of Operation: A home occupation may attract business related vehicular and pedestrian visits only between the hours of 7:00 AM and 10:00 PM.

6. Traffic: A home occupation shall not generate more than 10 round-trip vehicular trips per day.

(Ordinance 810: 9/22/08)

**18.1414**

**Outdoor Retail Display in Commercial Zoning Districts**

- A. Retail businesses shall be allowed to maintain outdoor retail displays of seasonal uses, such as firewood, bedding plants, and Christmas trees, landscape plants and other seasonal goods.
- B. This provision shall not be deemed to allow the outdoor retail display of the following types of seasonal material:
  - 1. Mulch;
  - 2. Chip;
  - 3. Rocks;
  - 4. Fertilizer;
  - 5. Potting soil and pots; and
  - 6. Pesticides and other such like products.
- C. No outdoor retail display permitted by this subsection shall interfere with pedestrian or vehicular access or parking.
- D. Each business shall be limited to 2 outdoor vending machines, such as ice machines, soft drink dispensers and children's rides. The provision shall not apply to newspaper vending machines.

**18.1415**

**Communication Towers**

- A. Radio and television antennas are considered communication towers.
- B. Communication towers are permitted, but shall meet the requirements of Article 20.

**18.1416**

**Solar Energy and Wind Systems**

- A. The provisions of this subsection shall apply to the design, construction, installation, alteration, materials, location, repair, and removal of solar systems and accessories connected attached or adjacent to a building or structure.
- B. Solar energy systems, whether active or passive, shall be designed to be compatible with the surrounding neighborhood and shall comply with the following standards:
  - 1. Maintenance and Access: Solar energy system components shall be accessible for required routine maintenance without trespassing on adjoining property or disassembling any major portion of the structure of a building or appurtenance.
  - 2. Location: Solar energy system components shall not be located so as to interfere with the operation of required doors, windows or other building components. Provision shall be made over pedestrian and vehicular ways to protect those areas from sliding snow or ice. Solar energy systems may be placed in the side or rear yards of any lot; provided that the required setback distances are observed. In no instance shall solar energy systems be placed any closer to the front lot line than the front of the building or buildings erected upon said lot.
- C. Wind energy systems shall only be allowed on lots greater than 1 acre.



**18.1417 Swimming Pools, Bathhouses, and Hot Tubs**

- A. In addition to meeting the applicable building code requirements, swimming pools, hot tubs and spas shall meet the following requirements::
1. Swimming pools, hot tubs and spas shall not exceed the size of the dwelling unit, and shall not be located in any established or required front yard.
  2. All private swimming pools, hot tubs and spas shall meet the requirements of Appendix G of the 2003 International Residential Code, as amended by the City of Wellsville.

(Ordinance 823: 1/13/10)

**18.1418 Special Events**

- A. All special events are reviewed as Permitted Uses upon Review. Further information regarding procedures and regulations concerning special events is found in Article 16.



## **ARTICLE FIFTEEN – NONCONFORMING LOTS, STRUCTURES, and USES**

### **18.1500 General Purpose**

- A. The regulations for nonconforming lots, structures, and uses are designated to:
  - 1. Provide for the regulation of nonconforming lots, structures and uses;
  - 2. Specify those circumstances and conditions under which such lots structures or uses shall be permitted to continue; and
  - 3. The right to continue a nonconforming lot structure or use. Such continuance shall not be affected by a change in ownership or operator of the structure or use unless such ownership or operator is a condition attached to an approval for a special or Use Permitted Upon Review.

### **18.1501 Nonconforming Uses: General**

- A. Non conformities are of the following types:
  - 1. Nonconforming Lot of Record – An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations, and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
  - 2. Nonconforming Structure – An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
  - 3. Nonconforming Use – An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

### **18.1502 Nonconforming Lots of Record**

- A. The Planning Director shall issue a building permit for any nonconforming lot of record, provided that:
  - 1. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
  - 2. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
  - 3. Said lot can meet all yard regulations for the district in which it is located, and
  - 4. Said lot can meet minimum standards for sewage treatment as required by the County Health Office.

### **18.1503 Nonconforming Structures**

- A. Authority to Continue
  - 1. Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.
- B. Enlargement, Repair Alterations
  - 1. Any nonconforming structure may be enlarged, maintained, repaired or remodeled, provided, however no such enlargement maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.

2. Additionally, existing mobile home parks not meeting the requirements of these regulations shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of these regulations.
- C. Damage or Destruction
1. In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than 50 percent of its appraised value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located.
  2. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within 1 year after the date of such partial destruction and is diligently pursued to completion.
- D. Moving
1. No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

**18.1504**

**Nonconforming Uses**

- A. Authority to Continue
1. Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, may be continued so long as otherwise lawful
- B. Ordinary Repair and Maintenance
1. Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
  2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
- C. Extension
1. A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:
    - a. Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendment hereto that cause such use to become nonconforming).
    - b. Extension of such use within a structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming); provided, however that such use may be extended throughout any part of such structure that was lawfully and manifestly designed or arranged for such use on such effective date.
- D. Enlargement
1. No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. Damage or Destruction
1. In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its appraised

value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located.

2. When such damage or destruction is 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within 1 year after the date of such partial destruction and is diligently pursued to completion.

**F. Moving**

1. No structure that is devoted in whole or in part to a nonconforming use and no conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.

**G. Change in Use**

1. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a Use Permitted Upon Review be changed to another nonconforming use provided that the Planning Commission either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.
2. In permitting such change, the Planning Commission may require appropriate conditions and safeguards in accordance with [18-504](#)
3. Once a change is made to a more appropriate use, the use shall not be returned to the original use or a less appropriate use.

**H. Abandonment or Discontinuance**

1. When a nonconforming use is discontinued or abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

**I. Nonconforming Accessory Uses**

1. No use that is an accessory to a principal nonconforming use shall continue after such principal's use shall cease or terminate.

**J. Nonconforming Residential Uses**

1. Notwithstanding the provisions of 18-1504.C, any structure which is devoted to a residential use and which is located in a business or industrial district, may be remodeled, extended, expanded, and enlarged, provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.

**K. Nonconforming Uses**

1. All existing mobile home or manufactured home parks not meeting the requirement so these regulations shall be declared nonconforming and shall not be permitted to add spaces or make any improvements inconsistent with the terms and conditions of these regulations.
2. Any existing manufactured home park developed according to a valid Use Permitted Upon Review or other approved development plan shall become a legal, conforming use under these regulations.

**18.1505 Status of Special Uses**

**A. Status of Existing Use Permitted Upon Review**

1. Where a use exists at the effective date of these regulations and is permitted by these regulations only as a Use Permitted Upon Review in the zoning district in which it is located.

2. Such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district.
  3. Such Use Permitted Upon Review shall not be enlarged or expanded unless a Use Permitted Upon Review application is approved as set out in [18-2214 through 18-2228](#)
- B. Status of Future Use Permitted Upon Review
1. Any use for which a Use Permitted Upon Review has been issued, as provide in these regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.

## **ARTICLE SIXTEEN – USES PERMITTED UPON REVIEW**

### **18.1600 General**

- A. This article describes the special conditions under which certain uses are permitted in a zoning district when reference is made to one or more of said section in the “Uses Permitted Upon Review” column in the permitted uses by use group.
- B. In all instances where approval of an application for a Uses Permitted upon Review or Temporary Uses Permitted upon Review is required from the City Council as set forth in [18-2224 through 18-2228](#). And where the meeting of special conditions is required, the City Council shall first make a finding to the effect that the proposed use, as described in applications, plan or other documents submitted by the applicant, will meet such conditions before approval is granted.

### **18.1601 Adult Business Establishment**

- A. Adult business establishments shall be subject to the following use supplementary use standards:
  - 1. Location and Distance Requirements
    - a. Residential: No adult business shall be granted for an adult business within 250 feet of residential zoned property.
    - b. Schools and Parks and Religious Institutions: No permit shall be granted for any adult business establishment within 1,000 feet of any school, church, licensed childcare center, government building.
    - c. Other Adult Uses: No permit may be granted for any adult business establishment within 1,000 feet of any other entertainment establishment.
    - d. Facility with a liquor license: No permit shall be granted for any adult business establishment within 1,000 feet of any business licensed to sell or serve alcoholic or cereal malt beverages, whether or not such business is also an adult business establishment.
  - 2. Measurement of Distance
    - a. The distance between any adult business establishment and any religious institution, school, public park or childcare facility or any property zoned for residential use shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of the adult entertainment establishment to the closest property line of the religious institution or place of worship, private or public school, park, childcare facility or property zoned for residential use.
    - b. The distance between any 2 adult business establishments or between any adult use and adult business establishment shall be measured in a straight line, without regard to intervening structure, from the closest exterior structural wall of each business.
  - 3. Other Regulations:
    - a. Adult business establishments must also comply with all other regulations contained in the City Code, including, but not limited to Ordinance 623.

### **18.1602 Airport, Aircraft Landing Strip, or Heliport**

- A. Any airport, aircraft, landing strip, or heliport shall be located no nearer than 600 feet to any other property in a residential district shall:
  - 1. Provide runways or other landing spaces only so located and oriented that aircraft landing and taking off do not normally pass directly over the residential district below 200 feet.
  - 2. Be located that air or land traffic shall not become objectionable to neighboring uses.
  - 3. Show that adequate measures will be taken to prevent offensive dust, noise, vibrations and bright lights; and

4. Meets the standards of the Federal Aviation Agency for the particular class of field proposed to be developed.

**18.1603 Animal Husbandry, Dairy, and Pasturage**

- A. Livestock includes but is limited to horses, mules, cattle, burros, llamas, swine, sheep, and goats. Poultry include, but are limited to chickens, turkeys, game birds, peafowl and Ostriches.
- B. Where the property is less than 20 acres a Use Permitted Upon Review is required.
- C. The City will pay for expense related items if land is annexed into the City.

**18.1604 Animal Hospital, Commercial Kennels, Livestock Sales, Riding Academy, Public Stable, and Veterinarian's Office**

- E. In those districts where permitted, shall be subject to the following regulations:
  1. Animal hospital, pound or shelter, commercial kennel for cats or dogs, livestock sales or feeding facilities, riding academy, public stable, or veterinarian's office with animals on the premises in outside enclosures shall be located no nearer than 150 feet to residential districts and no nearer to adjoining property line than 100 feet.
  2. Proponents of the above uses shall show that adequate measures will be taken to prevent odor, dust, noise, or drainage from becoming objectionable to uses on other properties. No incineration of animal refuse shall be permitted.

**18.1605 Automobile Car wash**

- A. Space shall be provided on the same lot for not less than 3 automobiles per washing lane.
- B. Should be designed so as to face away from streets and residential areas.
- C. Landscaping must comply with [Article 18](#).
- D. In order to protect neighboring property from potential loss of use or diminishment of land value, the Planning Director may recommend, and the Planning Commission may approve an increase in buffer for approved outdoor vehicular use areas.

**18.1606 Automobile; Go-Kart, Miniature Auto, Racing, or Driving Tracks**

- A. Shall be located no closer than 1500 feet from any R-1, R-2, and R-3 District.
- B. If enclosed by a solid fence or wall of at least 6 feet high, the track can be located no closer than 1000 feet.

**18.1607 Bars, Nightclubs, and Drinking Establishments**

- A. Bars, nightclubs, and drinking establishments shall comply with the following standards:
  1. Setback from Residential:
    - a. No permit shall be granted for a bar, nightclub or drinking establishment unless the distance between the walls of the facility within which the operation is located and the nearest property used or zoned for residential purposes is greater than 200 feet.
  2. Setback from Schools:
    - a. No permit shall be granted for a bar, nightclub or drinking establishment unless the distance between the walls of the facility within which the operation is located and the nearest private or public school property is over 1,000 feet.
  3. Food Sales:
    - a. All drinking establishments shall derive a minimum of 30 percent of their gross revenues from food sales as stated in K.S.A. 41-2601. Upon request of the Planning Director, the drinking



establishment shall be required to submit documentation verifying this food requirement is being met.

Duration of Permits:

- a. Where only permitted through the Uses Permitted Upon Review, the initial permit may be granted for a period up to 12 months with renewal granted for up to 5 years thereafter, provided all standards of performance are being met.

4. Trash Receptacles:

- a. All facilities shall provide their own enclosed trash and recycling receptacles, wither inside or outside of the facility, of sufficient size to adequately and sanitarly contain all disposable trash and recyclable materials produced by the facility, subject to review and approval of the Fire Department.
- b. Trash receptacles shall meet screening requirements in [Article 18-1806.H](#).
- c. The management will be responsible for the policing of all trash and recyclable material associated with the orientation of the facility.

5. Outdoor Seating/Activity Areas:

- a. To protect neighboring property from potential loss of use or diminishment of land value, the Planning Director may recommend, and the Planning Commission may approve an increase in a buffer area for approved outdoor seating/activity areas.

6. Revocation of Permits:

- A. Uses Permitted Upon Review for these operation may be revoked at any time by the City Council upon determination that the standards of performance, attached stipulation, or any other city Ordinance associated with the operation of these facilities is not being complied with.

7. Licensing:

- a. All bars, nightclubs and drinking establishments shall comply with applicable State and local licensing requirements.

8. Exceptions:

- a. The City Council may grant exceptions to any of the supplementary use standards of this subsection when it finds that the granting of the proposed permit without such standard(s) will not create or cause substantial damage or hardship to the nearest residentially zoned property or public or private school property or other surrounding property.

**18.1608 Bed and Breakfast or Tearoom Establishment**

- A. A bed and breakfast establishment with 7 or fewer guest bedrooms shall be operated as an incidental use to the primary use of the structure as an owner-occupied residence.
- B. A bed and breakfast establishment with 8 or more guest bedrooms shall be considered a Bed and Breakfast Inn. It shall be required to have a full-time resident manager or owner on the site; and shall be licensed by the State of Kansas to do business.

**18.1609 Bees**

- A. Bees or beehives shall be allowed in Use Group 1.

**18.1610 Carnival, Circus, or Temporary Religious Service**

- A. In those districts where permitted, shall be subject to the following regulations:
  1. Is required to obtain a Certificate of Occupancy from the Building Inspector.
  2. Shall have no facilities located nearer to an R-1, R-2, R-3 or PRD District than 250 feet.

3. If residential structures occupied, it shall not be located nearer than 300 feet.
4. Must have access drives so located as to minimize traffic hazards.
5. Must show that adequate measures will be taken to prevent odor, dust, noise, lights, and traffic from becoming objectionable to uses on other properties.
6. Each Certificate of Occupancy shall be valid for a period of not more than 7 days and shall not be granted for more than 3 such periods for the same location within 90-day period.

**18.1611 Cemetery, Columbarium, Crematory or Mausoleum**

These uses shall have its principal entrance or entrances on a major thoroughfare, with ingress and egress so designed as to minimize traffic congestion and shall provide a wall or fence that meets standards in [Article 18-513](#) and [Article 18-1806](#).

**18.1612 Childcare / Daycare**

- A. Shall comply with K.S.A. 65-501 through 65-530.
- B. Childcare homes shall require a Use Permitted Upon Review when either more than 2 adults are required for supervision and/or there are more than 12 children under the supervision of one adult.
- C. If by the Franklin County Health Department classifies the site as a child care center, it shall be on a site of at least 6,000 sqft and shall maintain a wall or fence at least 4 feet high between any play area and any other property in a residential district. A UPR shall be required before the proposed use may begin or continue as an allowed use.

**18.1613 Church or other Place of Worship**

Such uses shall be permitted in the following districts, subject to the indicated site standards:

Site Standards				
District	Minimum Site (acres)	Minimum Yards (feet)		
		Front	Side	Rear
R-1	2	35	75	75
R-2	2	35	75	75
R-3	1	35	50	50

**18.1614 Club, Lodge, Golf Course or Country Club**

When permitted in residential districts, shall observe the site standards as required for churches in [Article 18-1613](#) and shall be so located that no ingress or egress (other than a service entrance on an alley) is from any street other than a collector thoroughfare or a major thoroughfare. No swimming pool or accessory to a private club or lodge shall be located nearer to other property in a residential district than one-half the required yard dimension. Additionally, whenever any such facility is located within any part of a required side or rear yard, adjoining property in a residential district shall be effectively protected by a fence or wall that meet standards in [Article 18-513](#) and [Article 18-1806](#).

**18.1615 Construction Sales and Service**

- A. Outdoor storage areas permitted under the definitions of construction sales and service, general and limited, shall be subject to the following supplementary use regulations:
  1. Screening and Enclosures:
    - a. Outdoor storage areas shall comply with the screening requirements in [18-1806](#).
    - b. Fences and walls used to provide screening shall comply with the fence requirements in [Article 18-513](#) and [Article 18-1806](#).
    - c. No signs or advertising devices shall be placed upon fences or walls used to provide visual screening of outside storage areas.

- d. Outdoor storage areas permitted under the definition of construction sales and service, limited shall be ancillary to the primary use and may not exceed 15 percent of the main building floor area unless the screening method is an extension of the architecture of the main building.
2. Storage of Material:
  - a. All material on the premises of the outside storage areas shall be arranged to permit reasonable inspection and access to all parts of the premises by fire, police, and City authorities.

**18.1616 Dance Hall (Commercial)**

Such uses shall provide parking with ingress and egress designed so as to minimize traffic congestion. It shall be not less than 20 feet from any property line and provide a minimum 6 feet high solid board or masonry wall separating the entire area from abutting property in a residential district. Additionally, adequate control or measures shall be taken to prevent offensive noise, light and vibration.

**18.1617 Development Standards: Inner City Neighborhood (C-1)**

- A. The design and intent of the Inner Neighborhood District is to integrate commercial use which are compatible with the uses and character of established inner residential neighborhoods. These development standards are provided to promote the harmonious integration and compatibility of commercial and established residential uses. Commercial development in the C-1 District is required to conform with the following additional development standards:
  1. For fence requirements see [Article 18-513](#) and Article [18-1806](#).
  2. At least one lot line shall be adjacent to a collector or arterial thoroughfares. Alleys may serve as secondary access to a site or as a service drive to a site.
  3. No exterior storage yards or outside sales areas shall be permitted on the site.
  4. Exterior lighting shall be designed and installed to prevent glare onto adjacent lots or public right-of-ways.
  5. Off-street parking shall be designed to take advantage of existing public alleys, where available.
  6. Distance between C-1 districts shall be no closer than 500 feet.

**18.1618 Earthmoving, Mining & Quarrying**

- A. Mining, including extraction of clay, gravel or sand; quarrying of rock or stone; earth moving and excavation, including removal of topsoil; depositing of construction material, clay, earth, gravel, minerals, rock, sand or stone on the ground shall not be construed to be a permitted use in any district.
- B. If a Temporary Uses Permitted upon Review application is approved as provided in Article 18-2226 it shall be allowed. The following conditions do not need such a permit;
  1. Excavation for the foundation of basement of any building or for a swimming pool for which a building permit has been issued, or deposits on the earth of any building or construction materials to be used in a structure for which a building permit has been issued.
  2. Grading of any parcel of land for a permitted use where no bank is left standing and exposed of more than 4 feet of vertical height.
  3. Grading in a subdivision which has been approved by the City in accordance with the City of Wellsville Subdivision Regulations and any amendments thereto.
  4. Any extractive operation existing and operating as such on the effective date of this Article shall conform with the provision set forth herein within 1 year of the adoption of this Article.
- C. The City Council shall have the power to approve application for Temporary Uses Permitted upon Review, revocable and valid for specified periods of time, to permit mining or extractions from or

deposits on the earth or rock, stone, gravel, sand, earth, minerals, or building or construction materials as set forth in [Article 18-2228](#).

- D. The Building Inspector shall make such inspection as he deems necessary or as are required by the City Council to insure that all work is in accordance with the approved Temporary Use Permitted upon Review application.

**18.1619 Exterior Storage**

- A. A yard or area for exterior storage is allowed as an accessory use to the principal use of the property in all commercial and industrial districts.
- B. The surface of the exterior storage yard or area shall be screened from view of adjacent properties and street right-of-way by a solid wall, fence or landscape hedge of sufficient height to be screened and within the requirements of [Article 18-513](#) and Article [18-1806](#).
- C. When a site plan is required for the principal use on the property, the exterior storage yard or areas shall be shown on the site plan.

**18.1620 Golf Driving Range (Commercial)**

Shall be located on major thoroughfares. Lights used to illuminate the premises shall be so directed and shielded as not to be an annoyance to any developed residential property. The golf-driving platform shall not be less than 200 feet from any adjacent property line located in a residential district.

**18.1621 Junkyard, Salvage Yards or Auto Wrecking Yards or the Storage or Processing of Used Machinery, Building Materials, Plumbing Fixtures, or Appliances**

The City Council shall have the power to approve such applications for a "Use Permitted upon Review" only after it has been found and determined that the proposed use will not be detrimental to the existing land uses in the area and that the health, safety, and welfare of neighboring property owners will not be unduly affected, and further, that the following requirements have been met:

1. A solid masonry wall or solid wood fence shall screen all exterior storage and processing areas abutting a thoroughfare at least 6 feet high. It shall be designed and located to prevent visibility of stored or stacked material and such fence shall be located no closer than 15 feet to any street right-of-way. In no case shall the height of the solid fence exceed 8 feet. No stored or stacked material shall exceed the height of the fence. Fencing shall be placed along the side and rear of all processing areas.
2. No open burning of junked, salvaged, or discarded materials shall be permitted. Incinerators may be used for burning of wastes or the conducting of salvage operations if such they are of a type approved by the Kansas State Department of Health.

**18.1622 Manufactured Homes**

- A. The following standards apply to residential-designed manufactured homes:
1. Minimum dimensions of the body width shall be 22 feet;
  2. Minimum roof pitch shall be 4 inches in height to running 12 inches;
  3. Siding material shall be wood, masonry, composition board or finished aluminum lap siding or other materials normally found on site built homes;
  4. Roofing materials shall be wood, composition, fiberglass, asphalt, or clay shingles or concrete or slate tile;
  5. On level sites the main floor shall be no greater than 20 inches above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20 inches above finished grade at the foundation; and
  6. Structure shall be permanently mounted on a foundation or basement, which meets the provision of the Wellsville Codes.

B. Further information concerning Manufactured Homes is found in [Article 18-2815.](#)

**18.1623 Special Event**

- A. The purpose and intent of regulating special events is to :
1. Provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public;
  2. Protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics and the nature of the proposed use; and
  3. Preserve the public health, safety and convenience.

**18.1624 Special Event: Defined**

- A. See definition in [Article 18-2820.](#)
- B. Special event shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by the Wellsville Zoning Regulations. The following are the different types:
1. *Type 1:* Fund-raising or non-commercial events for nonprofit religious, educational or community service organization, including any structures in conjunction with the event.
  2. *Type 2:* Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as outdoor entertainment or display booths.
  3. *Type 3:* Outdoor commercial activities intended to sell, lease, rent or promote specific merchandise or services (such as tent sale, farmers market or product demonstration) or outdoor seasonal events which will draw additional visitors to a property and including licensed transient merchant requiring use of a tent or structure.
  4. *Type 4:* Christmas tree sales.
  5. *Type 5:* Public events intended primarily for entertainment or amusement, such as concerts or festivals.

**18.1625 Special Event: Events not Requiring a Permit**

- A. The following are special events of Type 1 that are allowed without a Temporary Use Permit provided that all of the following standards are met:
1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
  2. Any structure used in conjunction with the special event shall meet all applicable yard setbacks, shall be subject to a valid building permit, shall meet uniform fire code requirements, and shall be removed within 24 hours upon the cessation of the event.
  3. The special event shall be restricted to hours of operation between 8 AM and 10 PM to a maximum of 3 days, and to a maximum frequency for similar events of 2 times per calendar year.
  4. Signs displayed in conjunction with the use shall comply with Article 19.

**18.1626 Special Event: Subject to Administrative Permit**

- A. Special events that do not meet criteria of 18-1626 and/or are of Type 2, Type 3 may be permitted administratively by the Planning Director, but may be subject to review from the Police, Fire, Building Inspector or Public Works Departments. No administrative Temporary Use Permits shall be issued unless all of the following standards are met:
1. An application and site plan indicating the proposed use and any temporary structures or displays is submitted, and a fee paid in accordance with Article 22.

2. The special event shall not cause undue traffic congestion or accident potential given anticipated attendance and specific location of event.
3. The activity shall not cause the overcrowding of parking facilities. Permits may not be issued for properties, which do not provide parking spaces in excess of the number required in the zoning ordinance to support the principal use on the property.
4. The special event shall not endanger the public health, safety or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
5. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, and litter or visual pollution.
6. Any structure used in conjunction with the special event shall be subject to a valid Building Permit and shall meet uniform fire code requirements and shall be removed with 24 hours upon the cessation of the event.
7. Cars, trucks and vans may not be used for the sale of merchandise. Vehicles used for the storage of merchandise associated with an approved temporary use may only be located on site during the approved hours of operation of the special event.
8. The special event shall be conducted on private property that has an approved site plan in a commercial or industrial zoning district where the property owner has granted the appropriate written permission.
  - a. Nonprofit organization may conduct events on any planned property (in any zoning district) where the property owner has granted the appropriate written permission.
9. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed 14 days.
10. Signs displayed in conjunction with use shall comply with [Article 19](#) and shall not be located on public right-of-way and displayed only during hours of operation.

**18.1627 Special Event: Subject to City Council Approval**

- A. Any special event not meeting the criteria of [Article 18-1826](#) and 18-1627 may be granted a Temporary Use Permit Upon Review by the City Council. Such permit may be subject to such conditions and safeguards, as the City Council may deem necessary to protect the public health, safety and welfare. These conditions may include but shall not be limited to:
  1. Restriction on the hours of operation, duration of the event, size of the activity or other operation characteristic.
  2. The posting of a performance bond to help ensure that the operation of the event and subsequent restoration of the site are conducted according to City Council expectations.
  3. The provision of traffic control or security personnel to increase the public safety and convenience.
  4. Obtaining liability and personal injury insurance in such form and amount as the City Council may find necessary to protect the safety and general welfare of the community.
  5. Signs displayed in conjunction with use shall comply with Article 19 and shall not be located on public right-of-way and displayed only during hours event is in operation.
  6. Further guidelines found in [Article 18-116](#).

**18.1628 Special Event: Application and Fee**

For application see [Article 18-2230](#) and for fees see [Article 18-2238](#).

**18.1629 Stables: Commercial:**

- A. Commercial stables shall be subject to the following supplementary use regulations:



1. Location:
  - a. Commercial stables shall be allowed in R-1 Districts and only lots with a minimum area of 3 acres unless the zoning district in which the use is located requires a larger acreage. In such case, the larger minimum shall apply.
  - b. No commercial stable or corral shall be located within 100 feet of any dwelling unit on another lot, within 100 feet of the front lot line or within 50 feet of any side or rear property line.
2. Plan Approval
  - a. Site Plan Review shall be approved by the City as outlined in [Article 18-2214](#).

**18.1630**

**Swimming Pool**

- A. Any swimming pool in any district shall:
  1. Be located at least 10 feet from the nearest property line.
  2. Be so walled or fenced as to prevent uncontrolled access by children from the street or any adjacent property.
  3. Be screened by a masonry wall or solid fence at least 6 feet high on any side facing the property line of any property in a residential district, if said pool is located within any part of a required side or rear yard.
- B. No swimming pool shall be permitted in any residential district unless such pool:
  1. Is owned and operated by a public agency,
  2. Is accessory to a residential use, or
  3. Is accessory to a non-residential use, which is permitted in a district.
- C. Except for a pool owned and operated by a public agency, no pool shall be permitted in any residential district unless the pool is intended for the use of, and is used by, only the occupants of the principal use of the property on which the pool is located, or their guests.

(Ordinance 823: 1/13/10)

**18.1631**

**Temporary Outdoor Sales Area as an Accessory use to an Established Commercial Operation**

- A. Temporary outdoor sales, such as seasonal sales of bedding plants, and sidewalk sales operated by the principal commercial user on the property, shall be permitted according to the following standards:
  1. Outdoor sales areas:
    - a. The display area must be on a hard surface adjacent to the commercial building and behind the front building line;
    - b. The location of the outdoor sales areas shall conform to the building setbacks of the zoning district in which the commercial enterprise is located, and in no event shall the areas be located closer than 25 feet to an adjacent public right-of-way;
    - c. The perimeter of the area must be delineated with some form of semi-permanent enclosure such as split-rail fencing, and shall enclose no more than 1000 sq. ft;
    - d. The square footage included in the outdoor display area shall be included in the calculation of the number of required parking spaces to be provided on the site;
    - e. Seasonal display areas shall be used for no more than 120 days in any calendar year;
    - f. Prior to use of such an outdoor sales area, an administrative revision to the approves site plan shall be examined and approved by the Planning Director; and

- g. Use of tents, temporary structures or sales from cars, trucks, vans and trailers will require issuance of a Temporary Use Permitted Upon Review as set forth in [Article 18-116](#) and [Article 18-2224 through 18-2228](#).
- 2. Sidewalk sales areas:
  - a. Outdoor seasonal display/sales or food carts may occur along a paved sidewalk immediately adjacent to the building extending no greater than ½ the width of the sidewalk, but in no event shall less than 4 feet of unobstructed area from the outside edge of the sidewalk toward the building be provided.
  - b. Seasonal displays shall be temporary in nature. Year round displays of merchandise on the sidewalk adjacent to the building is not permitted.

**18.1632 Commercial Uses in Certain Residential Districts**

Commercial uses listed in Use Group Seven of these Regulations may be considered in residential districts, subject to the requirements of Article Sixteen, Uses Permitted Upon Review, provided that the subject property meets all of the following conditions:

- 1. It is at least one acre in size
- 2. It is abutted on at least two sides by commercial or industrial uses.
- 3. It is within 500 feet of an arterial road or Federal or State Highway.

**18.1633 Residential Uses in the C-1 District**

Residential uses in the "C-1" district shall be subject to the following additional use limitations:

- 1. Residential uses shall be complementary and secondary to the primary retail commercial and office uses of the central business district.
- 2. Residential uses shall be restricted from street-level building floors except as permitted through a special use permit. In no case shall a residential use occupy a street-level storefront.
- 3. Residential uses shall not restrict or limit hours of operation, parking, loading, unloading, trash disposal or other activities associated with the commercial or office uses in the central business district.
- 4. Parking for residential uses shall not be permitted on front streets, or in other established parking areas intended to service commercial or office uses during established business hours.
- 5. New construction, renovation or other improvements required to accommodate residential uses shall be complementary to the established character of the central business district size

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## ARTICLE SEVENTEEN – OFF-STREET LOADING AND PARKING REQUIREMENTS

### **18.1700 Purpose**

- A. To properly regulate the number, type and size of required off-street parking and loading spaces so as to provide for the needs of owners, occupants, suppliers, customers, or others involved in use or occupancy of any building, structural improvement or place of assembly.
- B. To enable control of curb parking to help assure the availability of street capacity for access and traffic movement
- C. To promote and protect the public health, safety, comfort convenience and general welfare.

### **18.1701 Loading Requirements**

- A. Every building or structure hereafter constructed in any district for commercial or industrial purposes requiring the receipt or distribution of vehicles (those that exceed gross vehicular weight of 10,000 lbs.) shall provide and maintain on the same lot with such building at least one off-street loading/unloading space.
- B. There shall be a maximum of 10 loading spaces. However, the Planning Commission may allow for more loading / unloading spaces provided that the transportation infrastructure can handle the additional traffic increase.

### **18.1702 Loading Dimensions**

- A. Each loading space shall be a minimum width of 10 feet, length of 25 feet, and 14 feet in height. There shall be provided a paved access drive at least 10 feet in width leading to the loading areas. When in operation, loading docks may not impede the normal flow of traffic on either streets or parking areas.

### **18.1703 Loading Location**

No portion of a loading berth shall be located within 20 feet of a street right-of-way line or 30 feet of a pavement line or within 10 feet of any property line whichever is greatest.

### **18.1704 Off-Street Parking Requirements**

- A. Off-street parking must be provided in all zoning districts. When significant enlargements in a structure increase a structure's existing use by 10, provisions must be examined to determine if existing off-street parking is adequate or if more will be required.
- B. The construction and renovation of certain structures and facilities must conform to the provisions of the Americans with Disabilities Act (ADA) Title III of 1990. Structure plans for construction, alteration or remodeling permits must identify how compliance to the ADA parking and other site requirements is to be met. Permits for new construction must comply with the entire Title III of the Act as it relates to the structure and site.
- C. All off-street parking shall meet the stall parking dimensions as set forth in [Section 18-1705](#).
- D. All uses shall meet the required amount of spaces as set forth in [Section 18-1706](#).
- E. All vehicle parking shall be located in accordance with the provisions of the Article. See [Section 18-1709](#) for calculating parking spaces by use.

**18.1705 Off-Street Parking Dimensions**

Every parking area shall be designed to meet the following minimum requirements:

<b>PARKING DIMMENSIONS</b>					
Stall Angle	Stall Width	Stall Depth	Stall Overhang	Aisle	Width Double Aisle Parking
45	9 feet	19 feet	2 feet	14 feet	52 feet
60	9 feet	20 feet	2.5 feet	18 feet	58 feet
90	9 feet	18 feet	3 feet	24 feet	60 feet

**18.1706 Number of Spaces Required**

<b>Number of Off-Street Parking Spaces Required</b>		
<b>General Use or Category</b>	<b>Required Parking Spaces</b>	<b>Additional Requirements</b>
Dwelling Unit	2 spaces for each dwelling unit	
Duplexes, Townhomes, Rowhouses	2 spaces for each dwelling unit	
Apartments (2 bedroom or less)	1.5 spaces for each apartment	
Apartments (greater than 2 bedrooms)	2.5 spaces for each apartment	
Apartments in MRC District	2 spaces for each apartment	
Restaurant or other establishment for the consumption of food or beverage on premises	1 per 3 seats of seating spaces	
Auditorium, arena theater, stadium, gymnasium, hall for conventions	1 per 4 seats of seating spaces	
Church, Temple, similar place of assembly, College or High School, funeral home	1 per 3 seats of in main assembly room, main auditorium or chapel	Or 8 per classroom, whichever is greater
Elementary School	1 per 10 seats in main assembly room	Or 1 per classroom, whichever is greater
Public library, museum, art gallery or community center	10 per building	Plus 1 additional space per 400 sqft of floor area over 1000 sqft
Convelescent home, Home for the aged or similar facility	1 per 5 patient beds	
Hotel, motel, temp residence inn, motor lodge, rooming, boarding or lodging house	1 per guest room or suite	Plus 1 additional space per 2 seats in restaurant
Hospital	1 per 3 patient beds	Plus 1 per 2 employees
Amusement place, dance hall, skating rink, swimming pool, auction hall, meeting hall or auditorium without fixed seats	1 per 100 sqft of floor area	Does not apply to accessory uses
Office, office building, studio or clinic, retail store, personal service establishment, banks, or bowling alley. General service or repair business, printing, publishing, plumbing, heating, broadcasting auditorium or similar facility	1 per 300 sqft of floor area	Minimum of 3 spaces for offices, Plus 1 per 200sqft over 4,000 sqft floor area for retail stores
Furniture or appliance store, machinery, equipment, automobile or boat sale or service	1 per 300 sqft of floor area	Minimum of 3 spaces per facility, 10 spaces minimum for sales or service
Manufacturing or industrial business, research or testing laboratory, bottling plant, wholesale warehouse or similar facility	1 per 1,000 sqft of floor area or 1 per each 3 employees of largest shift during any 24-hour period, whichever is greater.	Plus storage of trucks or vehicles used in connection with the buisness or industry
Other Uses not specified in this list	1 per 3 persons at maximum utilization	

**18.1707 Off-Street Parking Location & Setbacks**

- A. Off-street parking facilities should be located as hereinafter specified. Where a distance is specified. Such distance shall be the walking distance measured from the nearest point of the parking facility to the entrance of the building, which it is required to serve:
  - 1. For one and two-family dwellings: On the same lot with the building they are required to serve.
  - 2. For multiple dwellings: Not more than 200 feet from the building they are required to serve.
  - 3. For commercial and institutional uses (for hospitals, sanitariums, asylums, orphanages, and rooming houses): Not more than 300 feet from the building they are required to serve.
- B. No off-street parking other than in a parking structure or in a R-1 or R-2 zoning district shall be located within 20 feet of a street right-of-way line, whichever is greater or 30 feet of a pavement line or within 10 feet of any property line whichever is greatest.
- C. Ingress and egress shall be by means of paved driveways not exceeding thirty-five (35) feet in width. Existing gravel drives in R-1 and R-2 Districts shall be allowed to continue as such when an accessory use is for storing a vehicle or the accessory use is being replaced.

**18.1708 Nature of Use**

In any residential district, off-street parking areas shall not be used for the sale of, repair, dismantling or servicing of any vehicles, equipment, materials, or supplies.

**18.1709 Computation of Off-street Parking**

- A. When a determination of the number of off-street parking spaces results in a requirement of a fractional space, the fraction of a space shall be counted as one parking space.
- B. Collective provisions and peak parking periods: Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each such use, and provided that all regulations covering the location of accessory parking spaces in relation to the use served are adhered to. Whenever there is a common plan for parking for land held in single ownership, the amount of required parking shall consider the joint use of such space between the peak parking needs of competing land uses which may vary in times of use and season of the year to the end that all parking contained on the site or on accessory parking lots except for infrequent periods of peak use. The off-street parking spaces required by [Section 18-1706](#) will be increased where it is anticipated that peak parking periods will be a consistently reoccurring problem.

**18.1710 Surfacing Material Requirements**

- A. All off-street parking areas, including single-family and duplex residential driveways shall be surfaced with either concrete, asphalt, or asphalt-concrete and meet the standards of the City of Wellsville prior to the issuance of an Occupancy Permit.

**18.1711 Markings & Barriers**

- A. The parking spaces in all off-street parking areas shall be clearly marked. For parking lots greater than 10 spaces, the perimeter of the parking lot shall be curbed in accordance with City standards for concrete curbs. Curbs shall also protect landscape islands and other interior parking features.
- B. The use of parking planter islands is encouraged to help direct the flow of traffic and to define parking rows/columns. No part of a vehicle shall be permitted to extend beyond the property line or into the 20 feet setback from the street right-of-way.
  - 1. A minimum of 15 percent of the interior of a parking lot shall be landscaped.
    - a. The interior of a parking lot shall be calculated by multiplying the number of parking spaces by 275 sq. ft.

- b. Plantings required along the perimeter of a parking lot shall not be considered as part of the interior-landscaping requirement.
  - c. Landscaping and planting areas shall be reasonably dispersed throughout the parking lot.
- 2. An island is required for each 25 parking spaces.
  - a. Each island shall be landscaped with a minimum of 1 tree per 25 feet.
  - b. Islands are to be a minimum size of 100sqft for single rows and 200 sqft for double rows.
- C. Islands shall be spaced in the parking lot in such a manner as to provide greenery and shade in various sections of the paved area, but may be combined into larger landscaped areas

**18.1712 Screening and Landscape**

- A. The Planning Commission may require that a parking area be screened on any side where it may adversely affect adjacent property. It shall also meet landscape requirements as stated in [Article 18-1805](#).

**18.1713 Lighting**

- A. Any lighting used to illuminate any off-street parking area shall be so arranged as to direct light away from any adjacent premises. It shall also meet lighting standards as stated in [Article 18](#).

**18.1714 Modification of Off-street parking Requirements**

- A. When there is a change in use of any building, or an increase in floor area or the number of employees or other units of measurement that may require an increase of parking, the Planning Commission shall review these changes and specify the number of additional parking spaces required.
- B. However, if the additional off-street parking required does not exceed 10% of the previously provided parking facility, no additional parking shall be required.

**18.1715 Approval of Off-street Parking & Loading Design**

- A. The Planning Department and the City Engineer prior to the issuance of a building permit shall approve the layout and design of all off-street parking areas.
- B. Before approving any off-street parking plan, the Planning Department determines if it complies with the Zoning Regulations. The engineer shall determine whether or not the spaces provided are usable and meet the standard traffic flow and storm-water design criteria.

**18.1716 Off-street parking Exemptions**

- A. Time extension for off-street parking
  - 1. Any church or nonprofit organization which is building a structure for the benefit of the community shall have a maximum of 5 years in which to complete construction for off-street parking as required by the Wellsville Zoning Regulations for any structure which is being built by funds provided by said church or nonprofit organization for community purposes.
- B. Application for extension of time to construct off-street parking
  - 1. Any church or nonprofit organization that is requesting additional time to complete off-street parking shall make said request to the Wellsville Planning Commission. The Planning Commission shall, at its discretion, determine whether the organization and the structure being built meet the requirements of being built for community purposes.
  - 2. Once the Planning Commission determines the organization is a church and/or nonprofit organization, and that the structure is being built for community purposes, then it shall decide the additional amount of time to allow said church or nonprofit organization to complete the construction of off-street parking as required by the Zoning Regulations.

C. Bond required for enforcement of zoning regulation

1. The Planning Commission may at its discretion require that a bond be posted by the church or other nonprofit organization that is requesting additional time to complete construction for off-street parking. The City of Wellsville shall hold a cash or surety bond in an amount to be decided at the discretion of the Planning Commission until the construction of the off-street parking is completed. If the off-street parking is not completed as required by the Planning Commission, then the City of Wellsville may enforce the requirement that off-street parking be constructed as follows, to wit:
  - a. The bond which has been posted may be forfeited to the City of Wellsville;
  - b. The occupancy permit may be withdrawn from any structure on the premises not in compliance with the off-street parking requirement; or
  - c. Any other remedies which may be allowed by the Zoning Regulations to enforce the requirements for off-street parking.

**18.1717**

**Securities Required**

- A. In lieu of actual construction of a required off-street parking lot or the initial provisions for screening, the Board may accept, in the name of the City, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the Board and conditioned upon actual completion of such improvement within a specified time. Such securities shall be filed with the City Clerk. The City Council may enforce such securities by all equitable means.



## ARTICLE EIGHTEEN – LANDSCAPING AND LIGHTING

### **18.1800 General Purposes**

- A. The regulations for landscaping are designated to:
  - 1. Establish standards for outdoor lighting;
  - 2. Establish criteria for permitted types of plant landscaping;
  - 3. Enhance the visual appearance of the community through the use of landscaping materials and techniques;
  - 4. Provide greenery to visually soften paved areas and buildings;
  - 5. Establish optimal environmental conditions by providing shade, air purification, groundwater recharge, retardation of stormwater, abatement of noise, glare and heat;
  - 6. Ensure replenishment of native trees and plants by utilizing plant materials that are generally native or hearty to the region; and
  - 7. Preserve existing trees and areas of beauty.

### **18.1801 Landscaping: Plan Required**

- A. All plans submitted in support of a Final Development Plan and/or site plan shall include a landscape plan.
  - 1. The Planning Director may waive this requirement for smaller projects such as expansions, revocations, and sign installations. The waiver shall be based on the following items:
    - a. The overall cost and scope of the necessary landscape improvement;
    - b. The need for special functional designs for screening and buffering; and
    - c. The ability to expand on existing landscape design versus creating new elements and treatments.
- B. All landscaping plans shall include the following:
  - 1. The location, size, type, and quantity of all proposed landscape materials.
  - 2. The location, size of all existing plant material to be retained on the site.
  - 3. Location of hose connection, spigots, and other watering sources.
  - 4. The location of all trees being proposed to be removed that are 12 inch caliper or larger when measured at 4 ½ feet above the ground level.

### **18.1802 Minimum Tree Requirements**

- A. In all Zoning Districts:
  - 1. One shade tree per 40 feet of public or private street frontage shall be planted. For any fraction in calculation it shall be rounded up to the nearest whole number of trees.
  - 2. It is recommended that the trees not be located within the street right-of-way.
  - 3. The tree shall have a minimum 1 ½ inch trunk caliper when measured 4 ½ feet from the ground.
  - 4. Ornamental trees shall have a minimum height of 6 feet.
  - 5. Evergreens shall have a minimum height of 4 feet.
- B. Additional trees are required for parking areas as stipulated in [Article 18-1805](#).
- C. A list of appropriate trees that may be planted can be obtained from the Planning Department.

**18.1803 Protection of Preserved Trees**

- A. Existing trees saved on the site during construction may be credited toward the minimum number of trees required, provide that trees are a minimum of 4 inches caliper as measured 4 ½ feet above ground.
- B. In order to receive credit for the preservation of an existing tree the following requirements shall be met:
  - 1. Preserve the entire area within the drip line of the tree.
  - 2. No soil may be removed from within the drip line of any tree that is to remain at its original location.
  - 3. The tree shall not be damaged from skinning, barking, bumping and the like.
  - 4. There shall be no impervious surface or grade change within 5 feet of the trunk.
  - 5. Cutting and ditching for underground utility lines shall be done in such a way as to preserve and protect the root system of the tree.
- C. If the preserved tree becomes significantly damaged during construction phase or within 3 months of completion, the tree must be replaced with a tree meeting [Article 18-1802](#)

**18.1804 Planting Requirements: General**

- A. All areas will have sod placement unless otherwise approved for seeding at the time of site plan approval by the City Council or Final Development Plan by the Planning Commission.
  - 1. Such areas shall be regularly mowed and planted according to good local horticulture practices with locally acceptable lawn grasses by seeding, sod, plugging, or sprigging in a manner which will result in a satisfactory stand of permanent grass.
- B. Erosion control methods shall be installed in drainage swales and areas with a gradient of 5 percent or greater.
  - 1. The City Engineer or his or her designee prior to obtaining a building permit shall approve the method of erosion control.
- C. Groundcovers used in lieu of grass in whole or in part shall be planted in such a manner to present a finished appearance and reasonably complete coverage within 1 year of planting.
- D. Mulches shall be applied at a depth of 2 inches within the drip line of trees and shrubs at installation, unless said drip line is covered by lawn grass.

**18.1805 Planting Requirements: Parking and Vehicular Use Areas**

- A. The intent of this section is to:
  - 1. Provide interior landscaping within vehicular parking areas;
  - 2. Avoid large expanses of continuous pavement or concrete; and
  - 3. Provide relief from the reflection of glare and heat.
- B. In all districts, the following items are required for parking areas where the lot is over 10 spaces and/or 3,500 sq. ft:
  - c. See [Article 17](#) for specific requirements.
  - 3. The primary landscaping materials shall be trees, which provide, or are capable of providing shade at maturity.
    - a. Shrubs, hedges and other planting materials may be used to complement the tree landscaping, but shall not be the sole contribution to the landscaping.



4. Effective use of earth berms and existing topography is also encouraged as a component of the landscape plan.
  - a. If landscaped berms are provided along the street frontage the 15 percent interior landscaping required shall be reduced to 10 percent.
  - b. The berms shall be a minimum of 3 feet in height and 10 feet wide.

**18.1806 Screening Requirements**

- B. A plot plan drawn to scale shall indicate the following for approval by the Building Inspector:
  1. Location of the proposed fence;
  2. All property lines;
  3. All easements;
  4. All setbacks; and
  5. Buildings
- B. Fence Regulations Required:
  1. A building permit shall be obtained and pay the required fee before any fence or wall is constructed. After receipt of a Building permit, the Building Inspector shall approve, with conditions, or deny the permit request.
  2. No landscape or accessory structures shall be erected, placed, planted or allowed to grow that will impede vision at a street, driveway, or sidewalk intersection as described in [Article 18-507](#).
  3. Fences will be required when residential structures are built on lots abutting collector streets or railroad right-of-way.
  4. No fence will be constructed in such a manner or be of such design as to be hazardous or dangerous to persons or animals.
  5. No person shall erect or maintain a fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation or which fence shall adversely affect the public health, safety and welfare.
  6. Fences or walls to be used for agricultural purposes within Use Group 1 may be repaired or rebuilt to existing specifications.
  7. A fence shall be required for Commercial and Industrial Districts that adjoin residentially zoned Districts.
- E. Fence Regulations Additional
  1. Trash enclosures for R-3, C-1, C-2, I-1, and I-2 Districts shall be screened from public view on at least 3 sides with:
    - a. Plant material that meets screening criteria;
    - b. A combination of fence and plant material.
  2. Exterior ground-mounted or building-mounted equipment, such as mechanical equipment, utilities and banks of meters shall be screened from public view with:
    - a. Plant material or
    - b. Architectural treatment compatible with the building architecture.
  3. All rooftop equipment shall be screened from public view with an architectural treatment, which is compatible with the building architecture.

4. All off-street parking areas containing 10 or more parking spaces shall be effectively screened on each side that adjoins or is across the street from any residential district or institutional premises with:
    - a. Evergreen hedge or other landscape screening material which when planted will constitute an immediate view-reducing barrier; or
  5. Outdoor storage areas that are permitted by the Zoning Regulations shall be screened from view by privacy fences or walls.
    - a. Non opaque fencing such as chain-link may be used to satisfy the requirements of this Section if sufficient plant material is provided to effectively screen the storage area from view.
- F. Fence Regulations Optional
1. The sole use or plant material or a combination of fence and plant material may be substituted in place of a fence but meet the following conditions
    - a. Plant screening materials shall consist of evergreen trees and shrubs, and berms.
    - b. If a long stretch of screening is required, options may be combined or alternated, or plant material may be varied to achieve a more pleasing effect. Other creative options, such as changes in elevation, existing vegetation, or plant materials that provide a buffer are encouraged.
- G. A complete listing of allowed materials as well as screening options may be obtained from the Planning Department at City Hall.
- H. Dumpster enclosure and improvements
1. Exterior refuse will be kept in an enclosed area large enough to contain a week of refuse and be contained in a refuse bin equipped with a lid.
  2. The enclosure shall be a minimum dimensions:
    - a. The width of the enclosure shall be at least 12 feet wide to allow access for the truck picking up the refuse bin.
    - b. The depth of the enclosure shall be the depth of the refuse bin being used plus an additional 4 feet to allow for the mechanical dumping of the refuse bin.
    - c. The enclosure height shall be a minimum height of 5 feet.
  3. The floor of the enclosure shall be reinforced concrete with a minimum thickness of 4 inches with #4 woven wire grid at 24 inches each direction.
  4. There shall be a 12-foot by 12-foot concrete pad in front of the enclosure.
    - a. This pad should be a minimum depth of 8 feet and have 5/8 inch re-bar every 24 inches in each direction; and
    - b. Test at of 4,000 pounds per square inch.
  5. The enclosure should be shielded on 3 sides by a wall or decorative fence and positioned in such a manner to shield the refuse bins from sight of any public thoroughfare or adjoining property.
    - a. When decorative fence is used the corner post should be made of steel pipe with a 4-inch minimum diameter and filled with concrete.

The number and location of the refuse bins shall be located on the site plans prior to the approval and the capacity of each refuse bin shall be noted on the plans.

**18.1807 Lighting**

- A. All lights shall be shielded to direct light away from adjacent properties in such a manner that it provides sufficient safe illumination and avoids spill light and glare onto adjacent properties and streets.
- B. Lights located on or illuminating the perimeter of a site adjacent to R-1, R-2 and R-3 Districts shall reduce intensity of light no later than 60 minutes after the close of business and the normal time for the departure of customers and employees from the premises.
- C. The average maintained illumination levels for open parking facilities will not exceed 2.50 foot-candles as measured by appropriate illumination measuring standards. No single illumination source in an open parking facility shall exceed 5.00 foot-candles.

**18.1808 Landscaping Timeframe**

- A. All landscaping material, living and nonliving shall be in place prior to issuance of Occupancy Permit.
- B. A temporary certificate may be issued without the installation, provide written assurance is given that the planting will take place in suitable planting season.

**18.1809 Landscape Maintenance and Enforcement**

- A. The trees, shrubs, and other landscape materials depicted on plans approved by the City shall be considered as elements of the project in the same manner as parking, building materials and other required elements of the plan.
- B. Regulations for enforcement of the landscape requirements are as follows:
  - 1. When, in the opinion of the Building Inspector, or an authorized representative, landscaping has not been installed, maintained, or replaced to comply with the approved final plan or landscape plan, a written order to correct the situation shall be mailed to the alleged violator.
  - 2. All landscaping on public and private property shall be subject to periodic inspection by the Building Inspector to detect diseased, dead, or hazardous shrubs, trees or plants.
  - 3. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and its agent or agents shall be considered in violation of the terms of the City approved landscape plan. A violation of the terms and conditions of the approved landscape plan shall be considered a violation of the City Code and a violation of the City Zoning Regulations, and may be enforced as such.
- C. The Building Inspector is empowered to enforce the terms of this article.
- D. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the street or alley right-of-way or within public grounds, parks as may be necessary to:
  - 1. Ensure public safety;
  - 2. Preserve the symmetry and beauty of public property;
  - 3. Improve areas where it causes an obstruction to public travel along streets and sidewalks;
  - 4. Remedy areas where it may impair the vision of traffic signals; and/or
  - 5. Prevent landscape from creating a public hazard.
- E. The City shall have the right to cause removal of any dead or diseased trees, plants and shrubs on private property within the City, when such trees, plants, and shrubs constitute a hazard to life and property or harbor insects or disease which constitute a potential threat to other trees, plants or shrubs within the City.
  - 1. The Public Works Department or any authorized representative will notify, in writing, the owners of such trees, plants or shrubs.

2. Said owners at their own expense shall do removal within 30 days after date of service of notice.
3. In the event of failure of owners to comply with such provisions, the City shall have the authority to remove such trees and charge the cost of removal on the owner's property tax notice.

**18.1810 Xeriscape Landscape Techniques**

- A. The City encourages the use of Xeriscape landscape practices as a means of minimizing the need for supplemental watering. The following techniques are strongly encouraged:
  1. Using plant materials with lower moisture requirements (low water use);
  2. Selecting plants on the basis of specific slope, aspect, soil, and microclimate conditions;
  3. Using native and adapted plant species;
  4. Minimizing the amount of irrigated turf area;
  5. Planting and designing slopes to minimize runoff;
  6. Separating irrigation zones according to plants' water requirements and using drip/trickle irrigation systems to reduce evaporation;
  7. Emphasizing soil improvement by conserving topsoil, deeply loosening soil and incorporating organic matter and amendments based on soil tests; and
  8. Using mulch in planting areas to reduce weed growth, promote soil cooling and reduce evaporation.

**18.1811 Landscaping of Signs**

All signs shall meet the requirements as stipulated in [Article 19](#)

**18.1812 Exemptions**

- A. Unless otherwise indicated, agricultural uses may be exempt from landscape standards of this section. The decision to exempt such uses shall be based on the following items:
  1. Will not adversely affect neighboring property owners or residents;
  2. Will not take productive land out of agricultural use; and
  3. Will not create, maintain an unsafe situation for the public.
- B. Agricultural uses shall be allowed to make repairs or provide maintenance to existing fences.

**18.1813 Definitions**

- A. Berm – An earthen mound designed to create topographic relief, provide visual interest, screen undesirable views and/or decrease noise
- B. Buffer – A combination of physical space and vertical elements, such as plants, berms, fences or walls, for the purpose of separating and screening incompatible land uses from one another.
- C. Deciduous Plant – A plant with foliage that is shed annually.
- D. Evergreen Plant – A plant with foliage that persists and remains green throughout the year.
- E. Ground Cover – Low-growing plant material, other than turf or native grasses, of good quality, appropriate form, growth habit and ultimate size for the space in which it is planted and which is maintained to provide a continuous cover over the ground.
- F. Landscape material – Living material, such as trees, shrubs, ground cover, vines and turf grasses, and non-living material, such as rocks, pebbles, bark, brick pavers, berms and other items of a function and decorative nature such as fountains, pools, walls, fencing and sculpture, that are used in the exterior environment.

- G. Landscaped open space – All land area within the property lines not covered by building or pavement.
- H. Mulch – A protective or decorative covering of organic material, such as bark chips or inorganic material such as river rock or pea gravel, placed on the earth around plants to retard weed growth, prevent moisture evaporation and to provide a finished or decorative appearance.
- I. Native Grasses – Native or naturalized perennial grasses or those designated as noxious weeds by the State of Kansas Department of Agriculture and Entomology.
- J. Screen – A method of reducing the impact of noise and/or unsightly visual intrusions with more harmonious elements, such as plants, berms, fences, walls or any appropriate combination of these.
- K. Shade Tree – A deciduous tree planted primarily for its high crown of foliage or overhead canopy.
- L. Shrub – Any self-supporting, woody plant of a species which normally grows to an over-all height of less than 15 feet in this region.
- M. Site Tree – Any tree which is not a street tree.
- N. Street Tree – Any tree located within public right-of-way, within 15 feet of the right-of-way or within 15 feet of the pavement of a private street.
- O. Tree – A self-supporting, woody plant of a species, which normally grows to an overall minimum height of 15 feet in this region.
  - Small Tree – A tree that generally reaches 30 feet or less in height at maturity.
  - Medium Tree – A tree that generally reaches more than 30, but less than 70 feet in height in maturity.
  - Large Tree – A tree that generally reaches 70 feet or more in height at maturity.
- P. Xeriscape Landscape – Creative and quality landscaping that conserves water and protects the environment.



## ARTICLE NINETEEN – SIGN REQUIREMENTS

### **18.1900 Purpose**

- A. The purpose of these sign regulations are:
  - 1. Encourage the effective use of signs as a means of communication in the City;
  - 2. To maintain and enhance the aesthetic environment and the City's ability to attract sources of economic development and growth;
  - 3. To improve pedestrian and traffic safety;
  - 4. To minimize the possible adverse effect of signs on nearby public and private property; and
  - 5. To enable the fair and consistent enforcement of these sign restrictions

### **18.1901 Applicability**

- A. To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this Article.
- B. The intent of this Article is to authorize the use of street signs which are:
  - 1. Compatible with their surroundings;
  - 2. Appropriate to the activity that displays them;
  - 3. Expressive of the identity of individual activities and the community as a whole; and
  - 4. Legible in the circumstances in which they are seen.
- C. The provisions of this Article govern the size, placement, use and structural quality of outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus.
- D. The provisions of this Article provide for temporary signs without commercial messages in limited circumstances in the public right-of-way.
- E. The provisions of this Article prohibit all signs not expressly permitted by this ordinance.
- F. The provisions of this Article provide for the enforcement of the provisions of this Article.

### **18.1902 Permit Requirements**

- A. No person shall erect or display a street sign unless the Planning Director has approved and the Building Inspector issued a permit for the street sign or unless this section exempts the street sign from the permit requirement.
- B. The issuance of the Sign Permit, as required by these regulations, shall not act in lieu of any other permits or fees required by the electrical code or building code or any other governmental rules or regulations adopted by the City or any other governmental entity and made applicable to the sign and its placement.
- C. A person proposing to erect or display a street sign shall file an application for a Sign (Master Sign Permit) permit with the Planning Department. The Master Sign Plan references the following items:
  - 1. Information to be completed on the application:
    - a. The name, street address, and telephone number of both the applicant and the person erecting, constructing, reconstructing, relocating, re-facing, structurally or otherwise altering the sign;
    - b. The legal description of the lot or tract and the street address of the building or structure where the sign is to be located; and

- c. If the applicant is not the owner, written consent is required of the owner(s) of the lot or tract, building or structure on which the sign is to be erected.
2. Additional information that shall be required:
  - a. An accurate plot plan of the zone lot, at a scale the Planning Director may reasonably require.
  - b. Location of buildings, parking lots, driveways, and landscaped areas on such zone lot.
  - c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the zone lot(s) included in the plan under this Article.
3. Additional information that may be required:
  - a. Information concerning the location, height, and size of the street sign and the date on which it is to be erected or displayed;
  - b. If the application is for a wall or roof sign, a drawing to scale showing the location of the sign within the signable area of the building and the percentage of the signable area covered by the wall or roof sign;
  - c. Specifications for the construction of the street sign and for its illumination and mechanical movement, if any is to be provided;
- D. The Building Inspector shall issue a permit for the street sign if:
  1. If the Planning Director has authorized that the Master Sign Plan complies with the regulations for street signs contained in this Article, or
  2. The Board of Zoning Appeals has authorized a variance as stated in [Article 18-2309](#).
- E. After approval of a Master Sign Plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan and such plan may be enforced in the same way as any provision of this ordinance. In case of any conflict between the provisions of such a plan and any other provision of this ordinance, the ordinance shall control.
- F. A Master Signage Plan shall be included in any site plan or other official plan required by the City for the proposed development and shall be processed simultaneously with such other plan.
- G. A Master Signage Plan may be amended by filing a new Master Signage Plan that conforms with all requirements of the Zoning Regulation then in effect.

**18.1903 Permit Fees**

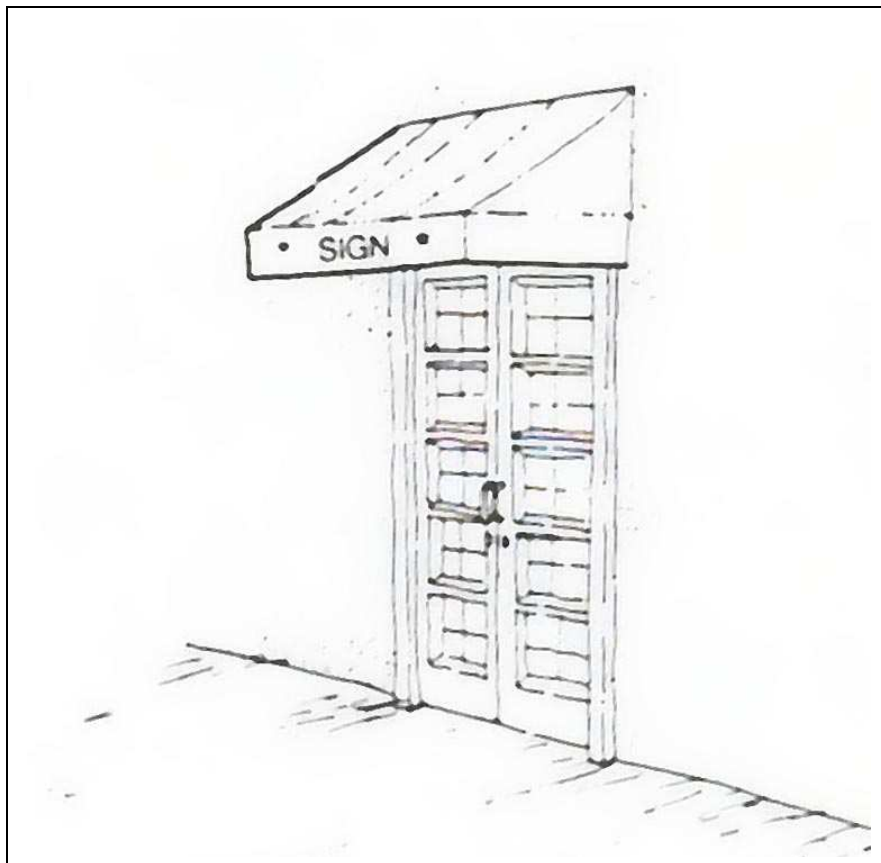
Before being granted a permit for a sign, every applicant shall pay to the City of Wellsville a permit fee as established in [Article 22](#).

**18.1904 Classification of Signs**

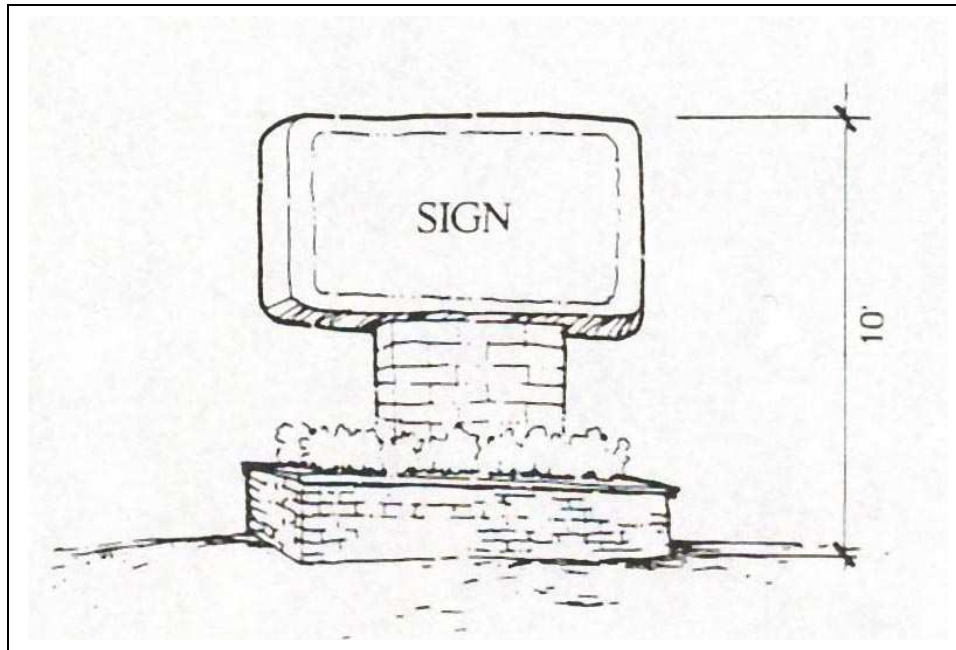
- A. Functional Types
  1. Advertising Sign (Billboards): A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
  2. Bulletin Board Sign: A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names or persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.



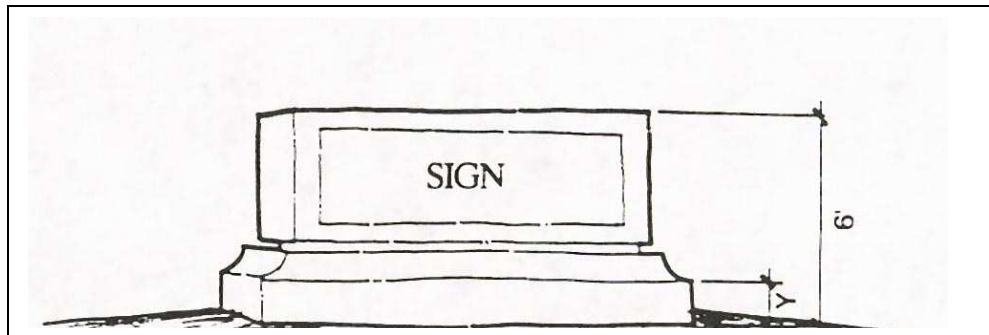
3. **Business Sign:** A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
  4. **Construction Sign:** A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
  5. **Identification Sign:** A sign giving the name and address of a structure, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
  6. **Name Plate Sign:** A sign giving the name and / or address of the owner or occupant of a structure or premises on which it is located and, where applicable, a professional status.
  7. **Portable Display Sign:** Any moveable displays structure, capable of relocation, under its own power, or towed by a motor vehicle. The display message of the sign may be painted or non-painted and capable of being readily altered. Portable display signs may be with or without electrical illumination and power, and with or without wheels.
  8. **Real Estate Sign:** A temporary sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.
- B. **Structural Types**
1. **Awning, Canopy or Marquee Sign:** A sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.



2. Ground Sign: Any sign placed upon, or supported by, the ground independent of the principal structure on the property, where the bottom edge of the sign is less than 6 feet above the ground, and the base is no less than 50 percent of the width of the face of the sign, presenting a monolithic structure. The following requirements shall be met as shown in diagram below:
- The maximum height is 10 feet.
  - If the base of sign is 5 feet or less in height no planter shall be required.

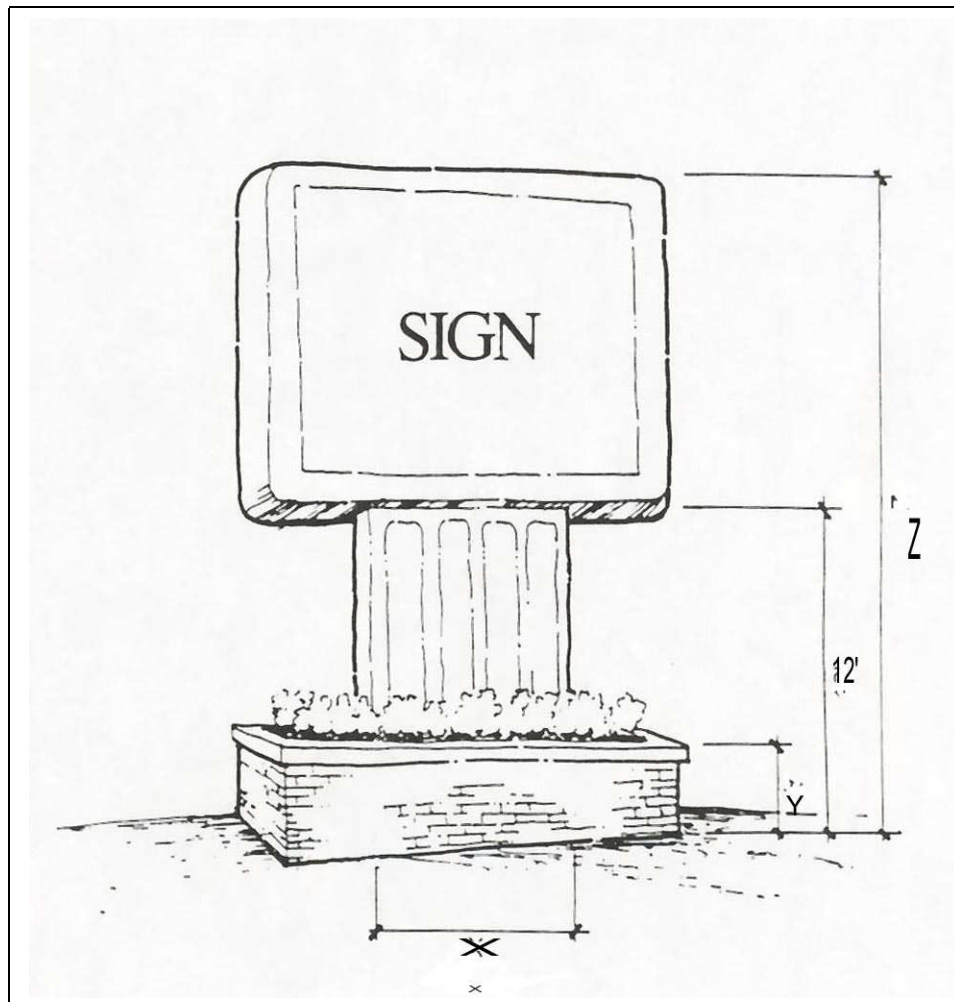


3. Monument Sign: Any sign whose base is greater in width than the face of the sign, and whose height is no greater than 6 feet. The following requirements shall be met as shown in diagram below:
- $X = \pm 110\%$  of the width of the sign face
  - $Y = \pm 10\%$  of the width of the sign face.
  - Maximum height shall be 6 feet.

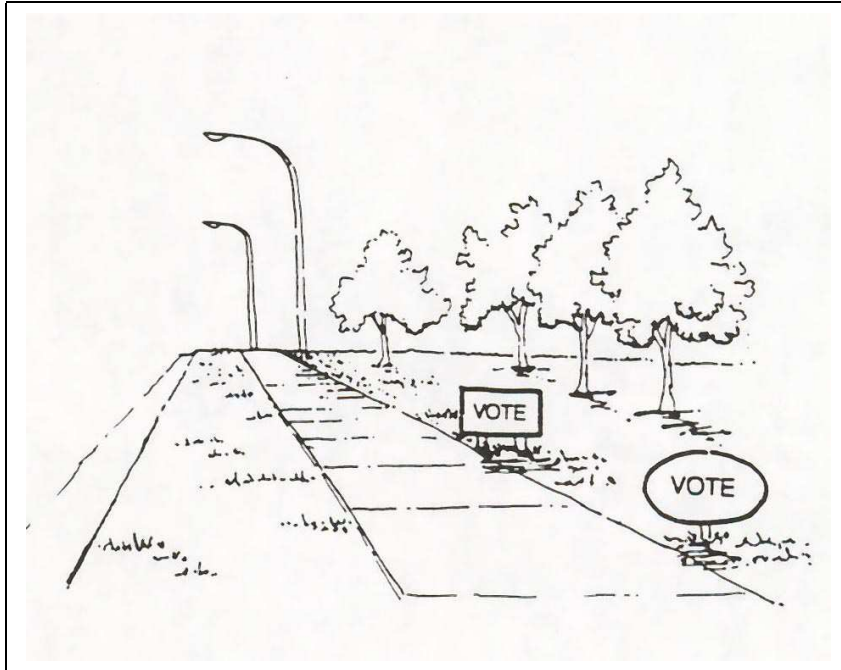


4. Elevated Sign: Any sign placed upon, or supported by, the ground independent of the principal structure of the property where the bottom edge of the sign is 10 feet or more above the ground level. The following requirements shall be met as shown in diagram below:

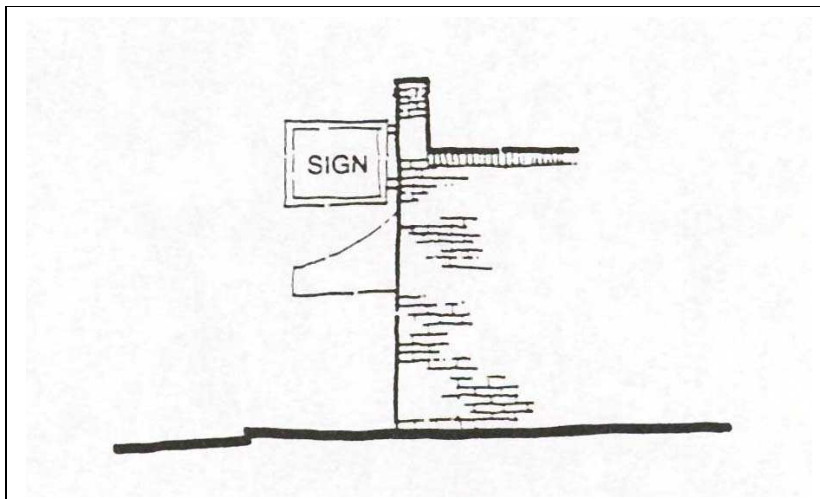
- $X = \frac{1}{2}$  of the sign face
- $Y = \frac{1}{4}$  of width of base
- $Z = 20$  feet above the base elevation of the I35 and 33 HWY interchange or if not in that area the maximum is 25 feet.
- Bottom of sign base to be minimum of 12 feet from ground elevation
- Maximum height shall be 25 feet



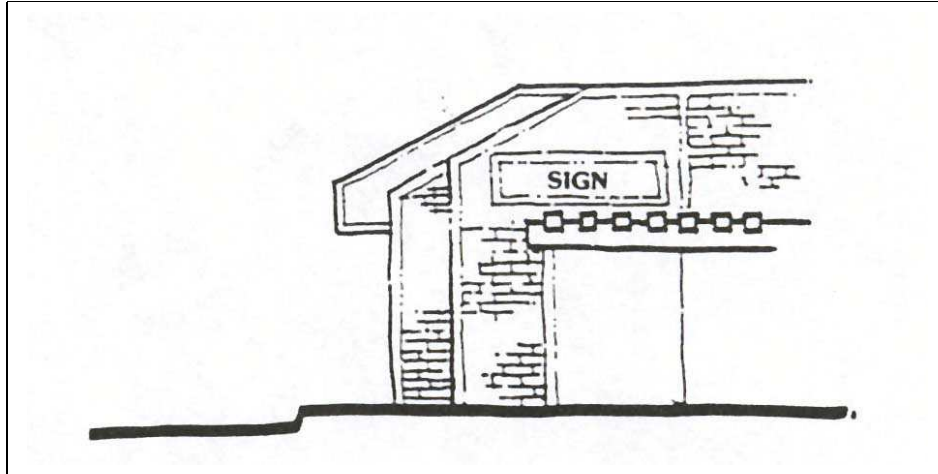
5. Political Election Sign: Any sign relating to a candidate, political party, ballot issue, or other issue to be voted upon in any public election. Placement shall be behind sidewalk / property line.



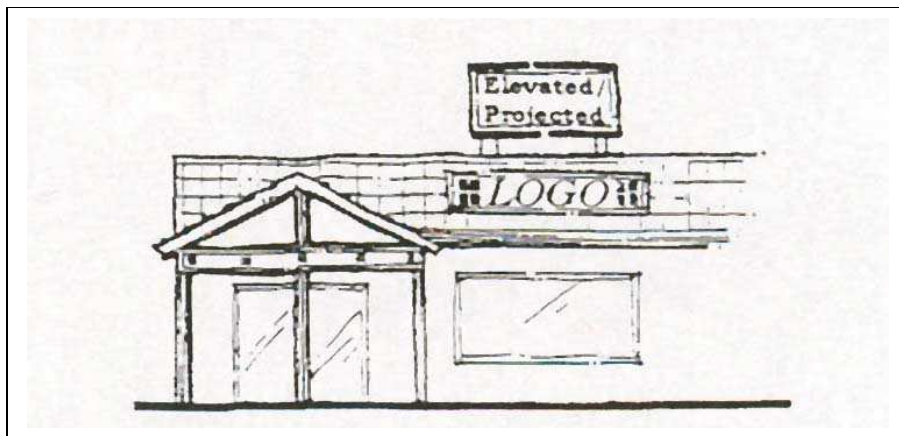
6. Projecting Sign: A sign that is wholly or partly dependent upon a structure for support and which projects more than 12 inches from such structure.



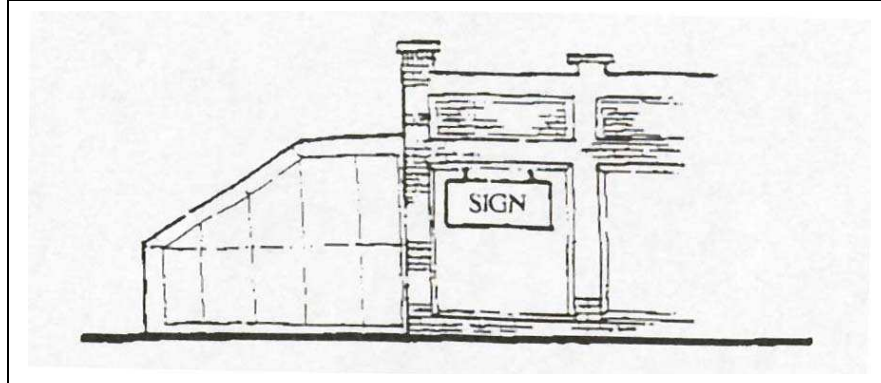
7. Wall Sign: A sign fastened to or painted on a wall of a structure in such a manner that the wall becomes merely the supporting structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such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



8. Flush-Mounted Logo Roof Sign: A sign totally supported on the roof of a structure, which displays the logo of the tenant of such structure. Flush-mounted logo roof signs shall be mounted parallel to and flush with the roof's surface. In no case shall a flush-mounted logo roof sign project above the highest point of the roof (compare to 'elevated / projecting roof sign').
9. Elevated / Projecting Roof Sign: A sign totally supported on the roof of a structure, not including flush-mounted logo roof signs. Elevated / projecting roof signs shall not project more than 12 inches beyond the face of the structure. In no case shall an elevated / projecting roof sign project more than 10 feet beyond the highest point of the portion of the roof on which the sign is located (compare to 'flush-mounted logo roof sign').



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



**18.1905**

**General Standards**

**A. Gross Area of Sign**

1. Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign; exclusive of the base on which it is mounted or from which it is suspended.
2. If more than one side of a sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area.
3. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area for one sign permitted by this regulation.
4. For computing the gross area of any wall sign which consists of letters mounted or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters.

**B. Sign Height**

Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.

**C. Illuminated Signs**

A sign designed to give forth-artificial light or designed to reflect light derived from any source.

**D. Flashing or Moving Signs**

1. Any illuminated sign on which the artificial light is not constant in intensity and color at all times.
  - a. No flashing signs shall be permitted.
  - b. A sign which displays the current time and/or temperature by use of intermittent lighting shall not be deemed a flashing sign if the lighting changes are limited to text indicating time, temperature or other public messages. Such sign shall not in any case exceed 32 square feet in area.
  - c. No sign shall have moving parts or blinking, moving or glaring illuminations.
2. Any sign that is revolving, rotating, moving, animated, has moving lights or creates the illusion of movement shall be considered a flashing sign.



E. Accessway or Window

No sign shall block any required accessway or window.

F. Signs on Trees or Utility Poles

1. No sign shall be attached to any utility pole or tree or be painted upon or otherwise directly affixed to any rock, ledge or other natural feature.

G. Traffic Safety

1. No sign shall be erected at any location where, by reason of position, shape, wording or color, it interferes with or obstructs the view of pedestrian or vehicular traffic.
2. No sign shall be erected which may be confused with any authorized traffic sign, signal or device.
3. Any sign located within 3 feet of a driveway or within a parking area shall not be located between 3 and 10 feet elevation above the curb level;
4. No sign shall be placed so as to project over any public right-of-way, except in the Central Business District, where signs may project over a sidewalk.
5. Under no circumstance shall any sign be placed in the sight triangle as defined by this regulation.

H. Lineal Street Frontage

1. In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one street, the lineal street frontage shall be computed as follows:
  - a. For those tracts or parcels located on major streets as designated as collector streets, the lineal street frontage shall be the distance that property line abutting the major street.
  - b. For those tracts or parcels not located on a major street, the lineal street frontage shall be  $\frac{1}{2}$  the sum of all the street frontages.

I. Landscaping

1. Ground signs, monument signs and elevated signs shall be landscaped. The landscaping shall extend no less than 3 feet from the base of the sign, and in the case of ground signs and monument signs, shall be incorporated within a decorative planter as shown in diagrams depicted in this Article.

J. Sign Pattern

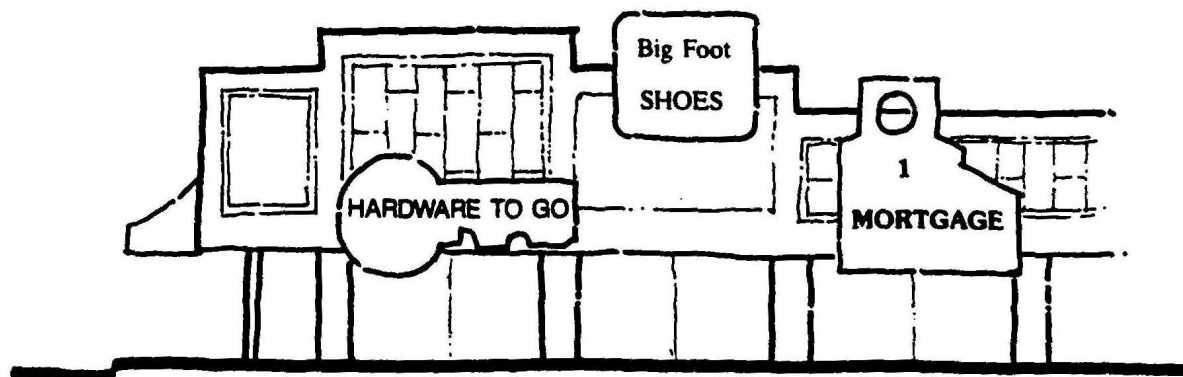
1. Sign patterns should employ a consistent sign pattern.
2. An example is given in Figure A.

K. Sign Scale and Character

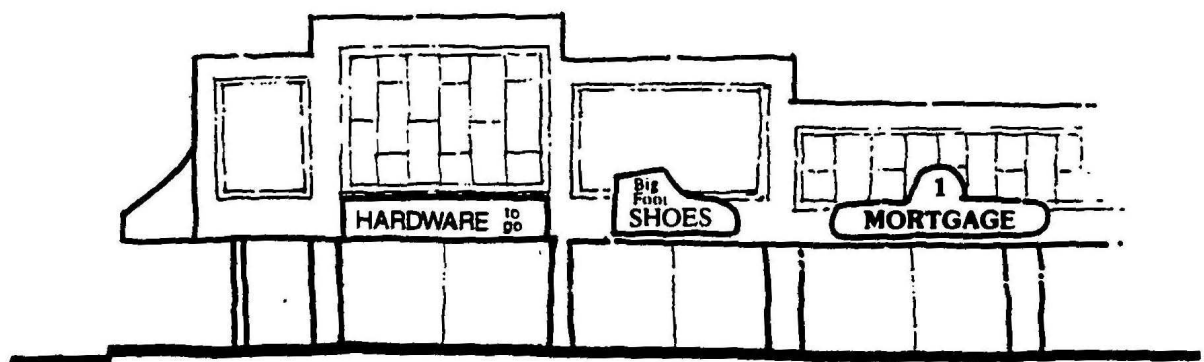
1. Signs shall be in scale and character of structure sign is placed on and the surrounding area.
2. An example is given in Figure B.

L. Any non-commercial message may be placed upon a permitted sign.

Figure A



- Inconsistent sign patterns create confusion.  
Signs within or above roof area are prohibited.



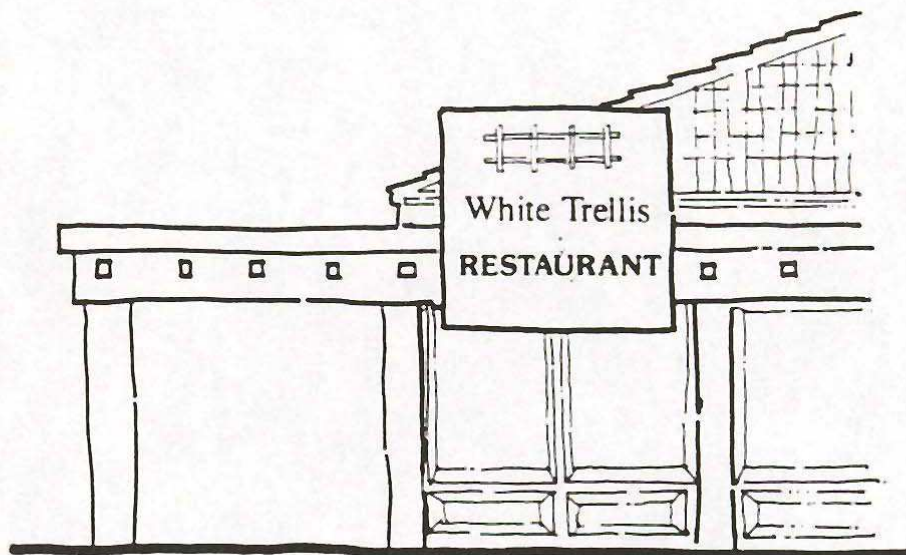
- Employ a consistent sign pattern.



Figure B



- Sign is in scale and character with building articulation.



- Sign is out of scale and character with building

**18.1906 Maintenance**

**A. Existing Sign Maintenance**

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

**B. Removal of Unsafe or Illegal Signs**

1. If the Building Inspector finds that any sign or other advertising structure regulated herein is unsafe or insecure, or is a menace to the public, or has been constructed, or erected, or is being maintained in violation of the provision of this regulation, the Building Inspector shall give written notice to the permittee thereof.
2. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within 10 days after such notice, such sign or other advertising structure may be removed or altered to comply with this regulation at the expense of the permittee or owner of the property upon which it is located.
3. The Building Inspector shall refuse to approve a permit to any permittee or owner who refuses to pay costs so assessed.
4. The Building Inspector may remove, without notice, any sign or other advertising structure that is an immediate peril to persons or property.

**C. Sign Maintenance Enforcement**

1. Maintenance of signs is defined as:
  - a. Keeping sign structures in a safe condition, free of rust, replacement of broken glass or plastic,
  - b. Continue electrical lights and other electrical operation in operable condition,
  - c. Maintaining letters and other sign components in the equivalent condition on the sign permit or as approved.
2. All signs within the city shall be maintained in a safe condition and in such a manner that they shall not become a visual detriment to the community at large.
3. The Building Inspector shall be charged with the responsibility and authority to inspect all signs within the City and direct the maintenance of said signs.

**D. Painted Sign Maintenance**

1. The owner of any sign as defined and regulated by this regulation shall be required to have properly painted all parts and supports of the sign, unless the same are galvanized or otherwise treated to prevent rust.

**18.1907 Office Parks, Shopping Centers and Planned Districts**

- A. In the case of a proposed office park, shopping center, or other grouping of 3 or more tenants or establishments (new or remodeled and 1 or more buildings that has been planned as an integrated unit or cluster of units on property under unified control or ownership), the developer shall prepare and submit to the Planning Commission, a master signage plan for all permanent exterior signs.
- B. Such plan shall set standards, which shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc.

- C. The Final Development Plans shall not be approved until the Planning Commission has approved the sign standards.
- D. For the purpose of this section the terms “shopping center, office park) shall mean a project of one or more building that has been planned as an integrated unit or cluster of units on property under unified control of ownership.
- E. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.
- F. The Planning Commission under the advisement of the Planning Director may grant additional signs as determined by each individual site.

**18.1908**

**District Regulations**

**A.** The following table illustrates functional and structural signs allowed in each District.

District	Functional Signs Permitted								Structural Signs Permitted								
	Advertising	Bulletin Board	Business	Construction	Identification	Name Plate	Portable Display	Real Estate	Awning, Canopy, Marque	Ground	Monument	Elevated	Political	Projecting	Wall	Flush-Mounted Roof	Elevated or Projecting
R-1	N	Y	Y	Y	Y	Y	N	Y	N	Y	N	N	Y	N	Y	N	N
R-2	N	Y	Y	Y	Y	Y	N	Y	N	Y	N	N	Y	N	Y	N	N
R-3	N	Y	Y	Y	Y	Y	N	Y	N	Y	N	N	Y	N	Y	N	N
C-1	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	*
C-2	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	*
MRC	N	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	*
I-1	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
I-2	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N
I-3	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	N

\* Elevated Signs subject to 18-1908.C6

**B.** Single-Family Residential (R-1), Duplex Residential (R-2), Multiple-Family Residential (R-3).

1. Number of Signs Permitted
  - a. One sign per zoning lot
2. Maximum Gross Area
  - a. Business signs – residential occupancies: 4 sq. ft.
  - b. Bulletin board and identification signs: 50 sq. ft.
  - c. Construction signs: 20 sq. ft.
  - d. Name plate signs: 4 sq. ft.

- e. Real estate signs: 9 sq. ft., provided that one sign not more than 100 sq. ft. in area announcing the sale of lots and / or houses in a subdivision may be located on said development. Said sign shall be removed at the end of 3 years or when 75% of the lots have been sold, whichever occurs sooner.
- 3. Maximum Height
  - a. 15 feet
- 4. Required Setback
  - a. No sign shall be placed closer to the front property line than  $\frac{1}{2}$  the distance of the front yard, except that real estate signs shall be exempt from setback requirements.
  - b. Real estate signs shall be exempt from setback requirements.
- 5. Illumination
  - a. Bulletin board signs may be indirectly illuminated with incandescent or fluorescent lighting.
- C. Neighborhood Retail Districts (C-1), General Commercial (C-2), Mixed Residential & Commercial Districts (MRC),
  - 1. Number of Signs Permitted
    - a. Awning, canopy or marquee signs – No limitation
    - b. Wall signs – No limitation
    - c. Ground signs – 1 per zoning lot
    - d. Monument signs – 1 per zoning lot
    - e. Projecting signs – 1 per zoning lot
    - f. Elevated signs – 1 per zoning lot
  - 2. Maximum Gross Area
    - a. 4 sq. ft for each lineal foot of street frontage, provided no single sign will exceed a gross area of 100 sq. ft.
    - b. Provided further, no elevated signs shall exceed 250 sq. ft. in gross surface area.
  - 3. Maximum Height
    - a. All signs 10 feet
    - b. Exceptions are as follows:
      - Wall and projecting signs may extend to the roof eave line.
      - Monument signs 6 feet.
      - Elevated signs may not exceed the height as provided for elevation signs.
  - 4. Required Setback
    - a. Ten feet from all property lines.
    - b. Exception:
      - Projecting signs must clear sidewalks by at least 8 feet in height and may project no more than 4 feet from a building or  $\frac{1}{3}$  the width of the sidewalk, whichever is less. Additionally, it shall not extend vertically above the windowsill of a second story.
  - 5. Illumination

- a. Illuminated signs shall be permitted.
- 6. Elevated Signs
  - a. One elevated sign shall be permitted on the premises of any business located on a platted lot which is no more than 100 feet from the intersection of the I-35 Highway right-of-way and the perpendicular local street.
  - b. The height of the elevated sign shall be no greater than 20 feet above the highest elevation of the finished grade of the highway interchange.
  - c. The gross surface area of the face of the sign shall not exceed 250 sq. ft.
- D. Light Industrial (I-1), Heavy Industrial (I-2), Industrial Park (I-3)
  - 1. Number of Signs Permitted
    - a. Two per zoning lot.
  - 2. Maximum Gross Area
    - a. 4 sq. ft. for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of 200 sq. ft. and no single flush-mounted logo roof sign exceeds a gross surface area of 100 sq. ft.
  - 3. Maximum Height
    - a. All signs 10 feet
    - b. Exceptions are as follows:
      - Wall and projecting signs may extend to the roof eave line.
      - Monument signs 6 feet.
      - Elevated signs may not exceed the height as provided for elevation signs.
  - 4. Required Setback
    - a. Ground signs shall maintain a 10 feet setback
    - b. All other signs no setback required.
  - 5. Illumination
    - a. Illuminated signs shall be permitted.

**18.1909**

**Prohibited Street Signs**

- A. The following street signs are prohibited:
  - 1. Signs which by color, location, or design resemble or conflict with traffic control signs or signals;
  - 2. Street signs attached to light poles or standards;
  - 3. Portable street signs (with or without wheels);
  - 4. Obscene, indecent or immoral advertisement;
  - 5. Billboards in residential districts;
  - 6. Motor vehicles, trailers or portable bases with wheels or to which wheels may be readily affixed shall not be used as a sign structure for any signs permitted in this Article; and
  - 7. Signs on public property.
- B. Any sign installed or placed on public property, except in conformance with the requirements, shall be forfeited to the public and subject to confiscation, except that logo signs on public athletic fields shall

be allowed. In addition to other remedies hereunder, the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

**18.1910 Exempted Street Signs**

**A.** The following signs shall be exempt from the requirements of this article, except for the provisions of [Article 18-1905.A through 18-1905.H](#)

1. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization displayed on private property.
2. Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.
3. Memorial signs and tables displayed on public or private property.
4. Small signs, not exceeding 3 sq. ft. in area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs; except that such signs shall not display logos or other business advertisements.
5. Scoreboards in athletic stadiums or fields.

**6. 'Political Election Signs'**

- a. Shall not exceed a total of 20 sq. ft. in area on a lot of record zoned for non-residential purposes, or which is vacant and unplatted, regardless of the zoning district classification; and not exceeding a total of 10 sq. ft. on a lot of record in a residential zone district
  - b. Political election signs may be erected or displayed six (6) weeks prior to the date of election and shall be removed within seven (7) days after the date of the election
  - c. Political election signs shall not be placed on or otherwise affixed to any public structure or sign, right-of-way, sidewalk, utility pole, street lamp post, tree or other vegetative matter, or any public park or other public property.
  - d. The City recognizes that the expression of political speech is an important and constitutionally protected right; that political election signs have certain characteristics that distinguishes them from many other types of signs permitted and regulated by the City, including the fact that these signs generally do not meet the regular structural design of permanent signs, given their temporary nature; that political election signs therefore present a potential hazard to persons and property; and that the City must impose reasonable time limits on the display of political election signs for these reasons.
7. Temporary signs for the sale of household goods at a residence (Garage sales or auctions) for a period not to exceed 5 days.

**18.1911 Exemptions from Fees and Permits**

- A.** The following signs are exempt from the sign permit section of this article, but shall comply with all of the other regulations imposed by this article:
- E.** Nameplate signs not exceeding 2-sq. ft. in gross area accessory to a single-family or two-family dwelling.
  - F.** Bulletin board signs not exceeding 100 sq. ft. in gross area accessory to a church, school or public or nonprofit institution.
  - G.** Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.

- H. Real estate signs not exceeding 9-sq. ft. in area.
- I. Construction signs not exceeding 9-sq. ft. in area.
- J. Window signs not exceeding 25% of the window surface.

**18.1912 Nonconforming Signs**

- A. A nonconforming sign shall be defined as a sign existing at the effective date of this regulation that could not be built under the terms of this regulation or under the terms of other City regulations.
- B. A nonconforming street sign must comply with this ordinance if:
  - 1. It is damaged or destroyed and the cost of reconstruction or repair is 50 percent or more of its depreciated value at the time it is damaged or destroyed; or
  - 2. It has not been used for a period of 6 months or longer; or
  - 3. It is substantially modified
  - 4. The nature of the business conducted on the premises changes and the sign is changed or modified either in shape, size, or legend;
  - 5. The name of the business changes and the sign is changed or modified either in shape, size, or legend; or
  - 6. It is relocated on the same or different premises.
- C. Alterations shall not occur with a permit being issued by the City. The fee shall be waived for nonconforming signs if it does not substantially alter the basic design or concept of the sign.

**18.1913 Removal of Nonconforming Signs**

- A. Should any nonconforming sign be damaged by any means to an extent of more than 50 percent of its replacement cost at the time of damage, it shall not be reconstructed except in conformity with the provisions of this Article.
- B. Removal of On-Site Nonconforming Signs
  - 1. All on-site nonconforming signs not otherwise prohibited by the provision of these regulations shall be moved or shall be altered to conform to the provisions of this regulation when:
    - a. The nature of the business conducted on the premise changes and the sign is changed or modified either in shape, size, or legend.
    - b. The name of the business changes and the sign is changed or modified either in shape, size or legend.
- C. Removal of Signs under Destruction of Principal Structure
  - 1. When a principal structure is destroyed or removed due to natural or man-made circumstances, all signs on the property shall be removed within 90 days, unless a building permit has been issued with said time period to replace the structure.
- D. Amortization and Removal of Off-site Nonconforming Signs
  - 1. All off-site nonconforming signs in the public right-of-way prohibited by the provisions of these regulations shall be removed on or before January 1, 2003.

**18.1914 Permit Revocation**

- A. If the Building Inspector or such persons designate shall find that any sign subject to these regulation is unsafe or insecure; is a possible danger to the public health, safety, or welfare due to structural defects; has been allowed to deteriorate to such condition that it is unsightly; has been constructed or erected or is being maintained in violation of the provisions of these regulations, then written notice

shall be given to the owner of the premises or, if different than the owner, the occupant(s) of the premises on which the sign is located, specifying the problem.

- B. If such person fails to remove or alter the sign to comply with the provisions of these regulations within 20 days of such notice, the Planning Director may take such action as may be necessary to cause such sign to be removed or altered to comply with the regulations, which shall be at the expense of the applicant or owner(s) of the property on which the sign is located. If a sign is an immediate hazard to the public health, safety, or welfare, in the opinion of the Building Inspector or Planning Director, either person may cause it to be removed immediately and without notice.

**18.1915**

**Enforcement**

- A. The Planning Director shall administer and the Building Inspector shall enforce this Article.
- B. The Building Inspector shall make such inspections as are necessary to ensure compliance with this ordinance and shall investigate any complaints of violations of this Article.
- C. If the Building Inspector determines that a violation of this ordinance has occurred he or she shall serve written notice of the violation on the violator. The notice shall state the nature of the violation, the remedy required to remove the violation, the time by which the violation must be remedied, and a statement advising that action may be taken to remedy the violation if it is not remedied within the time specified.
- D. If a violation specified in a written notice is not remedied by the time specified in the notice, the Building Inspector shall use all available means to remedy the violation and may request the City Attorney to bring civil action to remedy the violation.

**18.1916**

**Severance Clause**

- A. The invalidation of any section, subsection, clause, or phrase of this ordinance by any court of competent jurisdiction shall not affect the validity of the remaining portions of this ordinance.
- B. Signs installed on public property may be subject to being confiscated by the City or the City shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.



## ARTICLE TWENTY – COMMUNICATION TOWERS

### **18.2000 Purpose**

To enhance the public health, safety and welfare by establishing standards for the use and construction of radio or television broadcasting towers and/or apparatus; microwave transmitting and/or receiving towers and/or stations; or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building; whether publicly or privately owned.

### **18.2001 Development Plan Required**

- A. The applicant shall submit a development plan in sufficient detail as determined by the Planning Department, so as to evaluate its conformance with applicable standards and guidelines.
- B. The development plan shall include:
  - 1. The applicant shall provide written authorization from the property owner of the proposed tower site.
  - 2. An application for tower approval shall include the submission of a site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access roads location, access road surface material, parking area, fences, location and content of warning signs, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site.
  - 3. If any accessory building is proposed details of the building, including elevations and proposed use of the building, shall be submitted with the application.
  - 4. A report or written information which describes the tower height and design, including a cross-section of the structure, if applicable;
  - 5. Engineering specifications detailing construction of tower, base and guy wire anchorage
  - 6. Proposed painting and lighting schemes
  - 7. Description of towers capacity, including the number and type of antennas that the tower can accommodate.
- C. A Use Permitted Upon Review Permit must be applied for in order to build a communication tower. See [Article 18-107 through 18-116](#) and [Article 18-2224 through 18-2228](#)

### **18.2002 General Provisions**

- A. A proposal for a new communications tower shall not be approved unless the applicant can document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or other structure due to one or more of the following reasons:
  - 1. The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate the planned or equivalent equipment at a reasonable cost.
  - 2. The planned equipment would cause frequency interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost.
  - 3. Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonably in parity with other equipment in place or approved.
  - 4. Other reasons that make it impractical to place the equipment planned by the applicant on existing and approved towers.

- B. All towers shall be designed to accommodate at least three two-way antennas for every 150 feet of tower height, or at least one two-way antenna and one microwave facility for every 150 feet of tower height. The above requirements may be modified to provide the maximum number of compatible users within the radio frequency emission levels.
- C. The owner at the owner's expense shall remove any tower that is not in use for a period of three years or more. Failure to remove the tower pursuant to nonuse may result in removal and assessment of cost to the property pursuant to K.S.A. 12-6.A.17.
- D. The tower owner/operator shall submit a letter to the Planning Department by July 1 of each year listing the current users and types of antenna located on the approved tower. A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner and operator.

**18.2003**

**Development Standards**

- A. The location of a ground mounted tower must be such that it is set back at least equal to the height of the tower to the nearest property line measured from the center of the tower. A ground mounted tower may be set back less than the tower height to the nearest property line if documentation from a registered engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed setback area. All guy wires, similar support devices and other apparatus shall be no closer than twenty feet from any lot line.
- B. Towers may be placed on the roof of a building or on top of other structures using either of the following to determine tower height and setback:
  - 1. Tower height above the roof/structure may be as high as the setback distance to the nearest roof/structure edge.
  - 2. The height of a ground-mounted tower may be used for a roof/structure-mounted tower if the required setbacks for a ground tower are satisfied.
- C. Additional setbacks may be required to contain on-site substantially all icefall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- D. The height of a tower shall meet the setback requirements of this section.
- E. All towers should be located in areas zoned commercial or industrial, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts are made to locate the proposed tower in non-residentially zoned areas.
- F. All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers shall be a galvanized finish or painted gray or light blue unless the FAA requires other standards. In all cases, monopole towers shall be preferable to guyed towers or free standing structures. Towers shall be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

## ARTICLE TWENTY-ONE – RESERVED



## **ARTICLE TWENTY-TWO – ADMINISTRATIVE PROCEDURES / REQUIRED PERMITS / FEES**

### **18.2200 Procedure**

- A. The City Council may amend this chapter by changing the boundaries of a district or by changing any other provision thereof whenever the public necessity and convenience and general welfare require such amendment in accordance with procedure outlined in this article. The City Council, from time to time, may supplement, change or generally revise the boundaries or regulations contained in the zoning regulations.
- B. Prior to the adoption thereof, the City Council shall submit to the Chief engineer of the Division of Water Resources of the State Board of Agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a floodplain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area.

### **18.2201 Amendment Proposal Initiation**

- A. An amendment may be initiated by one of the following:
  - 1. City Council,
  - 2. Planning Commission, or
  - 3. Upon application by or on behalf of the owner of the property affected, but in accordance with AMENDMENTS TO CHANGE ZONING DISTRICTS.
- B. When the City Council proposes an amendment, it shall transmit its proposal to the Planning Commission for a public hearing and recommendation thereon.
- C. When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby, an application for such amendment shall be filed with the Planning Department who prepares a report and refers it to the Planning Commission for a hearing. An accurate written summary shall be made of the proceedings and shall give notice in like manner as that required for recommendations on the original proposed zoning regulation pursuant to K.S.A. 12-757.B.

### **18.2202 Application Fee**

If action is initiated by or on behalf of the owner of the property affected an application fee will be required. See [Article 18-2238](#) for specific amount. Additionally, the applicant will be responsible for the cost of all required publications.

### **18.2203 Data to be Included with Application**

- A. An application for amendment shall be accompanied by drawings and data necessary to demonstrate that the proposed amendment is in general conformance with the Comprehensive Plan, and that the public necessity and convenience; and general welfare require the adoption of the proposed amendment. The following items are deemed necessary:
  - 1. The applicant's name, address and telephone number;
  - 2. The precise wording of any proposed amendment to the text of these regulations;
  - 3. In the event that the proposed amendment would change the zoning district of any property the following information is required;
    - a. The name and address of the owner(s) of the property;
    - b. The legal description and street address of the property;
    - c. The present zoning district and existing uses of the property;

- d. The dimensions of the property and the area stated in square feet or acres or fractions thereof; and
  - e. An ownership list of names, addresses and zip codes of the owners of all property located within 200 feet of the exterior boundaries of the property to be considered in the amendment application within the City and 1000 feet in the County.
- B. A certified list of all property owners within the notification area or if such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
- C. Written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners or record of lands located within at least 200 feet of the area proposed to be altered for regulations of the City. If the City proposes a zoning amendment to the property adjacent to the City's limits, the area of notification shall be extended to at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available.

**18.2204**

**Notice of Public Hearing**

- A. All such proposed amendments or Use Permitted Upon Review first shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner, as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed special uses or changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed special use permit or if such amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
- B. In addition to such publication notice, written notice of such proposed amendment UPR shall be mailed by the applicant return receipt requested at least 20 days before the hearing to all owners of record on lands located within at least 200 feet of the area which the application applies to. The applicant shall then furnish all return receipts to the City.
- C. If the City proposes a zoning amendment to property located adjacent to or outside the city's limits, the area of notification of the City's action shall be at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body.
- D. Such notice is sufficient to permit the Planning Commission to make a recommendation to the Governing Body on a proposed special use permit or to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice.

**18.2205**

**Conduct of Hearing**

- I. The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney.
- J. The Planning Commission may request a report on any proposed amendment or special use permit from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested persons and shall be available for review in the office of the Planning Department.

- K. The Planning Commission may also require such reports after such public hearing if additional information is deemed necessary. Such reports shall again be made available to the applicant and any other interested persons.

**18.2206**

**Planning Commission Action**

- A. At the conclusion of the public hearing the Planning Commission shall prepare its recommendations and by affirmative vote of a majority of the members present and voting at the hearing shall be required to recommend approval or denial of the amendment to the City Council.
- B. If the Planning Commission fails to make a recommendation on a rezoning request, a recommendation of disapproval shall be deemed to have been made. Such recommendation along with an accurate written summary of the hearing thereon, shall be submitted to the City Council.
- C. When a proposed amendment would result only in a change in the text of these regulations, the report of the Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:
1. Whether such change is consistent with the intent and purposes of these regulations; and
  2. The areas which are most likely to be directly affected by such change and in what way they will be affected; and
  3. Whether the proposed amendment is made necessary because of changed or changing conditions in the zoning districts affected and, if so, the nature of such changed or changing conditions.
- D. When a proposed amendment would result in a change of the zoning classification of any specific property, the report of the Planning Commission will be accompanied with a copy of the record of the hearing, that shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Commission is based using the following guidelines:
1. Would the change in district classification be consistent with the purposes of these regulations and the intent of the proposed district?
  2. What is the character and condition of the surrounding neighborhood? \*
  3. What are the uses of property nearby and their district classification? \*
  4. Is the proposed amendment requested because of changed or changing conditions in the area affected and, if so, what is the change?
  5. Is the subject property suitable for the uses to which it is restricted by the current district classification? \*
  6. Is the subject property suitable for the uses that are permitted by the proposed district reclassification?
  7. Would the uses permitted by the proposed district reclassification and the accompanying restrictions have a detrimental affect on nearby property? \*
  8. Would the proposed amendment correct an error in the application of these regulations as applied to the subject property?
  9. Should the length of time the subject property has remained vacant be a factor in the consideration for reclassification?
  10. Do adequate utilities and streets exist or will they be provided to serve the uses that would be permitted by the proposed district reclassification?

11. Is the general amount of vacant land that currently has the same district classification as is proposed for the subject property, particularly in the vicinity of the subject property, available or not available for development?
12. In the event the subject property as reclassified would be available for business or industrial uses, are such uses, particularly in the vicinity of the subject.

**18.2207 City Council Action to Planning Commission Recommendation**

- A. The City Council, upon receipt of the Planning Commission's recommendation may:
  1. Adopt such recommendation by ordinance,
  2. Override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the City Council, according to state statute number K.S.A. 12-7-56
  3. Return such recommendation to the Planning Commission with a statement specifying the basis for the City Commission's failure to approve or disapprove the proposed amendment.
- B. If the City Council returns the Planning Commission's recommendations, the Planning Commission, after considering the same, may:
  1. Resubmit its original recommendation giving the reasons therefor,
  2. Submit a new and amended recommendation and finding of fact or
  3. Make no recommendation at the next Planning Commission meeting that follows the City Council meeting.
- C. If option 1 or 2 are chosen, the City Council, by a simple majority vote, may adopt, revise, or amend and adopt such recommendation and findings of fact by ordinance, or it need take no further action thereon.
- D. If the Planning Commission fails to deliver it recommendation to the City Council, the City Council shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the adopting ordinance.

**18.2208 City Council Vote Under Protest**

If a protest against such amendment is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total area required to be notified, excluding streets and public ways, the ordinance adopting such amendment shall not be passed except by at least a  $\frac{3}{4}$  vote of all the members of the City Council.

**18.2209 Limitation on Successive Petitions**

- A. Provisions for a limitation on successive petitions on Planning Commission items shall be as follows:
  1. No application for an amendment to this chapter including the zoning map, Uses Permitted upon Review, and Planned Unit Developments, shall be accepted by the Planning Commission if the withdrawal of an original application has been advertised for a public hearing and occurred within the preceding 12 months.
  2. Irrespective of above subsection the Planning Commission within 12 months may accept an application for a rehearing after a denial if it is accompanied by an affidavit setting forth facts, which, in the judgment of the Planning Commission, constitute a substantial change from the original application. All request for rehearing, as provided for in this article, shall be submitted to the Planning Department 15 days prior to a regularly scheduled meeting of the Planning Commission and shall be included on the agenda for the meeting as a non-public hearing item. If the Planning Commission determines that the application constitutes a substantial change from



the original application, the item will be advertised and a public hearing will be held at the next regularly scheduled meeting of the Planning Commission.

**18.2210 Appeal of City Council Decision**

Within 30 days of the final decision of the Council, any person aggrieved by such decision may maintain an action in the District Court of Franklin County to determine the reasonableness of such final decision.

**18.2211 Site Plan Required**

- A. A site plan will be required prior to subdividing land and after meeting with the Planning Department, the owner of the land, or his authorized agent, shall file an application for approval of a site plan with the Planning Commission.
- B. The purpose and intention of requiring a site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, pedestrian walkways and sidewalks, ingress, and egress, and drainage on the site and from the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties.
- C. The City seeks to ensure that any location that must accommodate intense urban use shall be subject to Site Plan Review by the Planning Commission.
- D. Site Plan Reviews shall help ensure that the meaning and intent of the Zoning Regulations, and all portions thereof, are fully complied with.
- E. The Site Plan Review regulates the development of structures and sites in a manner which considers the following concerns:
  1. The balancing of landowners' rights to use their land, with the corresponding rights of abutting and neighboring landowners to live without undue disturbances (noise, smoke, fumes, dust, odor, glare, storm-water runoff, etc).
  2. The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads.
  3. The adequacy of waste disposal methods and protection from pollution of surface or groundwater.
  4. The protection of historic and natural environmental features on the site under review, and in adjacent areas.
  5. The stability of the built environment, particularly residential neighborhoods by promoting urban development, which are compatible with, clearly identified natural resources.

**18.2212 Site Plan: Applicability**

- A. The Planning Director shall require that all applications for building permits for developments and redevelopment in the multi-family, commercial and industrial zoning districts be subject to the Site Plan Review for the following circumstances:
  1. When the redevelopment enlarges the size of the original structure by more than 50 percent.
  2. For any development on unimproved real estate in all zoning districts designated which require a Use Permitted Upon Review
  3. The alteration or intensification of any use which increases off-street parking requirements pursuant to [Article 17.](#)
- B. For any minor alteration to existing development on improved real estate in the zoning districts, no building permit shall be issued nor shall any site development occur until a revised site plan has been submitted for Planning Department and Building Inspection review and administratively approved by the Planning Director.

- C. The Planning Commission shall perform their review at the next regularly scheduled meeting of the Planning Commission for which the item may be scheduled and shall adjourn and reconvene as it is determined necessary.
- D. The applicant may appeal a site plan review determination to the City Council for approval in the event that an applicant alleges that there is an error in any order, requirement, decision or determination made by the Planning Commission in the enforcement of Site Plan Review. A complete description of the alleged errors must be presented to the city Council in written form.

**18.2213**

**Site Plan: Submission Requirements**

- A. Site plans shall be prepared by a registered professional engineer, architect, land surveyor or landscape architect at a scale of 1 inch equals 20 feet, on standard 24" x 36" sheets of paper.
- B. A site plan shall include the following data, details, and supporting plans which are found relevant to the proposal:
  - 1. Name of the project, address, boundaries, date, north arrow and scale of the plan.
  - 2. Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
  - 3. Name and address of all owners of record of abutting parcels.
  - 4. All existing lot lines, easements, and right-of-way.
    - a. Include area in acres or square feet, abutting land uses and structures.
  - 5. The Planning Director may require location, and use of all existing and proposed structures within the development.
    - a. Include all dimensions of height and floor area.
    - b. Show all exterior entrances and all anticipated future additions and alterations.
    - c. For developments in existing downtown, indicate design details to make new construction compatible with existing structures.
  - 6. The Planning Director may require location of all present and proposed public and private ways, parking areas, driveways, sidewalk, ramps, curbs and fences.
    - a. Location, type, and screening details for all waste disposal containers shall be shown.
  - 7. The Planning Director may require location, height, intensity, and bulb type of all external lighting fixtures.
    - a. The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
  - 8. The location, height, size, materials, and design of all proposed graphics.
  - 9. The Planning Director may require a landscape plan showing all exiting open space, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material.
    - a. Water sources will include ponds, lakes, brooks, streams, wetlands, flood plains, and drainage retention areas.
  - 10. The location of all present and proposed utility systems including the following:
    - a. Sewerage system
    - b. Water supply system
    - c. Telephone, cable and electrical systems

- d. Storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, end walls, hydrants, manholes, and drainage swells.
- 11. Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive run-off, excessive raising or lowering of the water table, and flooding of other properties as applicable.
- 12. Existing and proposed topography shown at not more than 2 foot contour intervals.
  - a. All elevations shall refer to the United States Geodetic Survey (USGS) datum.
  - b. If any portion of the parcel is within the 100 year flood plain, the areas shall be shown, with base flood elevations, and the developer shall present plans for meeting Federal Emergency Management Agency (FEMA) requirements.
- 13. Zoning District boundaries adjacent to the site's perimeter shall be drawn and identified on the plan.
- 14. Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.
  - a. The City Engineer may require a detailed traffic study for mixed use and multi-tenant development or for development in heavy traffic areas to include:
    - 1. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
    - 2. The projected Traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site, and
    - 3. The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels shall also be given.
- 15. For alterations to any existing structure, a table containing the following information must be included:
  - a. Area of structure to be used for a particular use (retail operation, storage, office);
  - b. Maximum number of employees;
  - c. Maximum seating capacity, where applicable;
  - d. Number of parking spaces existing and required for the intended use; and
  - e. A landscape plan for improving large areas of paved parking with appropriate landscaping as requested by Planning Director.
- C. A note shall be required to appear on the site plan indicating that the site plan for a public or governmental building(s) and facility (ies) has been designed to comply with the provisions of the American Disability Act Accessibility Guidelines (ADAAG) for buildings and facilities.

**18.2214**

**Site Plan: Standard of Review**

- A. The recommendations of the Planning Department shall be based on the following standards:
  - 1. The extent to which the proposal conforms to the previous sections of these regulations.
  - 2. The extent to which the development would be compatible with the surrounding area.
  - 3. The extent to which the proposal conforms to the provisions of the City's Subdivision Regulations.
  - 4. The extent to which the proposal conforms to customary engineering standards used in the City.
  - 5. The extent to which the location of streets, paths, walkways, and driveways are located so as to enhance safety and minimize any adverse traffic impact on the surrounding area.

- B. If a site plan is withdrawn or denied the review fee is not refundable. If a revised site plan is submitted within the 21-day review period of the original site plan, a fee shall not be required.
- C. At the time of the pre-application meeting the applicant shall submit payment of fee(s), and a complete site plans as required by this article. After review comments have been received, the applicant or his or her representative shall make the necessary revisions, if any, and submit 3 additional and/or revised site plans for the Planning Commission review and for Planning Department and Building Inspection Files.
- D. If the proposed development is adjacent to and takes access from a State or Federal highway an additional site plan shall be submitted at the initial review stage.
- E. The normal review period for a site plan shall be no fewer than 21 days. Deadlines set by the Planning Director shall not be altered, reduced or varied except under unusual circumstances.
- F. Site plans for residential developments of fewer than 12 units may be approved by the Planning Director or the city appointed designee, provided that the plan has been reviewed by the Public Works Director.
  - 1. The Planning Director may approve the plan or forward the plan to the Planning Commission.
- G. If the approved plan is subsequently proposed to be phased, the Planning Director may approve the development in phases, which are self-contained and independently meet the requirements of this chapter.
- H. Significant alteration to existing development that alters or intensifies off-street parking requirements from the current developed site and the proposed site plan must comply with all applicable parking requirements and may be approved by the Planning Director.

**18.2215**

**Development Standards: Commercial and Industrial Districts**

- A. No building shall be erected that does not meet the following minimum standards:
  - 1. Rooftop equipment shall be screened from view from the ground near the building with vertical extensions of the building walls or with parapets or other architectural design features of the same materials used on the walls of the building.
  - 2. Where the topography permits, it is desirable to screen such equipment from adjacent property, but it is not the intent of this requirement to increase the height of the screening significantly above that of the equipment in order to screen it from view from tall buildings or from higher ground.
  - 3. Raised exterior walls or screen walls should be designed to enclose groups of equipment. Wall material should be compatible with or identical to the predominant opaque material on the exterior of the building.
- B. Dumpster enclosure and improvements
  - 6. For requirements see [18-806.H](#)
- C. The form and proportion of buildings shall be consistent or compatible with the scale, form and proportion of existing development in the immediate area.
- D. The use of unusual shapes, color, and other characteristics that cause new building to call excessive attention to themselves and create disharmony shall not be allowed.
- E. The rhythm of structural mass to voids, such as windows and glass doors, of a front façade should relate to the rhythms established in adjacent buildings.
- F. Where large structures are proposed with overly-long faces (walls), where one dimension exceeds the length of the perpendicular dimension, (warehouses) building mass should be articulated with variations in the building plane and parapet height and through the use of other unique design or site plan features.

1. Overly long horizontal facades should be articulated with variations in the building plane and parapet height, materials and colors, entrance canopies, and landscaping.
2. Parking lots along the façade can also relieve horizontally through the use of landscaped fingers and islands containing trees and shrubs.
- G. Architectural design should create visual interest through the use of different textures, complementary colors, shadow lines and contrasting shapes.
  1. The use of walls in a single color, with little detailing or completely blank, is discouraged.
- H. Monotony of design in a single or multiple building projects shall be avoided. Variation of detail, form, and sitting shall be used to provide visual interest.
- I. Careful consideration of durable materials, proportions, and shapes, emphasizing the importance of roofs as integral and embracing elements of the over-all design, is particularly important.
- J. Use of substantial amounts of masonry materials (face brick, stucco, stone) is encouraged.
  1. The Evaluation of building materials shall be based on the quality of its design and relationship and compatibility to building materials in the immediate neighborhoods.
- K. Architectural treatments (building materials, colors, facade design, and rooflines, screening) shall be consistent and compatible on all sides.
  1. Treatment that is uniform on all sides will be deemed to meet the requirements of this principle.
  2. Adjacent land uses, visibility from public streets, use of screening devices (walls, fences, berms, landscaping) are criteria to be considered when varying this treatment.
  3. The applicant will have the burden of demonstrating the reasons for differing treatment on different sides (e.g. the need for truck access on one side and pedestrian access on another).
  4. Long expanses of overhead doors should be relieved by matching their color to the wall or trim, recessing the doors, or adding architectural details to diminish the dominance of the doors.

**18.2216 Site Plan: Assurance of Performance**

- A. The City Council shall require a site plan performance agreement to guarantee compliance and completion of the site plan requirements, including landscaping and paving for the site as provided in the site plan as approved.
- B. In addition to a site plan performance agreement, the City Council may require alternate forms of performance assurance, such as:
  1. Performance Bond,
  2. Escrow Bond, or
  3. Some other form of surety acceptable to the City.

**18.2217 Site Plan: Time Limitation**

If no building permit is issued for the site within 1 year from the date of site plan approval by the City Council, the site plan shall be and become null and void.

**18-2218 Rezoning Districts**

Any owner of the property or his agent may file an application for a District zoning that must reviewed by the Planning Commission and Planning Director.

**18-2219 Rezoning Districts: Requirements**

- A. When a proposed amendment would result in a change of the zoning classification of any specific property, the report of the Planning Department, accompanied by a copy of the record of the Planning Commission hearing, shall contain:

1. Applicant's name, address and telephone number;
  2. Legal description of property;
  3. Dimensions of the property and the area stated in square feet;
  4. Mail notification to surrounding property owner as stipulated in [Section 18-2219B](#);
  5. District present zoning classification;
  6. District proposed zoning classification;
  7. Reasons for seeking reclassification;
  8. Summary of the facts for and against rezoning; and
  9. Statement of the factors upon which the Planning Director and Planning Commission is being based.
- B. The property owner(s) or agent must provide the Planning Department with information from items 1 through 7. Additionally, the owner(s) or agent shall send written notice of such proposed amendment by certified mail. The persons contacted are as follows:
1. All owners of record of lands located within at least 200 feet of the area proposed to be altered for regulations of a City and to all owners of record of lands located within at least 1000 feet of the area proposed to be altered for regulations of a County. The City Clerk may provide assistance in obtaining list of property owners.
  2. Such notification shall include a legal description and where complete information is available. It shall be mailed at least 20 days prior to the hearing.
  3. Failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission and City Council.

**18-2220**

**Rezoning District: Review by Staff**

The Planning Director shall review the application and submit an advisory report to the Planning Commission within 15 working days of the filing of a complete application. The applicant will be furnished a copy of such report.

**18-2221**

**Rezoning District: Public Hearing & Planning Commission Action**

- A. The Planning Commission shall hold a public hearing and within 30 days of the public hearing or within such time that is mutually agreed by the Planning Commission and the applicant. The following are the Planning Commission options:
1. Approve rezoning the District; or
  2. Deny rezoning the District
- B. Basis of Planning Commission Report is in Article 1.
- C. A report of the Commission's finding of facts shall be submitted along with the recommendation to the City Council.
- D. The Planning Commission shall submit a recommendation of approval or disapproval to the City Council.
- E. The following lesser change table, established pursuant to K.S.A. 12-757, is for the use of the Wellsville Metropolitan Planning Commission in determining when republication of a zoning application is required. The table lists zoning classifications in descending order from the least intense to the most intense zoning district.
- |     |                                    |
|-----|------------------------------------|
| R-1 | Single-family Residential District |
| R-2 | Duplex Residential District        |

R-3	Multiple-family Residential District
MRC	Mixed Residential and Commercial District
C-1	Neighborhood Retail District
C-2	General Commercial District
I-1	Light Industrial District
I-2	Heavy Industrial District
I-3	Industrial Park District

- F. In essence a lesser change table allows the Planning Commission to make a rezoning recommendation on an existing rezone decision to a lesser intensive district without going through the rezoning process a second time.

**18-2222**

**Rezoning District: City Council Action**

- A. The City Council may in accordance with K.S.A. 12-756 (et.seq.):
1. Adopt such recommendation by ordinance;
  2. Override the Planning Commission's recommendation by a 2/3 majority vote of the City Council; or
  3. Return such recommendation to the Planning Commission with a statement specifying the basis for the City Council's failure to approve or disapprove.
  4. The City Council may rezone to a lesser intensive district. See [Section 18-2221.E.](#)
- B. If City Council returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may:
1. Resubmit its original recommendation giving the reasons therefore or;
  2. Submit a new and amended recommendation.
- C. After such action in [Section 18-2222.B](#), the City Council, by a simple majority thereof may:
1. Adopt such recommendation; or
  2. Revise or amend and adopt such recommendation by a ordinance; or
  3. Take no further action thereon.
- D. If the Planning Commission fails to deliver a recommendation to the City Council, after such request, the City Council shall consider such course of inaction as a resubmission of the original recommendation and proceed accordingly.
- E. The rezoning becomes official after publication in the official City newspaper.
1. If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed or reflect such amendment and shall amend the section of the ordinance incorporation the same and shall reincorporate such map as amended.

**18-2223**

**Rezoning District: Protest**

- A. Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owners of record of 20% or more of the total area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways, the ordinance or resolution

adopting such amendment shall not be passed except by at least a ¾ vote of all of the members of the governing body. K.S.A. 12-757.E.

**18-2224 Uses Permitted Upon Review**

- A. Before a building permit is issued for certain uses listed in the tables of permitted uses, when reference is made to this section in the “Special Conditions” column opposite the named uses; it shall be required to meet the requirements of this section.
- B. An application shall be filed with the Planning Department to be reviewed by the Planning Commission 30 days prior to the Planning Commission meeting that the action is requested. The application shall be accompanied with a site plan (meets the requirements as stated in [Article 18-2211 through 18-2217](#)), a list of property owners within 200 feet of the exterior boundaries, and the fee as determined by list on file with the City Clerk. The granting of a Use Permitted on Review does not exempt the applicant from complying with requirements of any other laws of the City.
- C. For criteria and standards to make decision for Uses Permitted upon Review see [Article 18-107 through 18-116](#).

**18-2225 Uses Permitted Upon Review: Public Hearing**

- A. Upon application, a notice of public hearing shall be published at least once in the official City newspaper no less than 20 days prior to the date of public hearing. Such notice shall fix the time and place of such hearing and describe the application in general terms.
- B. In addition to the public notice, a written notice of such proposed application shall be mailed to all property owners, of lands located within 200 feet of the area proposed to be altered, no less than 20 days prior to the public hearing.
- C. The Planning Commission shall within 30 days upon reviewing the use permitted on review application submit recommendation to the City Council for final consideration to the application. Such recommendation may include conditions to the application.

**18-2226 Uses Permitted Upon Review: Posting Signs**

- A. The applicant shall place a sign on the property informing the general public that a public hearing will be held at a specific time and place concerning the proposed Use Permitted upon Review. The sign shall be placed in a conspicuous location on the property to provide visibility to the general public. The City shall furnish the sign, and the applicant shall maintain the sign for at least 20 days immediately proceeding the date of the public hearing. If a lot, tract or parcel of land is larger than 5 acres, multiple signs shall be posted. At a minimum, signs shall be placed to face each of the streets abutting the property.
- B. The applicant shall file a certification with the Planning Department at the time of the public hearing verifying that the sign has been maintained and posted as required by this ordinance. Failure to submit the certification prior to the hearing may result in a continuance of hearing. The sign may be removed at the conclusion of the public hearing and must be removed at the end of all proceedings on the application or upon withdrawal of the application.

**18-2227 Uses Permitted Upon Review: City Council Action**

- A. In the exercise of its review, the City Council may approve or disapprove an application. In approving a “Use Permitted upon Review” the City Council may impose any conditions relative to location, character, density or other features of the proposed use of building or space, as it may deem advisable in the furtherance of the purpose and intent of this article.
- B. If a written protest against such proposed “Use Permitted upon Review” is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the Planning Commission public hearing, duly signed and acknowledged by the owners of 20% or more of the property, excluding streets and public right-of-way, located within the 200 feet notification area for which a “Use Permitted upon



Review" is made, such request shall require a  $\frac{3}{4}$  vote of all the members of the City Council to be approved.

**18-2228 Use Permitted Upon Review: Amendment, Suspension or Revocation**

- A. The City Council shall have the authority to amend, suspend or revoke an approved use Permitted upon Review pursuant to the provisions of this Section.
- B. Upon its own initiative, or upon the recommendation of City staff or the Planning Commission, the City Council may establish a public hearing date to consider the proposed amendment, suspension or revocation of an approved Use permitted upon Review. Notices of the public hearing shall be mailed to the property owner of record and the tenant for the property with the Use Permitted upon Review by certified mail, return-receipt requested, no less than 20 days prior to the public hearing date. One notice of the public hearing shall be published in the official City newspaper no less than 20 days prior to the date of the public hearing.
- C. At the public hearing, the City Council shall receive and consider all relevant information and evidence concerning the Use Permitted upon Review. The City Council may continue the public hearing and retain jurisdiction over the proposed amendment, suspension or revocation, as it deems appropriate.
- D. After the closing of the public hearing, the City Council shall consider all relevant evidence and information. The City Council may amend, suspend or revoke the Use Permitted upon Review if it finds, based upon a preponderance of the information and evidence, that such act is supportable in fact.
- E. Any motion for the amendment, suspension or revocation of a Use Permitted Upon Review shall clearly state the grounds for revocation, which may include incorporation of findings presented by City staff. Any motion for the amendment of a Use Permitted upon Review shall clearly state the terms and conditions of suspension and at what time further review shall be appropriate. Any motion for the amendment of a Use Permitted upon Review shall clearly state the terms and conditions of the amendment to the Use Permitted upon Review.
- F. The City Council shall make one or more of the following findings if it seeks to amend, suspend, or revoke the Use Permitted upon Review:
  - 1. A condition of the Use Permitted upon Review has been violated;
  - 2. Violation of City Code provisions governing zoning regulations (Chapter 18); building (Chapter 15).
  - 3. Violation of any other applicable Code provision or any State or Federal law or regulation by the property owner or agents of the property owner, provided that such violations relate to the conduct or activity authorized by the Use Permitted upon Review or the qualifications of the property owner or agents of the property owner to engage in such conduct or activity.
  - 4. Conditions within a 1 block radius of the property with the approved Use Permitted upon Review have changed or altered to the extent that approval of the Use Permitted upon Review would not be compatible with the surrounding property and would not be granted if application was requested at the time of amendment, suspension or revocation.
- G. As a complete alternative to the procedures and requirements of this Section and with the written consent of the property owner, the Director of Planning may approve minor modifications and alterations of a Use Permitted upon Review.

**18-2229 Variance: Application**

- A. For information see [Article 18-2306 through 18-2309](#).

**18-2230 Special Events: Application**

- A. No Temporary Use Permit shall be issued until an application has been submitted to the Planning Department and the appropriate fee paid as stated in [Article 18-2238](#).

- B. The application shall be made on the appropriate form provided by the Planning Department and submitted at a minimum of 5 working days prior to the proposed event. Incomplete applications shall not be processed or accepted for processing.
- C. An application shall be accompanied by the following items as applicable:
  - 1. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures used in conjunction with the event;
  - 2. A sketch plan showing to scale the location of the proposed activities and structures in relation to existing buildings, parking areas, streets, and property lines.
  - 3. A letter from the property owner or manager, if different from the applicant, providing permission for the special event to occur on the property; and
  - 4. A separate application will need to be made to the Building Inspector for any signs to be displayed on the public right-of-way. Signs for commercial activities shall only be displayed during hours of operation.
- D. Each applicant for a Temporary Use Permit shall pay the associated fee as stated in [Article 18-2238](#).
- E. The approved Temporary Use Permit issued shall be available on site for inspection for the duration of the event.

**18-2231**

**Building Permit Required**

- A. A building permit will be required for modification, alteration, construction or moving of buildings and/or accessory buildings in all districts (Residential, Commercial, and Industrial) when it meets any of the conditions stated below:
  - 1. The cost of the project will be greater than \$500.
  - 2. The project will include electrical or plumbing improvements.
  - 3. Moving a building or accessory building to another location.
- B. It shall be unlawful to begin the modification, alteration, construction or moving without the approval from the Wellsville Building Inspector. No such building permit shall be issued for any building where said modification; alteration, construction or moving would be in violation of any provision of the zoning regulations. Exception to the Building Inspector's approval will be given if there is written authorization from the Board of Zoning Appeals as stated in [Article 18-2306 through 18-2309](#).
- C. Any building permit issued by the building inspector prior to the effective date of this ordinance, or any amendment thereto, and which permit, by its own terms and provision, is in full force and effect at said date, shall not be invalidated by the passage of this ordinance, or any amendment thereto, but shall remain a valid permit subject only to its own terms and provisions and any other ordinance or regulation pertaining thereto in effect at the time of the issuance of said permit.
- D. The Planning Department will receive building permit applications and review them to determine whether the proposed construction on and use of the property would comply with the provision of these regulations. Within 10 working days determination should be made and forwarded to the Building Inspector for final approval or disapproval.

**18-2232**

**Building Permit Application**

- A. Each Building Permit application must be completely filled out and have two copies of a diagram (layout or plot plan) (one original and one copy) drawn to scale.
- B. The diagram information must:
  - 1. Depict the actual shape and dimensions of the lot to be built upon,
  - 2. Depict the exact size and location on the lot of any existing buildings or structures, and
  - 3. Depict the size and location of the building to be modified, altered, constructed or moved.

- C. It is the responsibility of the owner to complete the application for a building permit. Failure to have the application accurately and completely filled out may result in the building permit being denied.
- D. Failure to apply for a Building Permit / Occupancy Certificate prior to modification, alteration, construction or moving of buildings or accessory buildings will result in the persons being assessed the permit fee, an additional \$50 charge for violation of these regulations, and any other city legal costs to settle the violation.

**18-2233 Building Permit Fee and Expiration Terms**

- A. The application fee for the Building Permit is so stated in [Article 18-2238](#). No part of the Building Permit is refundable.
- B. The Building Permit is valid for 120 days.
- C. If the work as described in the filed Building Permit has not begun within 30 days the Building Inspector will cancel the permit. Written notice will be given to the affected persons within 3 business days.
- D. An extension can be filed with the City Clerk to be reviewed by the Building Inspector or Planning Commission. Extensions for the length of time, and start work will be acceptable for extenuating circumstances such as weather, illness or death.
- E. No building permit shall be issued for the construction of any structure upon any lot, tract or parcel of land located within the area governed by these regulations that has been subdivided, re-subdivided or re-platted after the date of the adoption of such regulations by the governing body, but which has not been approved in the manner provided by this ordinance.

**18-2234 Certificate of Occupancy**

- A. After the effective date of this ordinance, no vacant land shall be occupied or used, except for agricultural purposes, and no building hereafter erected or structurally altered shall be occupied or used until a Certificate of Occupancy shall have been issued by the Building Inspector.
- B. Prior to request for final inspection or issuance of a Certificate of Occupancy for a development which has received site plan approval, the builder shall provide the Building Inspector with an affidavit certifying development has occurred in conformance with the approved site plan. The affidavit shall reference the street address, name of the development, and property legal description.
- C. The Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances, and with the provisions of this ordinance.

**18-2235 Certificate of Occupancy: Application**

- A. A Certificate of Occupancy for a new building or the alteration of an existing building shall be applied for coincident with the application for a building permit, and shall be issued within 10 days after the erection or alteration of such building or part thereof shall have been completed in conformity with all ordinances and regulations.
- B. Pending the issuance of a regular certificate, a temporary Certificate of Occupancy may be issued by the Building Inspector for a period of 6 months during the completion of alterations or during partial occupancy of a building pending its completion. Such certificate shall not be construed as in any way altering the respective rights, duties, or obligations of the owners or of the City relating to the use or occupancy of the premises, or in any other matter covered by this ordinance. Such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.
- C. A Certificate of Occupancy for the use of vacant land or the change in the character of the use of land as herein specified shall be applied for before any such land shall be occupied or used and a Certificate of Occupancy shall be issued within 10 days after the application has been made: Provided, that such use is in conformity with the provisions of these regulations.

- D. A Certificate of Occupancy shall be required for all nonconforming uses. Application of a Certificate of Occupancy for each nonconforming use shall be filed within 12 months from the effective date of this ordinance. Each application shall be accompanied by affidavits of proof that such nonconforming use was established prior to the adoption of this article.

**18-2236 Certificate of Occupancy: Revocation**

The Building Inspector shall revoke a Certificate of Occupancy when it is found that the building or land does not conform to the use or conditions, if any, of the certificate. A 5-day written notice shall be given to the applicant before the certificate shall be revoked.

**18-2237 Subdivision of Land**

Any owner or owners wishing to parcel off a piece of land in more than one ownership shall be required to subdivide said piece of land in accordance with the procedures and regulations in the Subdivision Regulations for Wellsville, Kansas.

**18-2238 Filing Fees**

- A. See City Clerk for Fee Requirements
- B. If there is a failure to apply for a Building Permit and/or Occupancy Certificate prior to commencing the construction, structural alteration, enlargement or moving of a structure or the establishment, change to another, extension or enlargement of a use which upon investigation would otherwise have been permitted by these regulations, there may be a \$20.00 investigation charge added to the above Permit and/or Certificate fees.

## **ARTICLE TWENTY-THREE – BOARD OF ZONING APPEALS**

### **18.2300 Authorization**

A Board of Zoning Appeals of Wellsville, Franklin County, Kansas shall be established by the Council as prescribed by K.S.A. 12-759, 12-760.

### **18.2301 Membership**

- A. The Board shall consist of five (5) members in accordance with K.S.A. 12-759.
  - 1. One member shall be appointed to serve a period of 1 year;
  - 2. Two members for a period of 2 years; and
  - 3. Two members for a period of three (3) years;
  - 4. Thereafter all members shall be appointed and serve a term of 3 years from their date of appointment.
- B. The members shall elect their own Chairman and Vice Chairman at the first regular monthly meeting following May 1 and said officers shall serve for 1 year and until their successor is elected. The City Council shall appoint a secretary who shall be a city employee.
- C. The members of the board shall serve without compensation. Vacancies shall be filled for the unexpired term.
- D. Members may be removed by the Mayor and City Council upon written charges and after public hearing for failure to follow the defined criteria and/or absence for 3 consecutive meetings. The board shall adopt rules of procedure in accordance with the provisions of these regulations.
- E. Meetings of the board shall be held at the call of the Chairman, or by the Vice Chairman in the absence of the Chairman. The board shall keep minutes of its proceeding and shall keep records of its examinations and other official actions and shall be of public record.
- F. The presence of 3 members of the board shall constitute a quorum for the transaction of business, providing, however, that the concurring vote of 3 members of the board shall be necessary to effect a ruling in favor of an appellant.

### **18.2302 Appeals**

- A. Appeals to the Board of Zoning Appeals may be taken by any person aggrieved or by any officer of the city or any governmental agency or body affected by any decision of the officer administering the provisions of the Zoning Ordinance.
- B. Such appeal shall be taken within 30 days by filing with the officer from whom the appeal is taken, and with the Board, a notice of appeal in writing specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

### **18.2303 Stay of Proceedings**

An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by restraining order which may be granted by the Board or by a court of record on petition with the Building Inspector and on the basis of due cause shown.

### **18.2304 Decision**

- A. The Board may affirm or reverse, wholly or partly, or may modify the decision appealed from, and may make such decision as ought to be made, and to that end shall have all the powers of the Building Inspector and may issue or direct the issuance of a permit. The concurring vote of three

members of the Board shall be necessary to reverse any decision of the Building Inspector under these regulations.

- B. The Board shall render a written decision on the appeal without unreasonable delay after the close of a hearing and, in all cases, within 45 days after the close of the hearing.

**18.2305**

**Hearing and Notice**

- A. The board shall fix a reasonable time for the hearing of an appeal. Notice of the time, place and subject of such hearing shall be published once in the official paper of Wellsville at least 20 days prior to the date fixed for hearing. A copy of said notice will be mailed to each party to the appeal and to the Planning Commission and City Council. Applicant shall mail a copy of said publication notice by U.S. Mail, certified, return receipt requested and prepaid, to each owner of record of land within a distance of 200 feet of the perimeter of such proposed change, at least 20 days prior to said hearing; sufficient copies of said notice for such purpose to be provided by the City Clerk.
- B. The appellant herewith will file proof of compliance under oath with the City Clerk prior to such hearing. At least 10 days prior to the date set for hearing, the appellant will file with the City Clerk a plat of the land in question, drawn to scale, showing all tracts within a distance of 200 feet of the perimeter and the ownership's of each such tract; also, the location of all present buildings and proposed development. The Building Inspector or applicable City Staff member for accuracy will verify such plans or drawings, and his/her signature will be affixed to the plat.

**18.2306**

**Variances**

- A. The Board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Building Inspector in the enforcement of the Zoning Ordinance.
- B. The Board may, when it deems the same necessary, grant variance from the specific terms of this ordinance which will not be contrary to the public interest and where, due to special conditions, a literal enforcement of the provision of this ordinance will, in an individual case, result in unnecessary hardship and provided that the spirit of this ordinance shall be observed, public safety and welfare secured and substantial justice done. Such variance shall not permit a use not permitted by the Zoning Ordinance in such district. A variance may be granted in each case, upon a finding by the board that of the following conditions have been met;
1. That the variance requested arises from condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action of the property owner or the applicant.
  2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
  3. That the strict application of the provisions of the Zoning Ordinance from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
  4. That the variance desired will not adversely affect the public health, safety, morals, order convenience, prosperity, the general welfare or the harmonious development of the city.
  5. That granting the variance desired will not be opposed to the general spirit and intent of the Zoning Ordinance.
  6. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the regulations that are in question.
- C. In exercising the foregoing power, the board may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions and may issue or direct the issuance of a permit or may revoke a permit. The board shall set down in writing as a public record its findings with regard to each of the six points mentioned above.

D. Information pertaining to land or structures within the floodplain is located in Article 10.

**18.2307 Variance: Application Procedures**

- B. An application for a variance shall be filed with the Planning Department. The application shall contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. The particular requirements of these regulations which prevent the proposed use or construction;
  2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;
  3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction; and
  4. The particular hardship which would result if the requirements of these regulations were applied to the subject property.

**18.2308 Variance: Authorization**

- A. Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards in [Section 18-2306](#).B, and only in the following instances and not other:
1. To vary the applicable lot area, lot width and lot depth requirements.
  2. To vary the applicable bulk regulations, including maximum height, lot coverage and minimum yard requirements.
  3. To vary the number of required off-street parking spaces.
  4. To vary the sign provisions of [Article 18-1905](#) regarding general standards and [Article 18-1908](#) regarding district regulations.
  5. To vary the applicable a requirement in nonconforming nonresidential structures and uses in accordance with [Article 18-1504](#).
  6. To vary certain provisions of the flood plain district in accordance with [18-1016](#).

**18.2309 Variances: Signs**

- A. The Board of Zoning Appeals may grant variances from the regulations contained in this Article:
1. To permit a setback for a street sign that is less than the required setback;
  2. To permit the area or height of a street sign to be increased by up to 20 percent of the maximum height or area allowed;
- B. The Board of Zoning Appeals may grant a variance authorized by this Article if it finds there are special physical conditions that:
1. Are due to the exceptional narrowness, shallowness, shape, or topography of the premises on which an activity is located; or
  2. Prevent the activity from earning a reasonable return as a compared with other activities in the area.





**ARTICLE TWENTY-FOUR – RESERVED**



## **ARTICLE TWENTY-FIVE – ENFORCEMENT AND SEVERABILITY**

### **18.2500 Enforcement**

It shall be the duty of the Building Inspector to enforce this chapter through proper legal channels and to refuse to issue any permit for any building or structure of the use of any premises, which would violate any of the provisions hereof. Appeal from the decision of the Building Inspector may be made to the Board of Zoning Appeals as provided herein.

### **18.2501 Violation and Penalty**

- A. Any person, firm, or corporation: that shall violate any of the provisions of this chapter; fail to comply with any order or regulation; or that would build in violation of any specifications or plans submitted and approved, or any certificate or permit issued thereunder, shall, for each and every violation and non-compliance respectively be deemed guilty of a misdemeanor, and upon conviction therefor shall have one of the following consequences:
  - 1. Fined in a sum not less than \$50 nor more than \$500,
  - 2. Imprisonment for not more than six months for each offense or
  - 3. Both fine and imprisonment. Each day's violation shall constitute a separate offense.
- B. Any person, company, corporation, institution, municipality or agency of the state that violates any provision of any regulation relating to floodplain zoning shall be subject to the penalties and remedies herein. Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure is or land is proposed to be, used in violation of any zoning regulations, the City or County, or in the event the engineer of the division of water resources of the Kansas State Board of Agriculture in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such building, structure or land.

### **18.2502 Severability**

Should any article, section, subsection, paragraph, clause or provision of this chapter, the zoning ordinance of the City of Wellsville, be declared by a court of competent jurisdiction to be invalid or unconstitutional, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid or unconstitutional. The governing body hereby declares that it would have passed this ordinance and each article, section, subsection, paragraph, sentence, clause, and phrase thereof irrespective of the fact that any one or more articles, sections, subsections, paragraphs, sentences, clauses, or phrases be declared invalid.

### **18.2503 Effective Date**

These regulations shall take effect and be in force from and after their adoption by the Planning Commission, approval by the City Council of an ordinance incorporating these regulations by reference and publication of such ordinance in the official city newspaper. Adopted by the Wellsville City Planning Commission on May 11, 2000.



## ARTICLE TWENTY-SIX – RESERVED



**ARTICLE TWENTY-SEVEN – RESERVED**





## **ARTICLE TWENTY-EIGHT – DEFINITIONS**

### **18.2800 Rules of Construction: General**

- A. All provisions, terms, phrases and expressions contained in this Chapter shall be liberally construed in order that the true intent and meaning of the City Council may be fully carried out.
- B. Computation of Time
  - 1. The time within which an act is to be done and shall be computed by three weeks after the event is published in the local newspaper.
  - 2. The following time-related words shall have the meaning ascribed below:
    - Day – A calendar day unless working day is specified.
    - Week – Seven calendar days.
- C. Delegation of Authority
  - 1. Whenever a provision appears requiring the head of a department or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize professional-level subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
- D. Effect on Existing Permits

Nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any structure in the event that:

  - 1. A building permit and/or a zoning permit for such structure was lawfully issued prior to the effective date of these regulations, or the effective date of any amendment thereof; and
  - 2. Such permit had not by its own terms expired prior to such effective date; and
  - 3. Such permit was issued on the basis of an application showing complete plans for proposed construction and/or use; and
  - 4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permits other than purchase of land or preparation of design plans; and
  - 5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and
  - 6. Construction pursuant to such permit is completed prior to the expiration of such permit; and
  - 7. When a structure is completed under a permit to which this Section applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the building permit and/or zoning permit was issued.
- E. A subdivision of land which was not lawful at the time of the adoption of these regulations shall not become or be made lawful solely by reason of adoption of these regulations

### **18.2801 Interpretation of District Boundaries**

- A. Applicability – These provisions apply to the interpretation of the location of District boundaries shown on the Official Zoning Map.
- B. Center Lines or Edges – District boundaries indicated as approximately following the edge or center line, as the case may be, of a street, alley, railroad, highway or other public way, incorporated municipality, flood plain, body of water or topographic feature that was in existence when the boundary was established, shall be interpreted as following such edge or center line.

- C. Lot, Block and Tract Lines – District boundaries indicated as approximately following platted lot lines, bloc or parcel tract boundaries shall be interpreted as following such lines.
- D. Street Abandonment – Where a public road, street or alley is officially vacated or abandoned such property shall revert to the adjacent zoning. In the event that such property is adjacent to 2 zoning districts, each district shall extend to the centerline of the right-of-way.
- E. Uncertainties – Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in case any other uncertainty exists, the location of district boundaries shall be determined by the Planning Director, subject to appeal to the BZA.

**18.2802**

**Definitions**

Unless otherwise specifically provided for herein, or unless clearly required by the context, the phrases, terms and words defined in this Section shall have the meaning indicated in this Section when used in these regulations. Phrases, terms, and words underlined in the list of definitions are those, which are themselves, defined in this Section.

**18.2803**

**Accessory Structure / Use** - A structure or use that is subordinate to and serves a principal use or structure, is subordinate in area, extent and purpose the principal use or structure served, contributes to the comfort, convenience or necessity of occupants of the principal use or structure served and is located on the same lot or lots, under the same ownership and in the same zoning district as the principal use or structure.

**Adult Care Center** - See Day Care Center

**Adult Care Homes** - See Group Home

**Alley** - A public or private way not more than 20 feet wide affording only secondary means of access to abutting property.

**Animal Hospital or Clinic** – Commercial establishments where animals are admitted principally for examination, treatment, or care by a Doctor of Veterinary Medicine. This does not include boarding or open kennels or runs other than boarding limited to short-term care incidental to the hospital/clinic use.

**Apartment** - A room or suite of rooms comprising an independent self-contained dwelling unit with private bath and kitchen facilities within a building containing, arranged, intended or designed for more than two dwelling units.

**Arcades** - Any establishment displaying for public patronage or keeping for operation devices including but not limited to pool tables, foosball tables, air hockey tables, "pong" games, mechanical rides for children, electronic games and shooting gallery type games.

**Automobile Sales and Repair** - The sale and storage of new and/or used automobiles and other motor vehicles in operating condition, including trucks and buses; and, the repair, servicing and rental of such vehicles.

**Automobile Service Station** - A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs, but not including tire recapping, body repairs, major overhaul, provision of rental equipment or open sales lots.

**18.2804**

**Basement** - That portion of a building having more than one-half of its floor-to-ceiling height below the average grade of the adjoining ground.

**Bed & Breakfast** – A family home, occupied as a permanent dwelling by the proprietor, in which lodging and meals are provided for only overnight guests.

**Block** - A tract of land entirely bounded by streets, or by combination of streets and public right-of-way or as otherwise determined by the planning commission or its authorized representative.

**Board or BZA** - The Wellsville Board of Zoning Appeals

**Building** - Any structure having a roof or dome and built for the support, shelter or enclosure of any individual, persons, process, equipment, goods, animals, chattels, materials or movable property of any kind. Interconnected structures shall be considered as one building.

**Building Inspector** - The building inspector of the City of Wellsville, Kansas.

18.2805

**Campgrounds** - A place for temporary lodging used by vacationers, usually with outdoor recreation.

**Canopy** – A permanent structure, freestanding or extending from part or all of a building façade (generally overhanging a sidewalk) and often used to provide protection from sun or rain or as an architectural detail. Canopies are composed of durable, rigid building material, such as masonry, metal, wood or glass.

**Capacity in Persons** - The maximum number of persons permitted in an establishment or a room as determined by Fire Code.

**Car Wash** - An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles whether by operator or by customer.

**Childcare Center** - See Day Care Center.

**City** - The City of Wellsville, Kansas.

**City Council** - includes the Mayor and Council members of the City of Wellsville, which together constitute the governing body.

**City Building Official** - Any person designated to act in behalf of the city and/or the city planning commission. This person may be, but is not limited to the building inspector, city planner or city engineer.

**Clubs, Private** - A building or premises used for social recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons, otherwise listed and enumerated persons.

**Common Open Space** - A parcel of land or an area of water, or combination of both land and water, within a site designated as a planned unit development and designed and intended for the use and enjoyment of the residents and owners of the development. Common open space does not include streets, alleys, parks, off-street parking or loading area, publicly owned open space or other facilities dedicated by the developer for public use.

**Communication Tower** - A guyed or self-supporting tower constructed as a freestanding structure or in association with a building or other permanent structure or equipment, which contains one or more communication antenna. The following types of communication towers are referred to in these regulations:

1. Guyed Tower – A tower that is supported, in whole or in part, by guy wires.
2. Lattice Tower – A guyed or self-support tower that is generally three or four sided and has a lattice frame.
3. Monopole Tower – A self-support tower consisting of a single pole.
4. Self-Supported Tower – A tower that is constructed without guy wires.

**Comprehensive Plan** - means the adopted Comprehensive Development Plan for the City and surrounding Planning Area which includes, among other elements, a plan for existing and future land use.

**Condominium** - A structure and related common areas and facilities designed to meet the provisions of the Apartment Ownership Act cited in K.S.A. 58-3101 et seq. which governs the ownership, management, taxation, contents of the declaration and other matters related to the sale and operation of such structures and the independent units therein.

18.2806

**Day Care Center** - An agency, organization, or individual providing daytime care for a maximum of 10 children under 14 years of age, but where not more than six of whom are under kindergarten age and are not related by blood, marriage, or adoption and not the legal wards or foster children of the attendant

adult; or adults not related by blood or marriage and the legal wards of the attendant adult. Food and or lodging provided for less than 24 hours per day.

**Density** - The average number of persons or dwelling units per unit of land. The density is expressed as persons per acre or dwellings per acre.

**Depth** - The least horizontal distance between the front and rear lot lines and the building.

**Developer** - The legal or beneficial owner or owners of all of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract to purchase, a lessee having a remaining term of not less than 40 years or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purpose of these regulations.

**Development** – 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.

**District** - A portion of the territory of the City of Wellsville within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

**Door, Windowed** - A door of which more than thirty percent (30%) of the door area is glass.

**Drive In / Drive-Through Establishment** - An enterprise which accommodates the patrons' automobiles and from which the occupants of the automobile may make purchases, transact business or view motion pictures or other entertainment while remaining in their motor vehicle which is parked or stopped in a space provided on the premises for that purpose.

**Driveway** - A surfaced area specifically designated and reserved on the lot for the movement of vehicles from one lot to another or from a lot to a public street.

**Dwelling** - A building or portion thereof with dwelling unit(s) designed exclusively for human habitation including One-Family, two-family and Multiple-Family dwelling structures or complexes, Manufactured Home, Boarding and Lodging Houses, Apartment Houses and Townhouses, but not Hotels.

**Dwelling Unit** - One or more rooms designed, occupied or intended for occupancy as separate living quarters, which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

**Dwelling, Single-Family** - A residential building containing one dwelling unit only. For the purposes of these regulations a Type One Group Home as defined and a Residential-Design Manufactured Home, as defined, shall be considered to be a single-family dwelling.

**Dwelling, two-family or Duplex** – See Condominium

**Dwelling, Multiple-Family** – A residential building containing three or more dwelling units. These may include townhouses and apartments.

18.2807

**Earth-Sheltered Dwelling** - A single-family dwelling constructed so that 50% or more of the exterior surface area of the building, excluding garages and other accessory structures, is covered with earth. Such a dwelling is complete structure that does not serve just a foundation or substructure for above ground construction. A partially completed building shall not be considered earth-sheltered. Bulk regulations shall be measured from the structural part of the dwelling as distinguished from the earth covering.

**Easement** - A public dedication or private grant by the property owner allowing the specific use of land by others.

**Employee** – A non-family member whose primary residence is not in the home of employment.

**Engineer** – A professional engineer licensed by the State of Kansas or licensed to practice in the State of Kansas.

**Existing Use** - The use of a lot or tract or building or structure at the time of enactment of these regulations.

**18.2808**

**Family** - A person living alone, or two or more persons related by blood, marriage or legal adoption, or a group of not more than 5 persons who need not be related by blood, marriage, or adoption, but living together as a single housekeeping unit in a dwelling unit, as distinguished from a group occupying a boarding house, lodging house, motel, hotel, fraternity house or sorority house. Not more than four boarders or roomers are permitted as part of a housekeeping unit.

**Feed Lot, Commercial** - The confined feeding of food, fur or pleasure animals in buildings, lots, pens, pools or ponds which normally are not used for raising crops or for grazing animals. Such lots may or may not be regulated by the Kansas Department of Health and Environment. This is not to include the normal confinement of animals as part of the ongoing operation of a farmer or rancher, but an intensive activity that may include animals owned by other parties.

**Fence** - A free-standing structure of metal, masonry or wood, or any combination thereof, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes, but which does not pose a threat to public safety or health. (Ordinance 799: 8/22/07)

**Floodplain or Floodplain District** – That area designed by the governing body as susceptible to flooding including but not limited to the regulatory floodplain designated by the Federal Insurance Administration. See Article 10.

**Floor Area** - For computing off-street parking requirements, floor area shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include all floors, except that space which is used for storage.

**Food Sales (Convenience)** – Establishments less than 10,000 sqft of gross floor area primarily engaged in retail sale of food or household products for home consumption.

**Food Sales (General)** – Establishments with 10,000 sqft of gross floor area or more primarily engaged in the retail sale of food or household products for home consumption.

**Fraternal and/or Service Clubs** - An association formally organized for either fraternal, social, educational, philanthropic or other similar purposed, including union and professional organizations, and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their quests.

**Fee Simple-Title** - A clear legal title to a tract of land as further defined in law.

**Frontage** - The side of a lot abutting on a street or way and ordinarily regarded as the front lot line and including the street side lot line of a corner.

**18.2809**

**Garage** - A building intended or designed to be used for the storage of motor vehicles belonging to the persons occupying a dwelling, and not used for commercial storage of vehicles.

**Grading** - Any stripping, removing, terracing, cutting, filling, stockpiling or other alterations of earth or land.

**Greenhouse** – An establishment primarily engaged in the propagation (for sale at retail or wholesale) of horticultural specialties, such as flowers, shrubs and trees, intended for ornamental or landscaping purposes.

**Group Home - Type One:** 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 other residents of the home. The dwelling shall be licensed or certified by one or more of the following regulatory agencies of the State: the Department of Social and Rehabilitation Services; the Behavioral Sciences Regulatory Board; or the State Board of Healing Arts. For purposes of this definition the term “disability” means, with respect to an individual:

1. A physical or mental impairment which substantially limits one or more of such individual's major life activities;
2. A record of having such an impairment; or

3. Being regarded as having such impairment.

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

Type Two: 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 who are:

1. Assigned to a community corrections program or a diversion program, or
2. On parole from a correctional institution or on probation for a felony offense, or In a state mental institution following a finding of not guilty by reason of insanity pursuant to K.S.A. 22-3428, and amendments thereto, or
3. Mentally ill individuals who have either not been evaluated by a licensed provider or who have been evaluated by a licensed provider and such provider has determined that the mentally ill individual is dangerous to others or such provider has determined that the mentally ill individual is unsuitable for placement in a Group Home Type One

**Guest House** – An accessory structure used for quarters that has no kitchen or cooking facilities.

**18.2810 Hazardous Waste Facility** - An on-site or off-site facility or part of a facility or modification of an existing facility that includes all contiguous land, structures and other appurtenances and improvements on the land utilized for the purpose of treating, storing or disposing of hazardous waste. Such term shall also mean a hazardous waste injection well. In addition to this definition of facility, all related definitions pertaining to hazardous wastes as contained in K.S.A. 65-3430 and as may be amended from time to time are hereby incorporated by reference into the definitions of these regulations.

**Height, Maximum** - The vertical distance from the average ground elevation adjacent to a building or structure to the highest point of a building or highest point of any permanent part of the structure of building. Height, where not regulated in feet, shall be regulated by stories. For Floodplain Overlay District Zones, the datum for height measurements shall be mean sea level unless otherwise specified on Floodplain Zoning Maps.

**Home Occupation** - Any profession, other occupation, or activity carried out for gain, or carried out for benefit of a nonprofit organization and by a resident conducted as an accessory use which is clearly incidental and secondary to the use of the premises as a dwelling.

**Hotel / Motel** - A building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise.

**18.2811 Industrial Park / Business Park** - A planned, coordinated development of a tract of land with two or more separate industrial or business buildings.

**18.2812 Junk Yard** - See Salvage Yard

**18.2813 Kennel** - Any place, area, building, or structure on any tract smaller than 20 acres where more than an aggregate total of 3 adult cats or dogs, more than 1 year old, are kept, boarded, bred or trained, whether or not for commercial gain or as pets; or, any place, area, building, or structure on any tract 20 acres or more where more than an aggregate total of 6 adult cats or dogs, more than 1 year old are kept, boarded, bred or trained, whether or not for commercial gain or as pets.

**18.2814 Landscaping** - The improvement of a lot or parcel of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect. See Article 18.

**Loading Berth** - The space being occupied by the vehicle being loaded or unloaded.

**Lot Area** - The area of a horizontal plane bounded by the front, side and rear lot lines.

**Lot, Corner** - A lot abutting upon two or more streets at the intersection. A corner lot shall be deemed to front on that street on which the lot has its lest dimension. A corner lot that has equal frontage on more than one street or shall be deemed to front on the street selected by the Planning Director.

**Lot Coverage** - That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projection roof eaves and recreational activity areas for basketball, racquetball, swimming, tennis and similar activities.

**Lot Depth** - The distance between the midpoints of the front lot line and the midpoint of the rear lot line.

**Lot, Interior** - A lot whose side lot line does not abut any street.

**Lot Line, Front** - The lot line separating a lot from the street on which it fronts; or, on a corner lot, the shorter lot line abutting a street.

**Lot Line Rear** - The lot line which is most distant from the front street line; except, that in the case of uncertainty, the Planning Director shall determine the rear line.

**Lot Line, Side** - A lot line boundary line which is not a front or a rear line. A side lot line may be a party line, a line bordering an alley or a street line.

**Lot Line, Through** - An interior lot having frontage on 2 streets.

**Lot of Record** - A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Deeds, or a parcel of land described by meters and bounds of which the deed was recorded prior to June 16, 1976.

**Lot Size Requirements** - Restrictions on the dimensions of lots including (1) minimum lot area, width and depth, and (2) maximum density. Lot area, width and depth establish the minimum size of the zoning lot on which a structure or use, or two or more structures or uses, may be constructed or established.

**Lot Width** - The least horizontal distance between the side lot lines, measured at the minimum front yard setback required for the applicable zoning district.

**Lot, Zoning** - A parcel of land that is designated by its owner or developer at the time of applying for a zoning permit as a tract all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of: (1) A single lot of record, or (2) a portion of a lot of record, or (3) a combination of complete lots or record, complete lots and portions of lots of record, or portions of lots of record.

18.2815

**Manufactured Home** - A structure that is subject to the Federal Manufactured home construction and safety standards established pursuant to 42 USC subsection 5403 and is subject to additional criteria specified in 18-516G.

**Manufactured Home Park** - Any parcel or tract of ground equipped as required for support of manufactured homes and used or intended to be used by one or more occupied home. Such parks shall be under one ownership and control, but under not circumstances shall the manufactured home space be sold or offered for sale individually. The definition does not included a sales area on which unoccupied manufactured homes, whether new or used, are parked for the purposes of storage, inspection or sale, unless specifically approved as a UPR by the City Council. A manufactured home may, however, remain on a space for purposes of sale by the resident owner or the park owner. The O owner may also rent such homes placed on spaces for that purpose.

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

**Mini Warehouse** - A building or group of buildings that contains varying sizes of individual, compartmentalized and controlled access stalls and/or lockers for the dead storage indoors of customer's goods or wares.

**Mobile Home** – A portable housing unit consisting of a chassis that sits on axles and wheels. This shall include all units constructed prior to June 15, 1976.

**Mobile Home Space** - A plot of ground within a mobile home park that can accommodate one mobile home and which provides the necessary utility services for water, sewerage, and electricity.

**Manufactured Home Subdivision** - A subdivision where individual lots are sold for the placement of traditional homes or manufactured homes where the lot and structure are intended to be owned by the same party.

**Modular Home** - A transportable structure designed to be used as a permanent dwelling, which is not built on a permanent chassis but is designed and built to be placed on a permanent foundation, which contains plumbing, heating, air conditioning and electrical systems installed primarily by the manufacture during construction and that is constructed in accordance with the building codes adopted by the City.

**Motorized Recreational Vehicle/Trailer** - A vehicle equipped with wheels and towed over the road behind an automobile or truck or a self-propelled, self-contained, motorized enclosure for sleeping purposes while on vacations or other trips of short duration.

**18.2816 Nonconforming Lot of Record** - An unimproved lot that does not comply with the lot size requirements for any permitted use in the district in which it is located.

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

**Nonconforming Use** – A structure or land lawfully occupied by a use that does not conform to regulations of the district in which it is located.

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

**18.2817 Office** - An administrative unit of business, enterprise or organization, including but not limited to offices of accountants, financial brokers, insurance agencies, architects, engineers, planners, dentists, physicians, lawyers, real estate and title companies.

**Off-Street Parking** – Parking spaces located in an area other than on street or public right-of-way and limited in use to vehicles not exceeding a gross vehicle weight of 3 tons or not parked continuously for periods of more than 48 hours, except in facilities designated for special uses. Parking facilities include the following subclasses:

1. **Surface Parking Lot** – A parking facility constructed on prepared grade and without a covering or roof structure.
2. **Open Parking Structure** – A parking or facility, comprising one or more floors as a part or whole of a building, that meets the requirements for natural ventilation as specified by the adopted building code of the City.
3. **Enclosed Parking Structure** – A parking area or facility comprising one or more floors as a part or whole of a building, that does not meet adopted building code requirements for openness.

**Open Space, Usable** - Usable open space is land, which is free of buildings, structures and other substantial improvements. The following examples are listed by way of illustration to indicate what may be counted as usable open space within this definition:

1. Outdoor swimming pools, swimming pool areas, hard surface recreational areas, and other recreational areas, provided these areas are not enclosed except for fences, canopies, bath houses, or other minor structures;
2. Driveways that do not serve three or more parking spaces;
3. Recreational facilities with ready access on flat roofs;



4. A maximum of one-half of the open space requirement may be satisfied by that portion of public or private right-of-way adjacent to the site and which at the ultimate expected pavement width for that classification of street will remain unpaved;
5. Enclosed open space areas in shopping malls, including walkways.

The following are examples of what may not be counted as usable open space: roofs; open parking areas; parking structures, slopes in excess of 50%.

**Outdoor Storage** - The storage of goods and materials outside of any building or structure for more than 24 continuous hours, but not including storage of a temporary or emergency nature.

**Owner** – Any person who has record title to or an equitable interest in a tract of land. In the event two or more persons own a tract, 'owner' shall be defined as follows:

1. If joint tenants, 'owner' means all of the joint tenants;
2. If tenants in common 'owner' means both a majority of the number of tenants in common and the holders of a majority of the undivided interests in the tract;
3. If the tract is held by a life tenant and a hereditary successor, 'owner' means the life tenant;
4. If the tract is held by a tenant under a recorded lease providing for a lease term of ten years or longer and hereditary successor, 'owner' means both such tenant and hereditary successor;
5. If one holds title to the surface and another holds title to the minerals, 'owner' means the surface titleholder.

**18.2818**

**Parking Lot** – Any portion of a parcel of land used for parking or storage of operable motor vehicles on a temporary basis.

**Parking Space** – A surfaced area exclusive of driveways in commercial and industrial districts, available for the temporary storage of one motor vehicle and connected with a street or alley by a surfaced driveway, which affords satisfactory ingress or egress for motor vehicles.

**Parking Structure** - A structure enclosed on all four sided for the parking of motor vehicles either above or below ground, or unenclosed bus screened parking area on top of a structure.

**Party Wall** - A wall used jointly by two parties under easement, erected upon a line separating two parcels of land, each of which is a separate real estate entity.

**Paved** – Constructed with an asphalt concrete or Portland cement concrete surface and in accordance with adopted standards and regulations.

**Person** - includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.

**Planning Commission** – City Planning Commission.

**Planning Department** – The Wellsville Planning Department.

**Plat** – A map or drawing to scale showing a division or divisions of a tract of real property or showing the boundaries of a lot or lots resulting from the subdivision of a tract of real property as provided in these regulations.

**Plat, Final** – A final map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, restriction, and acceptances, and with complete bearing and dimensions of all lines defining lots and blocks, streets, alleys, public areas and other dimensions of land.

**Plat, Preliminary** – The preliminary drawing or drawings of a plat as set forth in the Subdivision Regulations herein, which indicates the proposed manner or layout of the subdivision and includes any accompanying materials and endorsements, if any.

**Pre-platting Conference** – A meeting between the City Planner or such person's designee and the applicant(s) or prospective applicant(s) regarding the Preliminary Plat of Subdivision, before submission of the application requesting approval of said Preliminary Plat.

**Preschool** - A facility such as a "nursery school" providing learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107 and any amendments thereto and who are 30 months or older, and which conducts sessions not exceeding three hours per day.

**Principal Structure** - A structure in which a principal use of the lot on which the structure is located is conducted.

**Principal Use** - The main use of land or structures as distinguished from a subordinate or accessory use.

18.2819

**Real Estate Sign** - A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof which is located thereon.

**Recreation Vehicle** – a vehicle which is built on a single chassis 400 square feet or less when measured at the largest horizontal projections; Designed to be self-propelled or permanently towed by a light duty truck; Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Recycling Center** - A location where clean source-separated, recyclable materials are accepted or deposited by the public for transfer elsewhere.

**Residential Building** - A building all or part of which contains one or more dwelling units, including single-family, two-family and multiple-family dwellings, lodging houses and modular homes.

**Residential -Design Manufactured Home** – A prefabricated or panelized structure designed to be used as a permanent dwelling, built on a chassis, built to meet the National Manufactured Home construction and Safety Standards (HUD, June 15, 1976), and any amendments thereto, and which meets the following design and construction criteria:

1. The structure shall be permanently attached to a basement, crawlspace, slab or similar foundation, and the foundation or perimeter wall shall form a complete enclosure under all exterior walls.
2. Has a minimum dimensions of 22 body feet in width;
3. The pitch of the roof of the manufactured home has a minimum vertical rise of 4 inches for each running 12 inches of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction in the city;
4. All roof structures shall provide an eaves projection of no less than twelve (12) inches, excluding a gutter;
5. The exterior siding consist of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the city;
6. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground; and it is the purpose of these criteria to ensure that a Residential-Design Manufacture Home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.
7. The unit shall have been constructed after June 15, 1976;
8. The unit shall not have wheels, axles, hitch or towing apparatus;
9. The tie down construction shall be pre-engineered or certified by a professional engineer, licensed in the State of Kansas;

10. All site preparation and utility connections shall comply with locally adopted building code requirements.

11. Meet all of the requirements set forth in the "R-1" Single Family Dwelling District of the Zoning Regulations of the City of Wellsville, Kansas

**Restaurant** – A food service establishment wherein food is prepared in a kitchen and is served in ready-to-eat form to the public for human consumption, drive up windows not included.

**Retail** – Sale of goods or services to the ultimate consumers for household, personal consumption, and not for resale.

**Right of Way** – A strip of land dedicated for public roadway, pedestrian passageway or alley, unless a railroad or utility right-of-way is specified.

18.2820

**Salvage Yard** - Any land or building used for the deposit, collection or storage or sale of wastepaper, trash, rags, fibrous material, scrap metal or other discarded material; or for the collecting or dismantling or storing or salvaging of machinery or unlicensed motor vehicles not in operating condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures.

**Screening** - Decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation. When fencing is used for screening, it shall not be less than six feet in height, unless otherwise provided by these regulations.

**Setback, Building** – The distance between a building or structure and the street easement or right-of-way line nearest thereto. (Note: Proposed right-of-way lines are based on the Comprehensive Plan and may be further specified in local Subdivision Regulations for arterial, collector, local or marginal access streets.)

**Special Event** – An event that is not a daily occurrence.

**Story** – A set of rooms on 1 floor of a building or a horizontal divider of a building interior, not necessarily corresponding to a building's interior. For purposes of measurement, a story shall be considered to be 12 feet.

**Street** – The dedicated right-of-way or easement, whether private or public.

**Street Width** – The distance measured perpendicular to the centerline of the paved portion of the right-of-way, either to the back of the curb (where a curb exists) or to the edge of the pavement.

**Structural Alterations** – Any change in the supporting members of a building, such as bearing walls, columns, beams or girders. The following alterations shall not be considered as structural alterations.

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

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

**Subdivision** – The voluntary division of a lot, parcel, or tract of land into two or more parts for the purpose, whether immediate or future, of sale or building development including re-subdivision.

**Subdivision Regulations** – The official subdivision regulations of the City, together with all amendments thereto, adopted pursuant to K.S.A. 19-2956 Et. Seq. And any amendments thereto, if any.

**Substantial Damage** – Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

- 18.2821**      **Tavern** - An establishment in which cereal malt beverages are sold or served to customers, members or guests for consumption on the premises.
- Tract** – A single unit of real property under unified ownership whether platted or unplatted and whether or not title is publicly or privately held by the owner.
- 18.2822**      **Use** - Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.
- Use Permitted Upon Review (UPR)** - A use permitted only upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation as such use as specified in these regulations and authorized by the City Council.
- Use Permitted Upon Review Permit (UPRP)**- The resolution recommended by the Planning Commission and authorized by the City Council shall be considered a permit.
- Use Regulations** - The provisions of these regulations, which identify permitted, special and conditional uses, impose use limitations, and regulate accessory and temporary uses and home occupations.
- 18.2823**      **Wholesale** – the sale of commodities in quantity usually for resale or to other than the end user of the commodity.
- 18.2824**      **Yard** - Open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in Article 5-103.F.
- Yard Front** - A yard extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front yard. On a corner lot, each yard that abuts a front lot line shall be considered a front yard.
- Yard Rear** – A yard extending across the full width of the lot, the depth of which is the least distance between the rear lot line and the rear setback line.
- Yard Side** – A yard extending from the front yard or front lot line where no front yard is required, to the rear yard.
- 18.2825**      **Zoning Map** – the zoning map(s) showing zoning districts for land subject to the zoning authority to the City of Wellsville.
- Zoning Jurisdiction** - mean the area as defined in Article 18-303 for which the jurisdiction of these regulations is applicable for zoning purposes.
- Zoning Regulation** – The official zoning regulations of the City Of Wellsville, together with all amendments thereto adopted pursuant to K.S.A. 12-741(et. seq.) And any amendments thereto, if any.

*City of Wellsville, Kansas  
P.O. Box 455  
Wellsville, Kansas 66092*

***ZONING REGULATIONS  
APPENDIX A  
SITE PLAN REVIEW APPLICATION***

*City of Wellsville, Kansas  
P.O. Box 455  
Wellsville, Kansas 66092*

***ZONING REGULATIONS  
APPENDX B  
SITE PLAN REVIEW CHECKLIST***

*City of Wellsville, Kansas  
P.O. Box 455  
Wellsville, Kansas 66092*

***ZONING REGULATIONS  
APPENDX C  
CHANGE IN ZONING APPLICATION***

*City of Wellsville, Kansas  
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Wellsville, Kansas 66092*

***ZONING REGULATIONS  
APPENDIX D  
USE PERMITTED UPON REVIEW APPLICATION***



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**ZONING REGULATIONS  
APPENDX E  
VARIANCE APPLICATION**

