

CHAPTER 16
PLANNING AND ZONING

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ARTICLE 1. PLANNING AND ZONING COMMISSION CREATED**16-1: PLANNING COMMISSION CREATED:**

- A. There is hereby created a planning commission, which said commission shall consist of five (5) citizens of said town as hereinafter provided. The members of said commission shall be nominated and appointed solely with reference to their fitness and without reference to party affiliations and shall serve without compensation, except as hereinafter provided. (1983 Code)

16-2: LENGTH OF TERM:

- A. Members of the town planning commission shall hold office for a term of three (3) years, with the exception that, in the first instance, one shall be appointed to serve a term of one year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years; except, when a vacancy occurs, an appointment shall be made to fill the unexpired term. (1983 Code)

16-3: QUORUM:

- A. Three (3) members of the town planning commission shall constitute a quorum for the transaction of business, provided however, that no action shall be taken to be binding upon said town planning commission unless concurred in by not less than a majority of all members comprising the said planning commission. (1983 Code)

16-4: ZONING COMMISSION:

- A. The town of Chouteau planning commission shall also act as the zoning commission, which shall have the power to recommend to the board of trustees of the town of Chouteau regulations and restrictions upon the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures, and land for trade, industry, residences, and other purposes. (1983 Code)

16-5: UNIFORMITY OF REGULATIONS:

- A. The planning commission may recommend division of the municipality into districts of such number, size and area as may be deemed best suited to carry out the zoning plan. All such recommended regulations shall be uniform for each class or kind of buildings throughout each district, but the suggested regulations in one district may differ from those in other districts. (1983 Code)

16-6: COMPREHENSIVE PLAN - PURPOSE OF REGULATIONS:

- A. Such recommendations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate adequate provision of transportation, water, sewage, schools, parks, and other public requirements. Such recommendations shall be made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality. (1983 Code)

ARTICLE 2. ZONING COMMISSION**16-7: STATUTE CITATION:**

- A. Sections 1 through 38 of this chapter, in pursuance of the authority granted by the legislature of the state of Oklahoma in 11 Oklahoma Statutes chapter 7, sections 401-410, shall be a part of the master plan for the town of Chouteau and shall be known as the zoning ordinance and may be cited as such. (1983 Code)

16-8: PURPOSE AND NECESSITY:

- A. The regulations contained herein are necessary to encourage the most appropriate uses of land; to maintain and stabilize the value of property; to reduce fire hazards and improve public safety and safeguard the public health; to decrease traffic congestion and its

accompanying hazards; to prevent undue concentration of population; and to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewage, schools, parks, public utilities and other facilities. (1983 Code)

16-9: NATURE OF ZONING PLAN:

- A. This chapter classifies and regulates the use of land, buildings, and structures within the town limits of the town of Chouteau, state of Oklahoma, as herein set forth. The regulations contained herein are necessary to promote the health, safety, convenience, and welfare of the inhabitants by dividing the town into zones and regulating therein the use of the land as to height and number of stories of buildings, coverage of the land by buildings, size of yards, and open spaces, density of population and location and use of buildings. (1983 Code)

16-10: REGULATIONS:

- A. Except as hereinafter otherwise provided, no land shall be used and no building, structure, or improvement shall be made, erected, constructed, moved, altered, enlarged, or rebuilt which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, yard, and space requirements established in the district in which such land, building, structure or improvement is located and in accordance with the provisions of the articles contained herein relating to any or all districts. (1983 Code)

16-11: ZONES:

- A. The town of Chouteau is hereby divided into zones as shown on the zoning map (map dated June 1970) filed with the town clerk, and as the said map may be amended from time to time. The map, as amended, and all explanatory material thereon is hereby made a part of this chapter. Zones shall be designated as follows:

- U-1 Single-family district
- U-2 Multiple-family district
- U-3 Local business district
- U-4 General business district
- U-5 Light industry district

U-6 Heavy industry district
U-3A Mobile home park

Specific district regulations are set forth in this article. (1983 Code)

16-12: **DEFINITIONS:**

- A. For the purpose of these regulations, certain terms and words are to be used and interpreted as defined in section 16-38 of this chapter. Words used in the present tense shall include the future tense; words in the singular number include the plural, and words in the plural number include the singular, except the natural construction of the writing indicates otherwise. The word "shall" is mandatory and not directory. (1983 Code)

16-13: **INTERPRETATION OF DISTRICT BOUNDARIES:**

- A. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:
1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right of way lines, such centerlines, street lines, or highway right of way lines shall be construed to be such boundaries.
 2. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.
 3. Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines or right of way lines of highways, such district boundaries shall be construed as being parallel thereto and at such scaled distance therefrom as indicated on the zoning map.
 4. Where the boundary of a district line follows a railroad line, such boundary shall be deemed to be located on the easement line to which it is closest, which shall completely include or exclude the railroad easement unless otherwise designated. (1983 Code)

16-14: VACATION OF PUBLIC EASEMENTS:

- A. Whenever any street, alley, or other public easement is vacated, the district classification of the property to which the vacated portions of the land accrue shall become the classification of the vacated land. (1983 Code)

16-15: NONCONFORMING USES:

- A. Any use of structure existing at the time of enactment or subsequent amendment of this chapter, but not in conformity with its provisions, may be continued with the following limitations. Any use of building which does not conform to the provisions of this chapter may not be:
1. Changed to another nonconforming use;
 2. Reestablished after discontinuance for six (6) months;
 3. Extended except in conformity to this ordinance; or
 4. Rebuilt after damage exceeding ninety percent (90%) of its fair sales value immediately prior to damage. (1983 Code)

16-16: U-1, SINGLE-FAMILY DWELLING DISTRICT:

- A. Uses Permitted: Property and buildings in a U-1, single-family dwelling district, shall be used only for the following purposes:

Accessory buildings which are not a part of the main building, including a private garage, not less than five feet (5') from any side lot line, or accessory buildings which are a part of the main building, including a private garage.

Bulletin board or sign, not exceeding twelve (12) square feet in area appertaining to the lease, hire, or sale of a building or premises, which board or sign shall be removed as soon as the premises are leased, hired, or sold.

Church.

Detached one-family dwelling.

General purpose farm, garden, and nursery.

Home Business: Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes; which does not change the character thereof; and which is conducted entirely within the main or accessory building, provided, that no trading within the main or accessory building in merchandising is carried on and in connection with which there is no display of merchandise or sign other than one nonilluminated nameplate not more than two (2) square feet in area attached to the main or accessory building, and no mechanical equipment is used or activity is conducted which creates any noise, dust, odor, or electrical disturbance beyond the confines of the lot on which said occupation is conducted.

Library.

Municipal recreation or water supply.

School offering general educational courses the same as ordinarily given in public schools and having no rooms regularly used for housing and sleeping. (1983 Code; amd. Ord. 2002-02, 6-10-2002; Ord. 2016-2, 4-11-2016)

- B. Uses Permissible On Review: The following uses may be permissible on review by the town planning commission in accordance with provisions contained in section 16-28 of this chapter, provided that the structures incidental to these uses are located twenty five feet (25') from any property line:

Golf club.

Municipal use.

Public building.

Public utility.

In addition thereto the placement of an owner occupied mobile home in accordance with the provisions of subsections 4-46B and E of this code may be permissible on review by the town planning commission in accordance with the provisions contained in section 16-28 of this chapter. (Ord. 95-2)

C. Area Regulations:

1. Front Yard: All buildings shall be set back from street right of way lines to comply with the following front yard requirements:

a. The minimum depth of the front yard shall be twenty five feet (25'), except as otherwise provided in section 16-27 of this chapter.

b. If twenty five percent (25%) or more of the lots on one side of the street between two (2) intersecting streets are improved with buildings, all of which have observed an average setback line greater than twenty five feet (25'), and no building varies more than five feet (5') from this average setback line, than no building shall be erected closer to the street line than the minimum setback so established by the existing buildings; but this regulation shall not require a front yard of greater depth than forty feet (40').

c. When a yard has double frontage, the front yard requirements shall be provided on both streets.

2. Side Yard:

a. Except as hereinafter provided in subsection C2b of this section, and in section 16-24 of this article, there shall be a side yard on each side of a main building which shall have a width of not less than five feet (5'); unattached, one-story buildings of accessory use shall be set back five feet (5') from any side lot line, provided, however, that more than three feet (3') from the interior side lot line when all parts of said building are located not more than fifty feet (50') from the rear property line or rear utility easement line.

b. On any corner lot, a building shall set back from the street line of the intersecting street a distance of fifteen feet (15') in case such lot is back to back with another corner lot, and twenty feet (20') in every other case.

3. Rear Yard: There shall be a rear yard having a depth of not less than twenty feet (20') or twenty percent (20%) of the depth of the lot, whichever is smaller; unattached one-story buildings of accessory use shall be set back one foot (1') from the rear utility easement or alley line.

4. Lot Width: There shall be a minimum lot width of fifty feet (50') at the building line, and such lot shall abut on a street for a distance of not less than thirty five feet (35').

5. Intensity Of Use: There shall be a lot area of not less than six thousand (6,000) square feet, except that where a lot has less area than herein required and all the boundary lines of that lot touch land under other ownership on the effective date hereof, that lot may be used for any of the uses permitted by this section.

6. Coverage: Main and accessory buildings shall not cover more than twenty five percent (25%) of the lot area on interior lots, and thirty percent (30%) of the lot area on corner lots; accessory buildings shall not cover more than twenty percent (20%) of the rear yard.

7. Limit On Buildings: Not more than one main dwelling shall be constructed on each six thousand (6,000) square feet of area.

- D. Height Regulations: Except as provided in section 16-25 of this article, no building shall exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height. (1983 Code)

16-17: U-2, MULTIPLE-FAMILY DWELLING DISTRICT:

- A. Uses Permitted: Property and buildings in U-2, multiple-family district, shall be used only for the following purposes:

Any use permitted in U-1.

Accessory buildings and uses customarily incidental to any of the above uses when located on the same lot.

Single-family dwelling and garage apartment, two-family dwelling apartment house, rooming house, boarding house, multiple-family dwelling.

- B. Uses Permissible On Review: The following uses may be permissible on review by the town planning commission in accordance with the provisions contained in section 16-28 of this chapter:

Any use permissible on review in U-1.

Home beauty shop located in a dwelling provided such shop is conducted within the main dwelling and is operated only by the inhabitants thereof and does not exceed two (2) operators, both of whom are inhabitants of said dwelling. The use shall be conducted in such a way that it is clearly incidental to the dwelling use and shall not change the character thereof. No sign shall be permitted except one

nonilluminated nameplate not exceeding two (2) square feet in area attached to the main building.

Sanatorium, convalescent home, institution for philanthropic use, doctors, or dentist office, provided that not more than two (2) beds are provided to keep patients overnight.

C. Area Regulations:

1. Front Yard: The front yard requirements shall be the same as those in U-1.

2. Side Yard: Side yard requirements for one-story buildings, exclusive of basement, shall be the same as those in U-1, except that garage apartments shall set back not less than five feet (5') from all side lot lines. For each additional story, the side yard width shall be increased by three feet (3').

3. Rear Yard: There shall be a rear yard not less than fifteen feet (15'); one-story unattached buildings of accessory use shall set back one foot (1') from the rear utility easement or alley line, and garage apartment shall be set back ten feet (10') from the rear lot line.

4. Lot Width: There shall be a minimum lot width of fifty feet (50') at the building line for a single-family dwelling, ten feet (10') additional width for each additional family occupying the structure, and such lot shall abut on a street not less than thirty five feet (35').

5. Intensity Of Use:

a. Lot Area: There shall be a lot area of not less than six thousand (6,000) square feet for a single-family dwelling; seven thousand (7,000) square feet for a two-family dwelling, or single-family dwelling and garage apartment, and two thousand (2,000) square feet additional area for each family more than two (2) occupying the structure.

b. Only Single-Family: When a lot is of less area than herein required, having all boundary lines touching lands under other ownership on the effective date of this article, that lot may be used only for the single-family purposes.

c. Coverage: Main and accessory buildings shall not cover more than thirty percent (30%) of the lot area; accessory buildings shall not cover more than thirty percent (30%) of the rear yard.

- D. Height Regulations: Except as provided in section 16-25 of this article, no buildings shall exceed three and one-half (3¹/₂) stories or forty five feet (45') in height. (1983 Code)

16-18: U-3A, MOBILE HOME PARK DISTRICT:

- A. Uses Permitted: Property and buildings in a U-3A, mobile home park district, shall be used only for the following purposes:

Any use permitted in U-2.

Any use permissible on review in U-2.

Mobile home or trailer coach parks, provided that all other chapters of the code of the town of Chouteau relating thereto shall be complied with and followed.

From and after May 1, 2016, no mobile home, motor coach, modular home, residential design manufactured home, trailer home, trailer house, trailer with living quarters, portable house, movable home, tiny home, or any other residential living quarters capable of movement on public roadways or with substantial component parts capable of movement on public roadways shall be located in any district/zoning classification other than U-3A. Provided, nothing herein shall prohibit the relocation of a site built residential dwelling to a location within any district/zoning classification in which a single-family dwelling is permitted. Any nonconforming use shall continue only as set forth in section 16-15 of this article. (1983 Code; amd. Ord. 2016-2, 4-11-2016)

- B. Area Requirement: For dwellings in a U-3A district, the requirements for front yard, rear yard, intensity of use and coverage shall be the same as those that apply in U-2 districts. Such requirements for mobile or trailer coach parks shall be as prescribed by other chapters of this code. (1983 Code)

16-19: U-3, LOCAL BUSINESS DISTRICT:

- A. Uses Permitted: Property and buildings in a U-3, local business district, shall be used only for the following purposes:

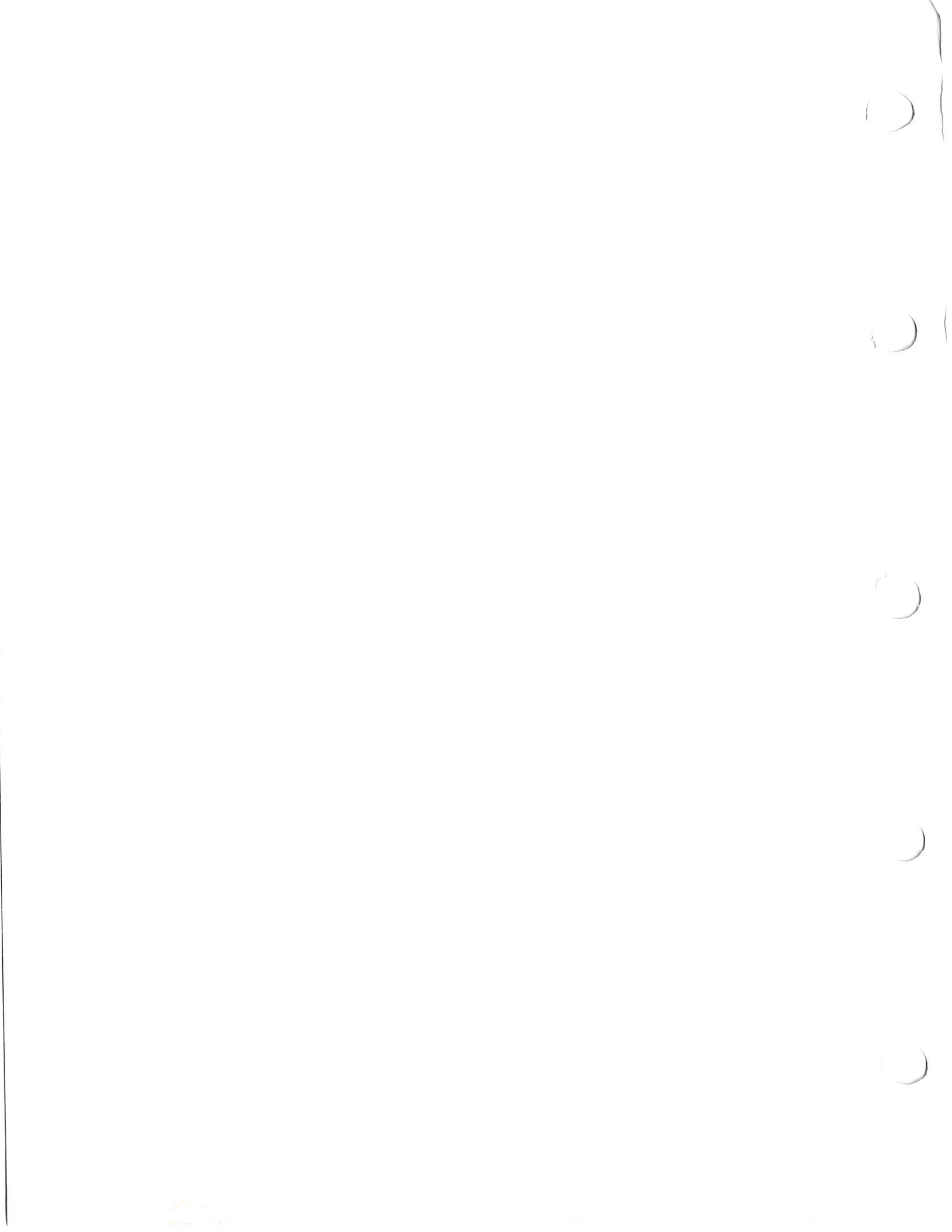
1. Any use permitted in U-2.

2. Any use permissible on review in U-2.

3. Retail stores and shops supplying the regular and customary needs of the residents of the neighborhood and primarily for their convenience, such as:

Automobile parking lots.

Bakery.



Bank.

Barbershop or beauty parlor.

Book or stationery store.

Catering establishment.

Cleaning, pressing, or laundry agency.

Drugstore or fountain.

Florist.

Food store.

Giftshop.

Help yourself laundry which is defined as a business providing home type washing, drying, and ironing machines for the hire to be used by customers on the premises.

Hotel.

Lodge.

Messenger or telegraph services.

Office business.

Painting and decorating shop.

Photographers or artist studios.

Restaurant.

Sales or show room.

Shoe repair shop.

Tailor shop.

Undertaking establishing.

4. Any other retail store, shop, or establishment serving the neighborhood in the manner stated above which, in the opinion of the planning commission, is similar in character to the above enumerated and is not more obnoxious or detrimental to the area in which it is located, by reason of noise, offensive odor, smoke, dust, vibration, traffic congestion, or danger to life and property.

5. Name plate and sign relating only to the use of the store and premises, providing that no sign shall exceed twenty feet (20') in area, and that no portion of any sign shall project more than one foot (1') from any structure, and if illuminated shall not be of the flashing or intermittent type.

6. Accessory buildings and uses customarily incidental to the above uses.

7. Any building used primarily for any of the above enumerated purposes may not have more than forty percent (40%) of the floor area devoted to purposes incidental to such primary use.

8. Use of such property for automobile service stations may be permissible on review by the town planning commission.

B. Area Requirements:

1. Front Yard: The front yard requirements shall be the same as those in U-1.

2. Side Yard:

a. For uses other than dwelling, no side yard shall be required except on the side of a lot adjoining a dwelling district, in which case there shall be a side yard of not less than five feet (5').

b. Whenever the rear lot line of a corner lot of a business district abuts a dwelling district, the side yard setback adjacent to the street shall be fifteen feet (15').

c. For dwellings in a U-3 district, the side yard regulations shall be the same as those in U-2.

C. Height Regulation: Except as provided in section 16-25 of this article, no building shall exceed three and one-half ($3\frac{1}{2}$) stories or forty five feet (45') in height.

16-20: U-4, GENERAL BUSINESS DISTRICT:

- A. Uses Permitted: Property and buildings in a U-4, general business district, shall be used only for the following purposes:

Any use permitted in a U-3, local business district, including any use permitted on review.

Amusement enterprises.

Auto court.

Automobile sales. New automobile sales and service, new machinery sales and service, and public garages, provided no gas or gasoline is stored aboveground; used automobiles, automobile and machinery repairing if conducted wholly within a completely enclosed building, but not including automobiles or machinery wrecking establishment or junkyards.

Bakery.

Bath.

Bus terminal.

Camera shop.

Candy store.

Carpenter and cabinet shop.

Cleaning and dyeing works.

Clothing and apparel shop.

Commercial school or hall.

Curio or novelty shop.

Dance studio.

Department store.

Electric transmission station.

Feed and fuel store.

Frozen food locker.

Funeral parlor or mortuary.

Furniture or interior decorating store.

Furniture repair and upholstery.

Golf course, miniature or practice range.

Hardware or appliance store.

Heating, ventilating or plumbing supplies, sales and service.

House trailer sales, lots and businesses.

Ice plant or storage house for ice, food, housing not more than ten (10) tons capacity.

Jewelry or notion store.

Key shop.

Laundry.

Liquor by the drink clubs.

Liquor store.

Lumber and building materials sales yard.

Marijuana dispensary (not less than 1,000 feet from any school or playground)

Mobile home park.

Music, radio, or television shop.

Nightclub.

Nursery or garden supply store.

Outdoor advertising signs.

Paint shop.

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Pawnshop.
Pet shop.
Photographer's studio.
Printing shop.
Small animal hospital.
Sporting goods store.
Stocks and bonds broker.
Storage warehouse.
Theater.
Tobacco shop (not less than 1,000 feet from any school or playground)
Toy store.
Trailer camp.
Used automobile sales.
Vapor shop (not less than 1,000 feet from any school or playground)
Wholesale distributing center.

B. Area Regulations:

1. Front Yard:

a. For uses other than dwellings and liquor by the drink clubs, no front yard shall be required. Liquor by the drink clubs shall be set back from street right of way lines a maximum of seventy five feet (75').

b. For dwellings in a U-4 district the front yard requirements of the U-2 district shall prevail.

2. Side Yard:

a. Side yard requirements shall be the same as those of U-3, except for the liquor by the drink clubs which shall have side yards with sufficient area to allow a minimum of fifty feet (50') from any adjoining property line.

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3. Rear Yard:

a. Rear yard requirements shall be the same as those in U-3, except for liquor by the drink clubs which shall have a minimum of fifteen feet (15').

4. Intensity Of Use: Intensity of use regulations for residential purposes in the U-4 district shall be the same as those in U-2.

C. Height Regulations:

1. Except as provided in section 16-25 of this article, no building shall exceed five (5) stories or fifty five feet (55') in height.

2. Dwellings located in a U-4 district shall have height regulations same as those in U-2.

D. Liquor By The Drink Club Building Size: Liquor by the drink clubs shall have a building size of a minimum of two thousand (2,000) square feet. Said building shall be located on a lot, in the proper district, and said lot shall be of a size and area of not less than twenty two thousand five hundred (22,500) square feet.

E. Liquor By The Drink Club Parking: Every liquor by the drink club shall provide adequate parking for its customers. The parking area shall be lighted to a degree which will allow safe ingress or egress from the parking area to the entrance of said club. (Ord. 85-4; amd. Ord. 2019-9, 8-12-2019)

16-21: **U-5, LIGHT INDUSTRIAL DISTRICT:**

A. Uses Permitted: Property and buildings in a U-5, light industrial district, shall be used only for the following purposes:

1. Any use permitted in a U-4, general business district.

2. Any of the following uses:

a. Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business including concrete mixing.

b. Contractor's equipment storage yard or plant, or rental of equipment commonly used by contractors.

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- c. Automobile wrecking establishments and junkyard.
- d. Feed and fuel yard.
- e. Draying, freighting or trucking yard or terminal.
- f. Public utility service yard or electrical receiving or transforming station.
- g. Small boat building.

Provided, however, that no article or material shall be kept, stored or displayed outside the confines of the building unless it be so screened by fences, walls, or planting that it cannot be seen from a public street.

3. The following uses when conducted within a completely enclosed building:

- a. The manufacture, compounding, processing, packaging, or treatment of such products, drugs, perfumes, pharmaceuticals, perfumed toilet soap, toiletries, and food products, sauerkraut, vinegar, yeast, and the rendering of refining of fats and oils.
- b. The manufacture, compounding, assembling or treatment of arts or merchandise from the following previously prepared materials: bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn metals, or stone, shell, textiles, tobacco, wood, yarns, and paint not employing a boiling process.
- c. The manufacture of pottery and figurines or other similar ceramic products, using only previously pulverized clay, and kilns fired only by electricity or gas.
- d. The manufacture and maintenance of electric and neon signs, commercial advertising structures, light sheet metal products, including heating and ventilating ducts and equipment, cornices, eaves and the like.
- e. Manufacture of musical instruments, toys, novelties, and rubber and metal stamps.
- f. Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender works, truck repairing and overhauling, tire retread or recapping, and battery manufacturing.

g. Blacksmith shop and machine shop, excluding punch presses over twenty (20) tons rated capacity, drop hammers, and automatic screw machines.

h. Foundry casting lightweight nonferrous metal not causing noxious fumes or odors.

i. Assembly of electrical appliances, electronic instruments and devices, radios and phonographs, including the manufacture of small parts only, such as coils, condensers, transformers, crystals holders and the like.

j. Laboratories: experimental, photo or motion picture, film or testing.

k. Poultry or rabbit killing incidental to a retail business on the same premises.

l. Concrete or cement products manufacture.

4. Buildings, structures and uses accessory and customarily incidental to any of the above uses.

5. Any other light industrial use, building or structure which, in the opinion of the planning commission, is of similar character to those enumerated in this section and is not more objectionable due to noise, odor, dust, smoke, vibration, danger to life and property or other similar causes which are injurious to the health or safety of the neighborhood.

B. Area Regulations:

1. Front Yard: The front yard regulations shall be the same as those required in U-4.

2. Side Yard: Side yard regulations shall be the same as those required in U-3.

3. Rear Yard: Rear yard regulations shall be the same as those required in U-3.

4. Intensity Of Use: The intensity of use for residential purposes shall be the same as those required in U-2.

5. Lot Width: The lot width regulations for residential purposes shall be the same as those in U-2.

6. Coverage: Coverage of lot by buildings for residential purposes shall be the same as those in U-2.

- C. Height Regulations: Except as provided in section 16-25 of this article, no building shall exceed four (4) stories or fifty feet (50') in height, except that where a lot adjoins a dwelling district the building shall not exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35') in height, unless it is set back not less than fifteen feet (15') from all residential district lot lines. (1983 Code)

16-22: **U-6, HEAVY INDUSTRY DISTRICT:**

- A. Uses Permitted: Property and buildings in a U-6, heavy industrial district, may be used for any use except the following:
1. All residential uses except sleeping facilities required by night watchmen and caretakers, employed upon the premises.
 2. All uses not complying with this article, or any other county, state or federal regulation or law.
 3. All of the following uses until they have received the express approval of the town planning commission. The planning commission may require approval of the county health department, the county engineer, the state fire department, the other state and county regulating agencies and may attach to the approval specific restrictions designed to protect the public welfare:
 - a. Acid manufacture.
 - b. Cement, lime gypsum or plaster of Paris manufacture.
 - c. Explosives manufacture or storage.
 - d. Gas manufacture.
 - e. Petroleum or its products, refining of.
 - f. Wholesale storage of gasoline.

- B. Height Regulations: No building shall exceed six (6) stories or seventy five feet (75') in height, provided, however, that where a lot adjoins a dwelling district the building shall not exceed two and one-half ($2\frac{1}{2}$) stories or thirty five feet (35'), unless it is set back fifteen feet (15') from all residential lot lines for buildings not exceeding fifty feet (50') in height, and such setback shall be increased one foot (1') for each additional foot of height above fifty feet (50'). (1983 Code)

16-23: **CONDITIONS OF A MORE RESTRICTED DISTRICT:**

- A. Whenever the specific regulations pertaining to one district permits the uses of a more restricted district, such uses shall be subject to the conditions as set forth in the regulations of the more restricted district unless otherwise specified. (1983 Code)

16-24: **OPEN SPACE:**

- A. No open space or lot area required for a building or structure shall during its life be occupied by, or counted as open space for any other building or structure.
1. Open porches, carports, eaves, cornices, windowsills and belt courses may project into any required yard.
 2. Land set a side for off street parking may be counted as a part of the required open space or yard in any district.
 3. Where the dedicated street right of way is less than fifty feet (50'), the depth of the front yard shall be measured from a point twenty five feet (25') from the centerline of the street to the front building line.
 4. No dwelling shall be erected on a lot which does not abut on at least one public street for at least thirty five feet (35') and have a width of at least fifty feet (50') at the building line.
 5. No minimum lot sizes and open space areas are prescribed for business and industry district. It is the intent of this ordinance that lots of sufficient size to be used by any business or industry to provide adequate parking and loading and unloading space required for normal operation of the enterprise.

6. If any lot is smaller than the minimum requirements herein contained, but all sides of said lot touch lands under other ownership at the time of the passage of this article, the lot shall be used for single-family purposes only.

7. On any corner lot on which a front or side yard is required, no wall, fence, sign, structure, or any plant growth which blocks vision, having a height in excess of two feet (2') shall be maintained within thirty feet (30') of the curb or lot line or bar ditch centerline. (1983 Code)

16-25: **HEIGHT:**

A. The regulations herein set forth qualify or supplement, as the case may be, the specific district regulations appearing in this article.

1. In measuring heights, a habitable basement or attic shall be counted as a story, provided that a story in a sloping roof, the area of which story at a height of four feet (4') above the floor does not exceed two-thirds ($\frac{2}{3}$) of the floor area of the story immediately below it and which does not contain an independent apartment, shall be counted as a half story.

2. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend above the height limit.

3. Churches, schools, hospitals, sanitariums and other public and semipublic buildings may be built to a height of fifty five feet (55') or five (5) stories if the minimum depth of front and rear yards and the minimum width of side yards required in the district are increased one foot (1') for each foot by which the height of such public or semipublic structure exceeds the height limit in feet prescribed or other structures in the district. (1983 Code)

16-26: **OFF STREET PARKING:**

A. The size of a parking space shall be defined as follows: One vehicle parking space shall consist of an area having minimum dimensions of eight feet by twenty one feet (8' x 21') plus adequate space for ingress and egress. Required parking space shall be provided with vehicular access to street or alleys and shall be deemed to be required open space associated with the permitted use, and shall not

thereafter be reduced or encroached upon in any manner. The ownership of the land upon which parking is provided shall be the same as the ownership of the land upon which the principal use exists for which said parking is required, and shall be located within two hundred feet (200') of the proposed use, exclusive of streets and alleys.

- B. The area between the street right of way lines and setback lines may be used for parking when such area is surfaced and an adequate means of ingress and egress provided, subject to the inspection and recommendations of the building inspector. Off street parking space, with certain exceptions as to buildings, structures or improvements in U-4, general business district, hereinafter set out, shall be provided as follows:

Boarding or rooming houses, or hotel	1 parking space for each 2 accommodations.
Club, lodge, library, museum, philanthropic institute	1 parking space for each 2 guest or membership accommodations.
Commercial establishment	1 parking space for each 5 workers, based on peak employment and adequate space for loading and unloading all vehicles used incidental to the operation of the establishment.
Community center, theater, stadium, auditorium, church	1 parking space for each 5 seats based on maximum seating capacity.
Dance hall, conventional hall, gymnasium, bowling alley, other place of amusement or recreation	1 parking space for each 50 square feet of floor space.
Dwelling	1 parking space for each separate dwelling unit within the structure.
Hospital, sanitarium, clinic	1 parking space required for each 4 beds.
Office building	1 parking space for each 300 square feet of floor space.

Restaurant	1 parking space for each 100 square feet of floor space.
Tourist court	1 parking space for each cabin.

- C. Such off street parking space shall not be required to be provided for buildings, structures, or improvements made, erected, constructed, moved, altered, enlarged or rebuilt in U-4, general business districts, now zoned as such, if the immediately adjacent areas within the street right of way are utilized and developed so as to provide sidewalks, curbs, and paved parking areas at least equal in size and quality of construction and material to the sidewalks, curbs, and parking area of those in existence and in most common use adjacent to commercial establishments in the principal business district along the same street within the town of Chouteau, or if the persons, firms or corporations making, erecting, constructing, moving, altering, enlarging or rebuilding such buildings, structures or improvements in such districts do, at their own expense, utilize and develop the immediately adjacent areas within the street right of way as herein set out to the extent that space and other physical conditions permit. (1983 Code)

16-27: GROUP HOUSING PROJECTS:

- A. In the case of a housing project consisting of a group of two (2) or more buildings to be constructed on a plot of ground of at least three (3) acres not subdivided into the customary streets and lots, and which will not be so subdivided, or where the existing or contemplated street and lot layout make it impracticable to apply the requirements of this article to the individual buildings in such housing project, the application of such requirements to such housing project shall be done by the planning commission in a manner that will be in harmony with the character of the neighborhood, will ensure a density of land use no higher and a standard of open space at least as high as required by this article in the district in which the proposed project is to be located. In no case shall the project be authorized if it includes a use or building height prohibited in the district in which the housing project is to be located. (1983 Code)

16-28: PERMISSIBLE ON REVIEW:

- A. Certain uses listed in various districts as "permissible on review" shall be reviewed and passed on or rejected under the following procedure:
1. An application shall be filed with the town planning commission for review. Said application shall show the location and intended use of the site, the names of all the property owners and existing land uses within two hundred feet (200'), and any other material pertinent to the request which the planning commission may require.
 2. The town planning commission shall hold public hearings in accordance with the procedure set forth in section 16-34 of this chapter.
 3. The planning commission shall, within forty five (45) days of the date of application, transmit to the town board its report as to the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utilities facilities, and other matters pertaining to the general welfare; and recommendation of the planning commission concerning action thereon. Thereupon the town board may authorize or deny the issuance of the building permit requested or the permit for and the location of a mobile home. (Ord. 95-2)

16-29: ANIMALS:

- A. Animals in any zoning districts shall be kept only in accordance with this code. (1983 Code)

16-30: STORAGE OF LIQUEFIED PETROLEUM GASES:

- A. The use of land or buildings for the commercial storage of liquefied petroleum gases shall be prohibited within the town limits of Chouteau. (1983 Code)

ARTICLE 3. ADMINISTRATION

16-31: **BUILDING PERMIT:**

- A. This article shall be enforced by a building inspector appointed by the president of the board of trustees with the approval and confirmation of the board of trustees. It shall be unlawful for an owner to permit or do the following: change the use of the land or structure; erect, alter or move any structure until the building inspector has issued a building permit certifying that the plans and intended use of land, buildings and structures are in conformity with this article.

1. Application: Every application for a building permit shall be accompanied by:

a. A plat drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the exact size and location on the lot of existing building and structures and the lines within which the proposed building or structure shall be erected or altered.

b. A declaration of the existing and intended use of each building or part of a building, the number of families and housekeeping units the building is designed to accommodate.

c. Such other information with regard to the lot and neighboring lots and their use as may be necessary to determine and provide for the enforcement of these regulations.

2. Fees: Fees for building permits shall be as prescribed in chapter 4 of this code. (1983 Code)

16-32: **VIOLATIONS AND PENALTIES:**

- A. Violation of this article shall be deemed a misdemeanor and shall be punished by fine. Any person, firm or corporation who violates or refuses to comply with any of the provisions of this article shall be fined.

Each day that a violation is permitted to exist constitutes a separate offense. (1983 Code)

16-33: **BOARD OF ZONING ADJUSTMENT AND METHODS OF APPEAL:**

A. There is hereby created within and for the town of Chouteau a board of adjustment with the powers and duties as hereinafter set forth:

1. Membership: The board of adjustment shall be composed of five (5) members, citizens of the town of Chouteau, each appointed by the president of the board of trustees for a term of three (3) years; provided, however, that for the first appointment under the provision of this article one member shall be appointed for a term of one year; two (2) members shall be appointed for a term of two (2) years; two (2) members shall be appointed for a term of three (3) years. All appointments thereafter shall be for a term of three (3) years. Not less than one member shall be appointed from the membership of the planning commission. The board shall elect a chairman from its membership to serve a term of two (2) years.

2. Procedure: The board shall adopt rules in accordance with the provisions of this article. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence, the acting chairman may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record. The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

3. Appeals: Appeals to the board of adjustment may be taken by any aggrieved person or by any officer, department, board or bureau of the town of Chouteau affected by any decision of the building inspector or building official rendered or taken pursuant to section 4-1 et seq., of this code and this chapter.

Such appeal shall be taken within thirty (30) days from the date of the decision by filing with the officer from whom the appeal specifying the grounds thereof, and by paying a filing fee of fifteen dollars (\$15.00) at the office of the board at the time the notice is filed. 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. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment after the notice of appeal shall have 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, proceedings shall be not stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application and notice of the officer from whom the appeal is taken and on the cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal, giving public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon hearing any party may appear in person or by agent or by attorney.

4. Powers: The board of adjustment shall have the following powers:

a. Hear And Decide Appeals: To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this article, including, but not limited to, any decision of the building inspector or building official of the town of Chouteau, made pursuant to the provisions of section 4-1 et seq., of this code and this chapter.

b. Powers Relative To Variations: Where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the neighborhood, the strict application of this ordinance would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, the board is hereby empowered to authorize upon an appeal relating to such property, a variation from such strict application so as to relieve such difficulties or hardship.

c. Powers Relative To Exceptions: Upon appeal, the board is hereby empowered to permit the following exceptions:

(1) To permit the extension of a district where the boundary line of a district divided a lot in single ownership as shown of record.

(2) To permit the reconstruction of a nonconforming building which has been destroyed, or partially destroyed, by fire or act of God where the board shall find some compelling public necessity requiring a continuance of the nonconforming use but in no case shall such a permit be issued if its primary function is to continue a monopoly.

(3) To interpret the provisions of this article where the street layout actually on the ground varies from the street layout as shown on the map fixing the several districts, which map is attached to and made a part of this article.

(4) To grant exceptions to the off street parking requirements set forth in section 16-26 of this chapter, when it is determined that the size and shape of the lot to be built on is such that off street parking provisions could not be complied with, and that the proposed use of land is similar in nature to adjacent land uses, and that the proposed use will not create undue traffic congestion in the adjacent streets.

5. Ruling: In exercising the above mentioned powers such board may, in conformance with the provisions of this article, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. In considering all appeals from rulings made under this article, the board shall, in making its findings on any specific case, determine the effect of the proposed change upon the supply of light and air to adjacent property, upon the congestion in the public streets, upon the public safety from fire and other hazards, upon the established property values within the surrounding area, and upon other factors relating to the public health, safety, comfort, morals and general welfare of the town of Chouteau. Every ruling made upon any appeal to the board of adjustment shall be accompanied by a written finding or fact based upon the testimony received at the hearing afforded by the board, and shall specify the reason for granting or denying the appeal.

6. Appeal To District Court:

a. An appeal from any action, decision, ruling, judgment or order of the board of adjustment may be taken by any person or persons, jointly or severally, or any taxpayer, or any officer, department board or bureau of the municipality to the district court by filing a notice of

appeal with the town clerk and with the board of adjustment within ten (10) days from the filing of the decision of the board, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the said board shall forthwith transmit to the court clerk of the county the original or certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the board.

b. An appeal to the district court from the board of adjustment stays all proceedings in furtherance of the action appealed from, unless the chairman of the board of adjustment, from which the appeal is taken, certifies to the court clerk, after the notice of appeal shall have been filed, 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 proceedings shall not be stayed otherwise than by a restraining order which may be granted by the district court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of this chapter, and upon notice to the chairman of the board of adjustment from which the appeal is taken, and upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review. (1983 Code)

16-34: **AMENDMENTS:**

- A. **Public Hearing And Notice:** The board of trustees may, from time to time, on its own motion or on petition, after public notice and hearing amend the regulations and districts herein established. No change in regulations, restrictions or district boundaries shall become effective until after a public hearing is held in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Said notice shall be made in accord with the provisions set forth in 11 Oklahoma Statutes.
- B. **Referral To Planning Commission:** The board of trustees may, on its own motion, refer the proposed amendment to the town planning commission for report. As used herein the "town planning commission" is the body created pursuant to section 16-1 of this chapter. If the proposed amendment is referred to the town planning commission, the following shall apply:

1. Amendment Procedure Upon Referral To Planning Commission:

a. Every proposed amendment referred to the town planning commission for report shall be scheduled for public hearing and public notice given in accord with the provisions set forth in 11 Oklahoma Statutes. Following a hearing the town planning commission shall make its report to the town board of trustees. Any such amendment that has failed to receive the approval of the town planning commission shall not be passed by the town board except by a three-fourths ($\frac{3}{4}$) vote. If a protest against such amendment be presented, duly signed and acknowledged by the owners of twenty percent (20%) or more of the land within such area proposed to be altered, or by the owners of twenty percent (20%) or more of the area of the lots immediately abutting the territory included in such proposed change, or separated therefrom only by an alley or street, such amendment shall not be passed except by the favorable vote of three-fourths ($\frac{3}{4}$) of the town board. (Ord. 2009-7, 8-10-2009)

b. If such amendment will transfer an area to a less restrictive use and a protest is presented duly signed and acknowledged by the owners of twenty percent (20%) of the land adjacent to and within two hundred fifty feet (250'), not counting streets and alleys, from such an area proposed to be transferred, such amendment shall not be passed except by a three-fourths ($\frac{3}{4}$) vote of the town board. (1983 Code; amd. Ord. 2009-7, 8-10-2009)

C. Petitions:

1. Whenever the owners of fifty one percent (51%) of the land in any area shall present a petition duly signed and acknowledged to the town requesting an amendment of the regulations prescribed for such area, it shall be the duty of the town board to proceed in accord with subsection A or B of this section within ninety (90) days of the filing of same by the petitioners with the town clerk.

2. For each petition for zoning amendment, the town shall collect a fee of fifty dollars (\$50.00) plus the cost of legal publication as determined by the town clerk.

D. Grandfather Clause: If any area is transferred to another zoning classification/district by amendment as provided herein, the improvements/uses existing at the time of passage shall be deemed in compliance with such new zoning classification/district. (Ord. 2009-7, 8-10-2009)

16-35: **CLASSIFICATION OF NEW ADDITIONS:**

- A. All new additions to the town of Chouteau shall be classified as U-1, residential zone, unless otherwise classified by the town board, for a period of time not to exceed six (6) months from the effective date of the ordinance annexing said addition. Within this six (6) month period of time the board shall instruct the town planning commission to study and make recommendations concerning the use of land within said addition to promote the general welfare and in accordance with the comprehensive town plan; and upon receipt of such recommendations the town board shall place all land within said addition in one or more of the zones established by this chapter after public hearings have been held as set forth above. (1983 Code)

16-36: **INVALIDITY OF A PART OF THIS ARTICLE:**

- A. In case any portion of this article shall be held to be invalid or unconstitutional, the remainder of the article shall not thereby be invalid, but shall remain in full force and effect. (1983 Code)

16-37: **REPEAL OF CONFLICTING ARTICLES:**

- A. Any article now in effect that conflicts with any provisions of this article is hereby repealed, held to be invalid and to no effect. (1983 Code)

ARTICLE 4. DEFINITIONS

16-38: **DEFINITIONS:**

ACCESSORY BUILDING:	A subordinate building or a portion of the main building, the use of which is incidental to that of the dominant use of the building or premises.
ACCESSORY USE:	A use customarily incidental, appropriate and subordinate to the main use of land or buildings located upon the same premises.
ADVERTISING SIGN OR STRUCTURE:	Any cloth, card, paper, metal, painted, glass, wooden, plastic, plaster, stone or other sign,

device or structure of any character whatsoever, including statuary, placed for outdoor advertising purposes on the ground or on any tree, wall, bush, rock, post, fence, building or structure. The term "placed" shall include erecting, constructing, posting, painting, printing, tacking, nailing, gluing, sticking, carving, or otherwise fastening, affixing or making visible in any manner whatsoever. The area of an advertising structure other than a sign shall be determined as the area of the largest cross section of such structure. Neither directional, warning nor other signs posted by public officials in the course of their public duties shall be construed as advertising signs for the purpose of this definition.

ALLEY:

A street less than thirty feet (30') wide if it existed prior to the enactment of this chapter, and less than fifty feet (50') wide if created after the enactment of this article. This definition shall not apply to a half street, as hereinafter defined, and shall not restrict the development of property adjacent to a half street, said property being only that for which the half street was dedicated.

APARTMENT HOUSE:

A single detached dwelling designed for and occupied exclusively by three (3) or more families living independently of each other as separate housekeeping units, including apartment houses, apartment hotels and flats, but not including auto or trailer courts or camps, hotels, or resort type hotels.

BASEMENT:

A story having part but no more than one-half ($\frac{1}{2}$) its height below grade. A basement is counted as a story for the purposes of height regulations, if subdivided and used for business

HOTEL:	A building or group of buildings under one (1) ownership containing six (6) or more sleeping rooms occupied, intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including an auto or trailer court or camp, sanitarium, hospital, asylum, orphanage or building where persons are housed under restraint.
INSTITUTION:	A building occupied by a nonprofit corporation or nonprofit establishment for public use.
LOT:	Any plot of land occupied or intended to be occupied by one (1) building, or a group of buildings, and its accessory buildings and uses, including such open spaces as required by this chapter and other laws or chapters, and having its principal frontage on a street.
LOT AREA:	The total horizontal area included within lot lines.
LOT, CORNER:	A lot of which at least two (2) adjacent sides abut to their full lengths on a street, provided that the interior angle at the intersection of such two (2) sides is less than one hundred thirty five degrees (135°).
LOT DEPTH:	The average distance from the street line of the lot to its rear line, measured in the general direction of the side lines of the lot.
LOT, DOUBLE FRONTAGE:	A lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.
LOT FRONTAGE:	The dimensions of a lot or portion of a lot abutting on a street; except the side dimension of a corner lot.
LOT, INTERIOR:	A lot other than a corner lot.
LOT LINES:	The lines bounding a lot as defined herein.

- MOBILE HOME:** Any vehicle or structure so designed and so constructed, in a single unit, as to permit occupancy thereof as a temporary or permanent dwelling or sleeping place for one (1) or more persons and originally designed or constructed to be placed on wheels and moved about by towing or otherwise; whether or not the wheels for such vehicle or structure have been put in place or removed, and shall include what is commonly called a "trailer", "residential trailer", "single wide trailer", or "trailer coach". Vehicles or equipment commonly known as campers or overnight campers, the sleeping quarters of which are being occupied, shall be included within the meaning of the term mobile home and governed by the provisions of this section.
- MODULAR HOME:** Any detached single-family residential dwelling unit which is made of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
- NONCONFORMING USE:** Any lawful use of land, building or structure, existing at the time of adoption of the zoning map, which does not conform with regulations of the district in which it is situated.
- PARKING SPACE:** A permanently surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile together with a permanently surfaced driveway connecting the parking space with a street or alley and permitting ingress or egress of an automobile.
- RESIDENTIAL DESIGN MANUFACTURED HOME:** A factory built, detached single-family residential dwelling built in accordance with the Federal manufactured home construction and safety standard of 1995 and meets the following criteria:
- A. The unit must bear a seal certifying compliance with the Federal manufactured home construction and safety standards as revised on April 1, 1995, or its most recent counterpart. In

- or dwelling purposes by others than a janitor employed on the premises.
- BOARDING HOUSE:** A building other than a hotel where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more persons, but not exceeding fifteen (15) persons.
- BUILDING:** Any structure. When separated by dividing walls without openings, each portion of such structure so separated, shall be deemed a separate structure.
- BUILDING HEIGHT:** The vertical distance from the average line of the highest point of coping of a flat roof, or the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.
- BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated. In any residential districts any dwelling shall be deemed to be a main building on the lot on which it is situated.
- BUILDING SITE:** A single parcel of land in one (1) ownership, occupied or intended to be occupied by a building or structure.
- CARPORT:** A structure open on at least three (3) sides and must be so constructed that the water from the overhang will not fall from the roof onto the adjoining property.
- DISTRICT:** Any section or sections of Chouteau for which regulations governing the use of buildings and premises or the height and area of buildings are uniform.
- DWELLING:** Any building, or portion thereof, which is designed for use for residential purposes; provided, no storage container or storage building, however modified, shall be considered a dwelling.

DWELLING, MULTIPLE:	A building designed for occupancy by three (3) or more families living independently of each other, exclusive of auto or trailer courts or camps, hotels or resort type hotels.
DWELLING, SINGLE-FAMILY:	A building designed to be occupied by one (1) family.
DWELLING, TWO-FAMILY:	A building designed to be occupied by two (2) families.
FAMILY:	One (1) or more persons (excluding servants) not all related by blood or marriage, occupying premises and living as a single nonprofit house-keeping unit as distinguished from a group occupying a boarding or lodging house, hotel, club, or similar dwelling for group use. A family shall be deemed to include domestic servants employed by said family.
GARAGE APARTMENT:	A living unit for not more than one (1) family erected above a garage.
HOME OCCUPATION:	Any occupation or profession carried on by the inhabitants which is clearly incidental and secondary to the use of the dwelling for dwelling purposes, which does not change the character thereof, and which is conducted entirely within the main or accessory buildings; provided that no trading in merchandise is carried on and in connection with which there is no display of merchandise or sign other than one (1) non-illuminated nameplate not more than two (2) square feet in area attached to the main or accessory building, and no mechanical equipment is used or activity is conducted which creates any noise, dust, odor, or electrical disturbance beyond the confines of the lot on which said occupation is conducted. The conducting of a beauty shop or barbershop, tearoom or restaurant, rest home, clinic, doctor or dentist office, childcare center, tourist home, or cabinet, metal or auto repair shop shall not be deemed a home occupation.

addition, the structure must comply with the wind safety standard provisions for Wind Zone 2, as set forth in said standards.

B. The unit is at least dual sectional with a minimum front width of twenty four feet (24') and a minimum floor area of one thousand (1,000) square feet.

C. The unit must be attached to a continuous concrete or concrete block foundation that complies with the Building Code. The foundation must be an excavated and backfilled foundation, enclosed at the perimeter, with the finished floor being a maximum of twenty four inches (24") above the exterior grade of the lot on the uphill side of the house.

D. The roof must be a gable or hip type construction with at least Class C shingle roofing material. The roof slope must have a vertical rise of three inches (3") for every twelve inches (12") of horizontal run with a minimum eave projection and roof overhang of ten inches (10"), which may include guttering.

E. Covered front and rear porches and site built steps must be constructed with exterior materials matching the structure. Constructing a garage or carport is optional, but if built must be constructed of materials compatible with the structure and surrounding neighborhood.

F. The exterior finish must be comparable to and compatible with site built homes on the block face. No bare metal siding or roofing is allowed.

G. No residential design manufactured home shall be sited adjacent to any structure designated as an historic landmark or within a locally designated historic district.

ROOMING HOUSE:

A building where lodging only is provided for compensation to three (3) or more, but not

exceeding fifteen (15) persons in contradiction to hotels open to transients.

STORAGE
CONTAINER/
STORAGE BUILDING:

A shipping container, storage container, or other portable building or structure capable of being delivered to a parcel of property, and designed for transportation or storage of personal property shall be considered an accessory building for purposes of this chapter.

STORY:

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

STORY, HALF:

A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level, and in which space not more than two-thirds ($\frac{2}{3}$) of the floor area is finished off for use. A half story containing independent apartment of living quarters shall be counted as a full story.

STREET:

Any public or private right-of-way, highway, road, land, square, court, or way set aside as a permanent right-of-way for street purposes, thirty feet (30') or more in width if it existed at the time of the enactment of this chapter, and any public or private way fifty feet (50') or more in width if created after the enactment of this chapter.

STREET, HALF:

Any street platted twenty five feet (25') or more in width, where at the time of the approval of the plat it is the intent of the Board of Trustees that said street dedication shall constitute only a part of the total street easement width.

STREET,
INTERSECTING:

Any street which joins another street at an angle, whether or not it crosses the other.

STRUCTURAL
ALTERATIONS:

Any change in the supporting members of a building, such as bearing walls or partitions,

columns, beams, or girders, or any substantial change in the roof or in the exterior walls.

- STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having permanent location on the ground, including, but without limiting the generality of the foregoing, advertising, signs, billboards and poster panels.
- TOURIST COURT:** An area containing one (1) or more structures designed or intended to be used as temporary living facilities of one (1) or more families and intended primarily for automobile transients or providing spaces where two (2) or more tents or auto trailers can be parked.
- TRAILER COURT:** Land or property which is used or intended to be used or rented for occupancy by two (2) or more trailers or movable dwellings, rooms, or sleeping quarters of any kind.
- YARD:** An open space at grade between a building and the adjacent lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward. In measuring a yard for the purposes of determining the width of the side yard, the depth of a front yard or the depth of a rear yard, the horizontal distance between the lot line and the main building shall be used.
- YARD, FRONT:** A yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the street line and the main buildings or any projection thereof, other than steps.
- YARD, REAR:** A yard extending the rear of a lot measured between lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots the rear yard shall be considered as parallel to the street upon which the lot has its least dimension. On

both corner lots and interior lots the rear yard shall in all cases be at the opposite end of the lot from the front yard.

YARD, SIDE:

A yard between the building and the side line of the lot and extending from the front lot line to the rear lot line and being the minimum horizontal distance between a side lot line and the side of the main building or any projections other than steps. (1983 Code; amd. Ord. 2002-2, 6-10-2002; Ord. 2002-6, 8-12-2002; Ord. 2017-4, 3-13-2017)

ARTICLE 5. FLOODPLAIN REGULATIONS

16-39: FINDINGS OF FACT:

- A. The flood hazard areas of the Town are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. (Ord. 2003-07, 9-8-2003)

16-40: STATEMENT OF PURPOSE:

- A. It is the purpose of this article to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
 1. Protect human life and health;
 2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
7. Ensure that potential buyers are notified that property is in a flood area. (Ord. 2003-07, 9-8-2003)

16-41: METHODS OF REDUCING FLOOD LOSSES:

- A. In order to accomplish its purposes, this article uses the following methods:
 1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
 2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
 4. Control filling, grading, dredging and other development which may increase flood damage; or
 5. Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands. (Ord. 2003-07, 9-8-2003)

16-42: **DEFINITIONS:**

- A. Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meanings they have in common usage and to give this article its most reasonable application. The following terms as used herein will mean:

APPEAL: A request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance.

AREA OF SHALLOW FLOODING: A designated AO, AH, or VO zone or a community subject to a one percent (1%) or greater annual chance of flooding to an average depth of one to three feet (3') where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

AREA OF SPECIAL FLOOD HAZARD: The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AE, AH, AO, A1-99, VO F, V1-30, VE or V.

BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

CRITICAL FEATURE: An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

DEVELOPMENT: Any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**ELEVATED
BUILDING:**

A nonbasement building:

1. Built in the case of a building in zones A1-30, AE, A, A99, AO, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in zones V1-39, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the floor of the water; and

2. Adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood.

In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the national flood insurance program regulations.

**EXISTING
CONSTRUCTION:**

For the purpose of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before July 16, 1987. "Existing construction" may also be referred to as "existing structures".

**FLOOD
INSURANCE
RATE MAP
(FIRM):**

The official map of a community on which the federal emergency management agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the town.

**FLOOD
INSURANCE
STUDY:**

The official report provided by the federal emergency management agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

**FLOOD OR
FLOODING:**

A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

**FLOOD
PROTECTION
SYSTEM:**

Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**FLOODPLAIN
OR FLOOD
PRONE AREA:**

Any land area susceptible to being inundated by water from any source (see definition of Flood Or Flooding).

**FLOODWAY
(REGULATORY
FLOODWAY):**

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**FUNCTIONALLY
DEPENDENT
USE:**

A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and shipbuilding and ship

repair facilities, but does not include long term storage or related manufacturing facilities.

HABITABLE FLOOR:

Any floor usable for the following purposes which include: working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor".

HIGHEST ADJACENT GRADE:

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

LEVEE:

A manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

LEVEE SYSTEM:

A flood protection system which consists of a levee or levees, and associated structures such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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 to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the national flood insurance program regulations.

MANUFACTURED HOME:

A structure transportable in one or more sections, which is built on a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For

insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MEAN SEA
LEVEL:

For purposes of the national flood insurance program, the national geodetic vertical datum (NGVD) of 1929, or other data, to which the base flood elevations shown on a community's flood insurance rate map are referenced.

NEW
CONSTRUC-
TION:

For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

START OF
CONSTRUC-
TION:

For other new construction or substantial improvements under the coastal barrier resources act (Pub. L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

STRUCTURE:	A walled and roofed building, including a gas or liquid storage tank, that is principally above-ground, as well as a manufactured home.
SUBSTANTIAL DAMAGE:	Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.
SUBSTANTIAL IMPROVEMENT:	Any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: 1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or 2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".
VARIANCE:	A grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. For full requirements see section 60.6 of the national flood insurance program regulations.
VIOLATION:	The failure of a structure or other development to be fully compliant with the community's flood-plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is

presumed to be a violation until such time as that documentation is provided.

**WATER
SURFACE
ELEVATION:**

The height, in relation to the national geodetic vertical datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. (Ord. 2003-07, 9-8-2003)

16-43: LANDS TO WHICH SPECIAL FLOOD HAZARD APPLIES:

- A. This article shall apply to all areas of special flood hazard within the jurisdiction of the town. (Ord. 2003-07, 9-8-2003)

16-44: BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:

- A. The areas of special flood hazard identified by the federal emergency management agency in a scientific and engineering report entitled, "The Flood Insurance Study For Mayes County, Oklahoma", with accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM), and any provisions thereto are hereby adopted by reference and declared to be a part of this article. (Ord. 2003-07, 9-8-2003)

16-45: ESTABLISHMENT OF DEVELOPMENT PERMIT:

- A. A development permit shall be required to ensure conformance with the provisions of this article. (Ord. 2003-07, 9-8-2003)

16-46: COMPLIANCE:

- A. No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations. (Ord. 2003-07, 9-8-2003)

16-47: ABROGATION AND GREATER RESTRICTIONS:

- A. This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 2003-07, 9-8-2003)

16-48: INTERPRETATION:

- A. In the interpretation and application of this article, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of the governing body; and
 3. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2003-07, 9-8-2003)

16-49: 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 scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by manmade or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder. (Ord. 2003-07, 9-8-2003)

16-50: DESIGNATION OF FLOODPLAIN ADMINISTRATOR:

- A. The building inspector of the town is hereby appointed as the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (national flood insurance program regulations) pertaining to floodplain management. (Ord. 2003-07, 9-8-2003)

16-51: **DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR:**

- A. Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:
1. Maintain and hold open for public inspection all records pertaining to the provisions of this article;
 2. Review permit application to determine whether proposed building site will be reasonably safe from flooding;
 3. Review, approve or deny all applications for development permits required by adoption of this article;
 4. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local government agencies (including section 404 of the federal water pollution control act amendments of 1972, 33 USC 1334) from which prior approval is required;
 5. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the floodplain administrator shall make the necessary interpretation;
 6. Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Oklahoma water resources board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the federal emergency management agency;
 7. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained;
 8. When base flood elevation data has not been provided in accordance with section 16-44 of this article, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of sections 16-54 through 16-58 of this article; and
 9. When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction,

substantial improvement, or other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot (1') at any point within the community. (Ord. 2003-07, 9-8-2003)

16-52: **PERMIT PROCEDURES:**

- A. Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
1. Elevation in relation to mean sea level, of the lowest floor, including basement, of all new and substantially improved structures;
 2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
 3. A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of subsection 16-55A2 of this article;
 4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and
 5. Maintain a record of all such information in accordance with subsection 16-51A1 of this article.
- B. Approval or denial of a development permit by the floodplain administrator shall be based on all the provisions of this article and the following relevant factors:
1. The danger to life and property due to flooding or erosion damage;
 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and
10. The relationship of the proposed use to the comprehensive plan for that area. (Ord. 2003-07, 9-8-2003)

16-53: VARIANCE PROCEDURES:

- A. The board of adjustment as established by the community shall hear and render judgment on requests for variances from the requirements of this article.
- B. The board of adjustment shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.
- C. Any person or persons aggrieved by the decision of the board of adjustment may appeal such decision in the courts of competent jurisdiction.

- D. The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the federal emergency management agency upon request.
- E. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.
- F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in subsection 16-52B of this article have been fully considered. As the lot size increases beyond one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
- G. Upon consideration of the factors noted above and the intent of this article, the board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article as set out in section 16-40 of this article.
- H. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- I. Prerequisites for granting variances:
 - 1. Variances shall only be issued upon a determination that the variance is the maximum necessary, considering the flood hazard, to afford relief.
 - 2. Variances shall only be issued upon:
 - a. Showing a good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and the costs of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation.

J. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

1. The criteria outlined in subsections A through I of this section are met; and

2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety. (Ord. 2003-07, 9-8-2003)

16-54: **GENERAL STANDARDS; PROVISIONS FOR FLOOD HAZARD REDUCTION:**

A. In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

2. All new construction or substantial improvements shall be constructed by methods and practices that minimize damage;

3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwater; and

7. On site wastewater disposal systems shall be located to avoid impairment to them or contamination from them during flooding. (Ord. 2003-07, 9-8-2003)

16-55: SPECIFIC STANDARDS; PROVISIONS FOR FLOOD HAZARD REDUCTION:

A. In all areas of special flood hazards where base flood elevation data has been provided as set forth in section 16-44, subsection 16-51A8 or 16-56C of this article the following provisions are required:

1. Residential Construction: New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated two feet (2') above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in subsection 16-52A of this article is satisfied;

2. Nonresidential Construction: New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated two feet (2') above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review architectural design, specifications, and plans for construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation, in relation to mean sea level, to which such structures are floodproofed shall be maintained by the floodplain administrator; and

3. Enclosures: New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of

floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

a. A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot (1') above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. Manufactured Homes:

a. All manufactured homes to be placed within zone A shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

b. All manufactured homes shall be in compliance with subsection A1 of this section.

c. All manufactured homes to be placed or substantially improved within zones A1-30, AH and AE on the community's FIRM shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is two feet (2') above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provision of this subsection A4. (Ord. 2003-07, 9-8-2003)

16-56: **STANDARDS FOR SUBDIVISION PROPOSALS:**

- A. All subdivision proposals including manufactured home parks and subdivisions shall be consistent with sections 16-39 through 16-41 of this article.

- B. All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet development permit requirements of sections 16-45 and 16-52 of this article and the provisions of sections 16-54 through 16-58 of this article.
- C. Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to section 16-44 or subsection 16-51A8 of this article.
- D. All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- E. All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (Ord. 2003-07, 9-8-2003)

16-57: **STANDARDS FOR AREAS OF SHALLOW FLOODING
(AO/AH ZONES):**

- A. Located within the areas of special flood hazard established in section 16-44 of this article are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet (3') where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:
 - 1. All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified);
 - 2. All new construction and substantial improvements of nonresidential structures have the following:
 - a. The lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number

specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy;

3. A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in subsection A1 of this section are satisfied; and

4. Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures. (Ord. 2003-07, 9-8-2003)

16-58: **FLOODWAYS:** Located within areas of special flood hazard established in section 16-44 of this article, are areas designated as floodways. Since the floodways are an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

A. Encroachments are prohibited, including fill, new construction, substantial improvements and other developments unless certification by a professional registered engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

B. If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article. (Ord. 2003-07, 9-8-2003)

16-59: **EPA WAIVER REQUIRED:** Irrespective of any other provisions to the contrary herein, from and after the effective date hereof, there shall be no new development permitted within the 100-year floodplain (as defined on the latest publication of the national flood insurance program's flood insurance rate map for the town of Chouteau) which would generate wastewater to be transported to the wastewater treatment facilities of the town of Chouteau.

An owner/developer of property situated in the said floodplain may make request, in writing, to the town for a "waiver of service area restriction" only in cases where the said owner/developer can sufficiently show that the natural environment in the 100-year floodplain would be preserved if the waiver was granted. Said written request for a "waiver of service area restriction" must be submitted to the floodplain administrator of the town of Chouteau, who upon review thereof will judge whether the requested waiver is conformant to the intent of this article. If it be found that said waiver would not be in keeping with the intent of this article, the request for a "waiver of service area restriction" shall be denied. Should the findings of the floodplain administrator be that the requested waiver would not violate the intent of this article, nor have detrimental effect upon the natural functions and values of the affected floodplain, then such a request would be presented to the board of trustees of the town of Chouteau for their consideration and possible approval. Only after board approval, the town of Chouteau would then submit request to the U.S. environmental protection agency's regional administrator for review and possible approval. It is specifically the intent of this article that the said regional administrator be the final authority in all such requests for a "waiver of service area restriction". (Ord. 2003-07, 9-8-2003)

ARTICLE 6. PENALTY

16-66: VIOLATION; PENALTY:

- A. Any person, firm, or corporation violating any provisions of this chapter or performing any unlawful act as defined herein, or failing to perform any act required herein, shall be guilty of a misdemeanor and upon conviction thereof may be fined in a sum not to exceed two hundred dollars (\$200.00), excluding costs, and imprisoned up to thirty (30) days, and/or both such fine and imprisonment. Each day such violation continues shall constitute a separate offense. (1983 Code)

