

ARTICLE 03

USE REGULATIONS

DIVISION 03.000 PURPOSE

This Division's purpose is to regulate the land uses in each zoning district, including setting standards for limited and conditional uses, parking, loading, and signage related to specific uses.

DIVISION 03.100 USE REGULATIONS

All land uses or structures shall be permitted in districts only as indicated in this Division. No use prohibited in a district shall be permitted under any circumstances. The following symbols are used in Table 03.110.

1. **"Y"** indicates a **permitted use**, where the use is permitted as a matter of right subject to all performance standards.
2. **"N"** indicates a **prohibited use**.
3. **"L"** indicates a use permitted subject to **limited review**. The limited review determines whether the location, design, or other criteria of Division 03.300 have been met for the proposed site. Not all properties may meet these requirements, thus limiting the sites upon which the use may be built.
4. **"C"** indicates a use permitted only if a **conditional use** is approved per Section 21.220. The use must conform to the locational design, or other conditions of Division 03.200. Not all properties may meet these requirements, thus limiting the sites upon which the use may be built.

SECTION 03.110 USE TABLE

According to land use, Table 03.110 A. lists the type of permission in each district, parking requirements, and loading bay requirements. Table 03.110 B. lists the specific parking requirements for several general uses listed in Table 03.110 A. Limited and conditional use standards are contained in this Table and Division 03.300. Should a use not be identified in Table 03.110 or Article 23, refer to Section 21.320 interpretations. See Article 04 for additional standards.

TABLE 3.110 A. GENERAL USE TABLE

Permitted Land Use									Parking	Loading	Exterior Storage (% of Building Area)
Land Use	E	S	NC	SC	TA	D	BP	I			
Agricultural											
Agriculture	Y	Y	N	N	C	N	L	N	3 / du.	none	na.
Farmstead	Y	Y	N	N	N	N	N	N	3 / du.	none	na.
Intensive Agriculture	C	N	N	N	N	N	N	N	3 / du.	3 / ag. unit	na.
Clearing	L	L	L	L	L	L	L	L	none	none	na.
Nursery	Y	C	N	Y	Y	Y	C	N	1 / 250 sf sales space only	1 / 2 ac.	na.
Kennels and Commercial Stables	L	N	N	N	Y	N	N	N	1 / 333 sf. plus 1 per 3 stalls	1 / 40 stalls	na.
Residential											
Single-Family Detached	Y	Y	A1	N	Y	Y	C	N	3 / du.	none	na.
Equestrian	Y	N	A1	N	N	N	N	N	3 / du.	none	na.
Single-Family Cluster	Y	Y	A1	N	N	N	C	N	3 / du.	none	na.
Single-Family Attached	N	N	A1	N	Y	Y	N	N	2.25 / du.	none	na.
Guest House	C	C	A1	N	C	C	C	N			
Planned	Y	Y	A1	N	Y	Y	N	N	2.25 / du.	none	na.
Multi-Family	N	N	A1	L	L	L	N	N	2.25 / du.	none	na.
Commercial Apartment	N	N	A1	Y	Y	Y	N	N	1 / du.	none	na.
Manufactured Home Park	N	L	A1	N	L	N	N	N	3 / du.	none	na.
Group Home	Y	Y	A1	Y	Y	Y	N	N	3 / du.	none	na.
Institutional											
Assembly and Worship	N	L	C	Y	Y	Y	C	N	1 / 3 seats	1 / 40,000 sf.	na.
Institutional, Community	N	C	N	N	Y	C	N	N	See Table 03.110 B.	1	na.
Institutional, Neighborhood	C	C	C	Y	Y	C	N	N	See Table 03.110 B.	1 / 60,000 sf.	na.
Hospital	N	N	N	N	Y	N	Y	N	1 / bed	1 / 33,000 sf.	na.
College	N	N	N	N	Y	Y	Y	N	1 / 2 students	1 / 40,000 sf.	na.
Institutional, Residential	Y	Y	Y	Y	Y	Y	C	N	See Table 03.110 B.	1 / 25,000 sf.	na.
Protective Care	N	N	N	N	N	C	N	C	1 / 2 rooms	2 sf.	na.
Public Service	N	Y	C	Y	Y	Y	Y	Y	1 / employee + 1 stored vehicle	1 per loading bay	10%
Utilities, Local	L	Y	Y	Y	Y	Y	Y	Y	1 / 1,000 sf.	1 / 2,000 sf.	100%
Commercial											
Office	N	N	C	Y	Y	Y	Y	Y	See Table 03.110 B.	1 / 33,000	not permitted
Shopping Center	N	N	N	Y	Y	Y	N	N	1 / 200 sf.	1 / 25,000	5%
Commercial Retail	N	N	C	Y	Y	Y	L	N	See Table 03.110 B.	See Table 03.110 B.	5%
Home Furnishing & Appliances	N	N	C	N	Y	Y	Y	N	1 / 400 sf.	1 / 10,000	not permitted
Light Auto Services	N	N	C	Y	C	C	L	Y	See Table 03.110 B.	1 / 20,000	10% enclosed by 100% opaque fence
Services	N	N	C	Y	Y	Y	L	N	See Table 03.110 B.	1 / 33,000	not permitted
Drive-in Facility	N	N	N	L	L	L	L	N	See Table 03.110 B.	1 / 25,000	not permitted
Hotels and Motels	N	N	N	Y	Y	Y	Y	N	1 / room plus accessory use	2 / 40,000	not permitted
Boarding House	N	N	N	N	L	L	N	N	1/room plus 1	none	not permitted

TABLE 3.110 A. GENERAL USE TABLE

Permitted Land Use										Parking	Loading	Exterior Storage (% of Building Area)
Land Use	E	S	NC	SC	TA	D	BP	I				
Bed and Breakfast	C	C	C	Y	Y	C	N	N		1 / room	none	not permitted
Heavy Retail and Service	N	N	C	N	C	C	L	Y		See Table 03.110 B.	1.5 per bay	sales 200% repair 40%; See Section 3.312
Agricultural Support Services	N	N	N	N	L	L	L	Y		1/ 250	1.5 per bay	
Mixed Use	N	N	N	Y	Y	Y	N	N		See Section 06.322.	1 / 25,000	not permitted
Recreation and Amusement												
Outdoor Recreation	Y	Y	L	Y	Y	Y	N	N		See Table 03.110 B.	1	not permitted
Indoor Recreation	N	L	N	Y	Y	Y	N	N		See Table 03.110 B.	1	not permitted
Commercial Amusement, Outdoor	N	N	N	L	C	C	N	N		1 per player	none	not permitted
Commercial Amusement, Indoor	N	N	N	Y	Y	Y	N	N		See Table 03.110 B.	1	not permitted
Campgrounds	C	C	N	N	N	N	N	N		1 space + 3 / 50 spaces at office	1	not permitted
Resort	N	N	N	N	Y	N	Y	N		1.25 / room	1 / 33,000	not permitted
Home Uses												
Home Occupation	Y	Y	Y	N	Y	Y	N	N		See Residential.	None	not permitted
Day Care, Family	Y	Y	Y	N	Y	Y	N	N		4 / du.	None	not permitted
Industrial Uses												
Light Industry	C	N	N	N	C	C	Y	Y		1 / 500 + 1 vehicle	1 / 20,000 or 1 / bay	30% or more I district & up to 5,000 sq. ft. see Section 03.312
Heavy Industry	C	N	N	N	N	N	L	Y		See Table 03.110 B.	1 / 15,000 or 1.25 / bay	50%
Warehousing	C	N	N	N	C	N	Y	Y		1 / 2,000	1.5 / bay	20% I district only
Utilities, Community/Region	C	N	N	N	N	N	Y	Y		1 / 1,000	conditional	150% I district only
Extraction	N	N	N	N	N	N	C	N		1 vehicle + accessory	1 vehicle	
Recycling or Storage	C	N	N	N	N	N	N	C		2 / 1,000	1.25 / bay	20% metals only enclosed
Disposal	C	N	N	N	N	N	N	N		1 vehicle	1 vehicle	equipment only
Conditional/Miscellaneous Uses												
Airports	N	N	N	N	N	N	C	N		Special study, see Section 06.321.	special study	10% excluding aircraft
Crematories	N	N	C	N	C	N	C	C				
Commercial Communications Towers	L	L	L	L	L	L	L	L		2 per tower	1	not permitted
Dangerous Animals (includes zoos)	C	N	N	N	N	N	N	N				
Pet Grooming Services	L	N	N	N	Y	C	N	N		4 spaces/1000 sq. ft.	none	not permitted
Domestic Exotic/Farm Animals as Pets	L	L	L	N	N	N	L	N				
Temporary Uses												
Christmas Tree Sales	L	L	L	Y	Y	Y	N	N		site review	none	na.
Contractors Office	Y	Y	Y	Y	Y	Y	Y	Y		1 / 200 sf.	none	not permitted
Outdoor Sales	N	N	N	N	L	L	N	N		none	none	not permitted
Public Interest Events	L	L	L	L	L	L	L	L		1 / 3 attendee	1 / vehicle	not permitted
Special Events	L	L	L	L	L	L	L	L		1 / 3 attendee	1 / vehicle	not permitted
Model Homes/Sale Office	Y	Y	Y	Y	Y	Y	Y	Y		4 / model	none	not permitted
Farmstand	Y	Y	Y	N	Y	Y	N	N		8 spaces	none	na.

TABLE 3.110 A. GENERAL USE TABLE												
Permitted Land Use									Parking	Loading	Exterior Storage (% of Building Area)	
Land Use	E	S	NC	SC	TA	D	BP	I				
Concrete/Asphalt Batch Plant	L	L	N	N	L	N	L	L	Special study, see Section 06.321.	1 / vehicle	na.	
Truck Load Sale	N	N	N	N	L	N	N	N	Special study, see Section 06.321.	1/truck	na.	

A1 - See Table 3.3110 A1

Chart Amendments:

- Ordinance 2688, 10/28/97
- Ordinance 2724, 06/02/99
- Ordinance 2764, 01/23/01
- Ordinance 2772, 02/27/02
- Ordinance 2783, 08/21/01
- Ordinance 2789, 11/27/01
- Ordinance 2799, 06/11/02
- Ordinance 2845, 03/10/04
- Ordinance 2884, 07/26/05
- Ordinance 2918, 05/23/06
- Ordinance 2969, 03/27/07

Table 3.3110 A1. NC-R District Residential Uses

Residential	NC-R1	NC-R2	NC-R3	Parking	Loading	Exterior Storage (% of Building Area)
Single-Family Detached	Y	Y	Y	3/du.	none	na.
Equestrian	N	N	N	3/du.	none	na.
Single-Family Cluster	N	N	N	3/du.	none	na.
Single-Family Attached	N	C	C	2.25/du.	none	na.
Guest House	C	C	C			
Planned	N	N	N	2.25/du.	none	na.
Multi-Family	N	N	C	2.25/du.	none	na.
Commercial Apartment	N	N	N	1/du.	none	na.
Manufactured Home Park	N	N	N	3/du.	none	na.
Group Home	Y	Y	Y	3/du.	none	na.

**Table 03.110 B.
OFF-STREET PARKING AND LOADING STANDARDS FOR SPECIFIC USES**

Uses	Parking Spaces Required	
	per 1,000 sf. of Floor Area	Other Standard
PARKING STANDARDS		
Institutional: Community, Neighborhood, and Residential		
Auditorium, public	--	1 per 3 seats
Church	--	1 per 3 seats
Clubs & Associations (no food service)	8.0	--
Fire Station		4 per vehicle bay
Library or Museum	3.5	plus bus spaces, calculate auditorium separately at 0.75 rate
Nursing Homes	--	0.33 per room
Schools: Elementary & Junior High	--	2 per classroom
Schools: Senior High	--	0.25 per individual
Trade School	--	1.1 per student
Group Homes, Institutional, Residential, Monasteries & Convents	--	1 per bedroom
Rooming & Boarding Houses	--	1.5 per lodger
Police Station	4.0	--
Post Office	--	6 per 1,000 sf. service area and 1 per vehicle
Commercial Uses: Office		
General	3.5	--
Government offices	4.0	--
Medical	4.5	--
Bank/Financial	4.5	--
Commercial Uses: Commercial Retail		
General	4.0	--
Shopping Center	4.5	--
Retail, Freestanding	4.0	--
Furniture & Carpet Stores	2.5	--
Hardware, Paint & Home Improvement	4.0	--
Commercial Uses: Light Auto Service		

**Table 03.110 B.
OFF-STREET PARKING AND LOADING STANDARDS FOR SPECIFIC USES**

Uses	Parking Spaces Required	
	per 1,000 sf. of Floor Area	Other Standard
General	1.5	or 4 per bay, whichever is greater
Carwashes (single car, automatic bay)	2.0	plus 6 stacking spaces per bay and 1 drying
Carwashes (multiple car, automatic bay)	4.0	plus 12 stacking spaces per bay and 2 drying
Carwash (self wash bay)	--	3 per bay
Gas Station		1 per pump station
Commercial Uses: Services		
Barber Shops	4.0	--
Beauty Shop	5.0	--
Commercial Laundry & Dry Cleaner	3.0	--
Funeral Homes	6.0	--
Laundromat	--	0.8 space per washer/dryer
Restaurants	9.0	
All Others	2.5	plus 1 per employee and 1 for each company vehicle
Commercial Uses: Drive-in Facility		
Restaurants w/Drive-in Window(s)	14.0	plus 5 stacking spaces per window
Banking Facilities w/Drive-in Window(s)	4.5	plus 5 stacking spaces per window
Other w/Drive-in Window(s)	5.0	plus 3 stacking spaces per window
Commercial Uses: Commercial Lodging		
Convention Center w/Lodging	--	1.2 per lodging room; if meeting space provided, 10 spaces/1000 sf.
Non-Convention Center Lodging	--	1 per guest room
Bed & Breakfast	--	1 per room including management spaces
Campgrounds	--	1 per travel trailer space
Commercial Uses: Heavy Retail/Service		
General	4.0	--
Auto Sales	15.0	--
Building Materials	2.0	--
Vehicle Repair/Service	1.0	5 per bay
Recreation and Amusement Uses: Outdoor Recreational		
Camps, Day or Youth	--	1 per employee, plus bus

**Table 03.110 B.
OFF-STREET PARKING AND LOADING STANDARDS FOR SPECIFIC USES**

Uses	Parking Spaces Required	
	per 1,000 sf. of Floor Area	Other Standard
Golf Course	--	3 per hole
Golf Driving Range or Rifle Range	--	1.25 per station
Parks, Playground	--	1 per 4,000 sf. of area
Equestrian Facilities	--	1 per 4 stalls, plus 1 per 2,000 sf. of riding area
Swimming Pool	--	1 per 400 sf. pool surface area
Tennis Courts	--	3 per court
Athletic Fields	--	1 per 4 feet of bleacher area or 30 per field, whichever is greater
All Other Active	--	1 per 10,000 sf.
All Other Passive	--	1 per acre; areas more than 50 acres: 1 per 3 acres over 50
Recreation and Amusement Uses: Indoor Recreational		
Swimming Pool	--	2 per 200 sf. pool, plus 1 per employee
Tennis/Racquetball/Handball	1.0	--
Community Center	4.0	--
All Others	4.5	--
Recreation and Amusement Uses: Outdoor Commercial Amusement		
General	--	1 per 3 seats or 1.25 per playing station, whichever is greater
Campgrounds	--	1 per space, plus 3 per 50 spaces at office
Outdoor Arenas	--	1 per 3 seats or per 6 ft of bench length
Recreation and Amusement Uses: Indoor Commercial Amusement		
General	6.0	--
Amusement Parks	--	special study
Bowling Alley/Pool Rooms	--	5 per lane, 2 per pool/billiard table
Indoor Arenas	--	1 per 3 seats, or 1 per 30 sf. of floor area used for seating, or 1 per 6 ft of bench length, whichever is appropriate
Skating Rinks	--	1 per 100 ft. surface
Theaters/Assembly Rooms	--	1 per 3 seats
Industrial Uses: Heavy Industry		
Heavy Industry	2.5	plus 1 per vehicle
Trucking (no loading or warehousing)	3.0	plus 1 per vehicle operated from site

**Table 03.110 B.
OFF-STREET PARKING AND LOADING STANDARDS FOR SPECIFIC USES**

Uses	Parking Spaces Required	
	per 1,000 sf. of Floor Area	Other Standard
Junkyard	--	1 per 2,000 sf. storage plus 1 per vehicle
LOADING STANDARDS		
Commercial Uses: Commercial Retail		
Paint, Glass, Wallpaper, Hardware	--	1 per 25,000
General Merchandise	--	1 per 25,000
Food	--	1 per 15,000
Apparel and Accessory	--	1 per 25,000
Home Furnishings	--	1 per 25,000
Consumer Electronics	--	1 per 15,000
Miscellaneous Retail		
Art	--	1 per 25,000
Gifts	--	1 per 25,000
Sporting Goods	--	1 per 25,000
Drug	--	1 per 25,000
Liquor	--	1 per 5,000
Books	--	1 per 25,000
Toys	--	1 per 25,000
Camera	--	none
Garden Center	--	1 per 25,000
Video Rental	--	none
Movie Theater	--	none

DIVISION 03.200 INDIVIDUAL USE STANDARDS

This Division contains standards that apply to uses in all districts.

SECTION 03.205 ACCESSORY USES, AGRICULTURAL

All agricultural accessory uses shall be used exclusively for agricultural purposes.

A. General.

1. Agricultural accessory uses shall be allowed on property comprised of 20 or more acres used exclusively for agricultural purposes.
2. Accessory structures must meet the building setback of the applicable zoning district.
3. Street yard plantings (1 plant unit per 100 lineal feet of street frontage) shall be required where an accessory structure is built within 200 feet of any roadway.
4. Corrals shall be exempt from yard requirements.

B. Outdoor Storage. Outdoor storage is prohibited in all required yards (setbacks).

C. Fences. Fences, including barbed wire, shall be permitted along all streets.

SECTION 03.210 ACCESSORY USES, RESIDENTIAL

Residential uses may have accessory buildings provided they conform to the following standards.

A. General. Unless specified in Subsections B. and C., all accessory structures shall meet the following:

1. Freestanding accessory structures shall not be permitted in front of the principal structure or within the front yard.
2. Freestanding structures shall not be located in side yards.
3. Freestanding structures may be located in the rear yard provided:
 - a. A single-family lot less than ten thousand (10,000) square feet shall have a setback from the rear and side property lines of at least five (5) feet. For lotline and village house types, the Planning Commission may waive the side yard setback. (Ordinance 2734, 1/11/00)
 - b. A single-family lot between ten thousand (10,000) square feet and one (1) acre shall have a setback from the rear and side property lines of at least ten (10) feet. (Ordinance 2734, 1/11/00)
 - c. A single-family lot one (1) acre or more shall have a setback from the rear and side property lines of at least twenty-five (25) feet. (Ordinance 2734, 1/11/00) The Zoning Administrator may approve unique setbacks to blend with existing nearby structures but shall not reduce the setbacks to less than ten (10) feet. (Ordinance 2884, 7/26/05)
 - d. For attached units, freestanding accessory structures shall be permitted only as provided in 4. below. Walled units, patio houses, and atrium houses shall contain all accessory structures within their walls.
4. For multi-family or attached housing, where freestanding structures must be accessible from private roads and fire lanes, their location shall be approved in the site plan review process to ensure essential access is safe and the structures do not create a nuisance to adjoining properties.
5. Except as may be specifically permitted in B. and G.. below, no freestanding structure shall exceed thirty (30) percent of the floor area of the principle structure.

B. Detached Garages and Storage/Utility Sheds.

1. Setbacks and size.

	Minimum Setback	Maximum Size and Height
<p>(1) Lots 12,000 sq. ft. or smaller</p> <p>(2) Lots from 12,001 sq. ft. to 3 acres</p>	<p>Must comply with Section 03.210 A.</p>	<p>(1) Maximum size shall be 8.5% of the total lot area for lots 12,000 sq. ft. or less.</p> <p>(2) Maximum size is 1020 sq. ft. plus 0.75% of the total lot area for lots from 12,000 sq. ft to 3 acres.</p> <p>Combined square footage of all structures on the property shall not cover more than 70% of the lot area. The structure shall be equal or less in height than the principle structure. (Ordinance 2893 08/23/05)</p>
<p>Lots greater than 3 acres</p>	<p>Must comply with Table 4.110A</p>	<p>No limit</p>

2. Building materials. For structures new greater than 120 square feet, the following standards apply (Ordinance 2824, 01/28/03):

	Building Materials
<p>Lots 1 acre or smaller</p>	<p>Shall be similar to or compatible with the design and construction of the main building. The exterior building materials and colors shall be similar to the main building or shall be commonly associated with residential construction.</p>
<p>Lots greater than 1 acre</p>	<p>Shall not be constructed of scrap materials.</p>

(Ordinance 2799, 06/11/02)

3. Existing accessory structures. Existing structures may be repaired or remodeled as long as the repairs do not exceed 50% of the fair market value of the structure. Existing stick built structures are exempt from the building material requirements in section 03.210 B.2., except no building shall be repaired or remodeled with scrap materials. (Ordinance 2824, 01/28/03).

C. Fences. Fences, except for walls on patio and atrium units (Table 08.141) may be permitted to enclose rear yards subject to the following.

1. **General.** All fences shall be constructed of materials expressly designed for fences. No hog-wire fences or fences made of discarded material shall be permitted. Fences in the front yard shall not exceed four (4) feet in height and shall be constructed of decorative materials (i.e. picket, wrought iron, split rail, etc.). Chain link is not considered decorative material. No fence shall exceed six (6) feet in height.
2. **Developments platted after November 18, 1997.** Fences along streets (front, rear, or side yards - see Figure 03.210) shall be permitted only if specified in the landscaping plan and final plat. The fence design along street frontages shall ensure uniform appearance.
3. **Chain link fences.** No chain link fence shall exceed four (4) feet in height. Chain link fences are prohibited in the front yard. For street yards on corner lots, chain link fence setbacks are as shown in Figure 03.210 D.1. Chain link fences with inserts for opacity are prohibited.

(Ordinance 2714, 12/8/98)

- D. **Satellite Dish or Antenna.** Satellite dishes or antennas over three (3) feet in diameter shall be mounted on the ground in the rear yard. These dishes shall be screened from view with an evergreen hedge or shrubs, and understory trees to their rear. The dish shall be located so that the screening protects neighboring homes. Evergreen trees shall be used to block other views from neighboring homes to the dish's front where plantings cannot be placed close to the dish. Figure 03.210 E. illustrates the type of planting required. Staff shall, upon submission of a site plan, approve the landscaping that meets this requirement.
- E. **Storage of Boats, Recreational Vehicles, or Trucks.** No boats, recreational vehicles (RVs), trailers with cars or other vehicles, or commercial trucks shall be stored in the driveway or in front of the house. Such vehicles shall only be permitted in rear yards provided they meet the setback requirements for a storage shed. No vehicle greater than thirty (30) feet shall be permitted on lots of less than two (2) acres. Boats or RVs of up to forty-five (45) feet shall be permitted on lots greater than two (2) acres.
- F. **Private Stables.** Stables are permitted on lots over three (3) acres, in equestrian subdivisions, and on lots of record existing as of this Ordinance's adoption date which legally had stables located on them. All stables shall conform to the following.
1. The stable shall be for the owner's private use only. No horses owned by others shall be permitted to be boarded. Such a use would become a commercial stable.
 2. Stables shall not exceed three thousand five hundred (3,500) square feet. Larger stables may be permitted as a Conditional Use of the property.
 3. Stables shall have a setback of one hundred (100) feet from property lines. No corral or riding area shall be permitted within twenty-five (25) feet of a property line, except that a trail may connect to an off-lot riding trail.

(Ordinance 2734, 01/11/00)

SECTION 03.211 ACCESSORY USES, NONRESIDENTIAL

Nonresidential uses may have a variety of accessory uses within the principle structure or in separate structures, provided they meet the following standards.

- A. **Uses.** All uses not permitted in the district shall be prohibited, except where:

1. They constitute less than fifteen (15) percent of the total floor area; and
 2. The use is essential to (excluding crematories), or traditionally conducted in association with (excluding crematories), the principal use which is a permitted, limited, or approved conditional use; and
 3. Except in the BP District, industrial uses shall not be permitted under any condition.
- B. **General.** No uses or structures shall be within the required yards. Except for loading and storage, the accessory uses' organization or placement shall be at the landowner's discretion.
- C. **Fences.** Hazardous utilities or other uses requiring fencing, for safety or liability reasons or to prevent access, shall meet the following additional standards.
1. A hedge shall be required around the fenced area where a metal mesh fence is used. The amount of shrubs required shall be installed at four (4) feet on center.
 2. If barbed wire is necessary, a double row of shrubs shall be planted, each row at three (3) foot on center and maintained at the fence height.
 3. If razor wire or concertina wire is to be used, a metal and/or masonry decorative fence (with approval by the Planning Commission) shall be erected fifteen (15) feet outside the wire fence and surrounded by a two-tenths (0.2) opacity bufferyard.
 4. Chain link fences are prohibited except in the I district and for school and day care center playgrounds. Opacity inserts are permitted only in the I district. Location of fences for playgrounds in residential areas shall comply as nearly as practical to Figure 03.210 D.1. The Planning Commission shall approve the location of chain link fences.
- D. **Loading and Truck Access.** Where loading and truck access is in a street yard, in a yard between residential uses or vacant land that can only be residentially used, the area shall be enclosed as indicated in Figure 03.211 D.
- E. **Outdoor storage.** Outdoor storage shall be prohibited except as indicated in Table 03.110A. All exterior or outdoor storage shall be enclosed by a wall or opaque fence of sufficient height to screen the stored materials from view. If a fence rather than a wall is used then shrubs shall be planted at three (3) foot on center around the periphery. Where one industrial district abuts another industrial district, no wall or fence shall be required.
- F. **Heating, Ventilation, Air Conditioning, Utility Meters and Vaults, and other similar appurtenances.** Where HVAC, utility meters and vaults, and other similar appurtenances are located, the area shall be fully enclosed architecturally or with a wood or masonry fence or a buffer with an opacity of 1.00.

SECTION 03.212 ACCESSORY WASTE OR TRASH STORAGE

Where dumpsters or common waste storage facilities are used in residential developments or nonresidential developments, the area where a dumpster and/or garbage can is stored shall be fully enclosed with a wood or masonry fence (or other durable low maintenance materials approved by the Planning Commission) or berms. The gates shall be kept closed. The area shall be landscaped as indicated in Figure 03.212.

SECTION 03.213 MIXED USES

All mixed uses shall meet the following requirements

- A. Except as provided in B. below, mixed use buildings shall have a minimum of twenty-five (25) percent residential floor area.
- B. A mixed use building, or a group of buildings in a mixed use development, oriented to a pedestrian precinct, may have the minimum residential component reduced to fifteen (15) percent where a major portion of the floor area is a large public structure, such as a museum or a hotel and convention center, that occupies at least forty (40) percent of the total floor area.
- C. Residential uses shall provide outdoor areas greater than or equal to one hundred twenty (120) square feet per unit, or the equivalent using one or a combination of the following methods:
 - 1. Balconies or roof gardens; and/or
 - 2. Parks or parkways with a minimum of twenty thousand (20,000) square feet of lawn area located within the development; and/or
 - 3. Paved pedestrian precincts, which may count for no more than twenty-five (25) percent of the requirement.

DIVISION 03.300 LIMITED AND CONDITIONAL USES

This Division describes the standards governing individual limited and conditional uses, including: common standards for buffering, location, bulk, and scale; standards of an environmental nature that apply to open space uses; and standards not easily incorporated into Table 03.110 A. Section 03.310 describes the different categories used in Table 03.110 A. Sections 03.311 through 03.340 describe individual limited or conditional uses, or standards that vary from district to district, that could not be summarized in Table 03.110 A. All limited or conditional uses shall complete a site plan review process so that the manner by which the standards of this Division are met can be reviewed. If the use is contained in a subdivision, the lots for such uses shall be so designated.

SECTION 03.310 BUFFERING, LOCATION, BULK, AND SCALE STANDARDS

Table 03.110 A. provides standards that increase the degree of buffering, govern the locations, and reduce the bulk or scale of limited or conditional uses. The meaning of the different categories contained in the Table is established as follows:

- A. **Location.** This column refers to the bufferyard location if it is different than normal district boundary bufferyards. "All" indicates the entire property is surrounded. Other designations set specific locations on site or uses to be buffered.
- B. **Increased Width/Opacity.** This column refers to the amount the bufferyard opacity required in Table 04.110 A. shall be increased. The use is responsible for the increased bufferyard. In some cases, a distance is to be added to the bufferyard width regardless of the options selected in Section 13.140 or 13.141.

- C. **Fence.** The use shall provide a fence of certain height within the bufferyard. The fence is to be added to the buffer option in Section 13.140 or 13.141. Where a fence is already required, the developer shall use an option that does not require a fence and add the fence.
- D. **Uses Separated.** This column lists uses from which the limited or conditional use is to be separated. Residential, religious institutions, and schools are typical protected uses.
- E. **Spacing.** The use shall be separated from protected uses by a minimum distance.
- F. **Minimum Spacing.** This requires a minimum distance between the next similar use. This requirement prohibits certain uses from concentrating in any given area. The distance includes uses located outside the zoning district boundary. Some uses tend to cluster at intersections. This marketing practice is appropriate; therefore, a provision has been made to permit such clustering. Where "int" is found after the spacing distance in the column, uses may locate at any of the intersection corners. However, the intersection where these uses exist must be separated by the specified distance.
- G. **Minimum Site Area.** The use must have a certain minimum site area. In several cases, this column has also been used to indicate a maximum site size or a range of minimum and maximum sizes.
- H. **Minimum Access.** The use may be built only where it has adequate frontage on a street of a certain type -- arterial, collector, or nonresidential local street.
- I. **Maximum Size.** This standard limits the use's size to less than that permitted in Table 04.110 A.
- J. **Maximum Height.** This standard sets a limit relative to the building's maximum height. An exception is granted for chimneys, steeples, cupolas, and antennas, provided they occupy no more than seven (7) percent of the roof area.
- K. **Other.** This column contains short requirements and/or references to other Sections where specific standards are found.

SECTION 03.311 DAY CARE CENTERS

The standards for conditional use of day care centers are as follows:

- A. Outside play areas shall be fenced.
- B. The day care provider shall be licensed by the State of Kansas.
- C. The maximum number of children or adults allowed will be determined as part of the CUP. Any increase in the number of children or adults shall require a new CUP.
- D. Prior to the approval of a day care center, location for the center shall be inspected for compliance with any applicable building and/or fire codes. If any deficiencies are found, they shall be corrected prior to the Planning Commission's recommendation to the City Council.

- E. The first conditional use permit shall be valid for a maximum of one year from the date of approval. The first renewal of the conditional use permit may be approved for three years. Subsequent renewals may be approved for up to five years. Renewals are subject to the publication, notification, and public hearing requirements of the initial approval.
- F. Such other conditions, as determined by the Planning Commission, to be necessary to protect the public health, safety, and welfare.

SECTION 03.312 HEAVY RETAIL AND SERVICE & LIGHT INDUSTRIAL USES

An increase in the maximum area for outdoor sales for Heavy Retail and Service or for the storage for Light Industrial in the TA district may be approved by the Planning Commission based upon the following (Ordinance 2845, 03/10/04):

- A. Compatibility with neighboring uses.
- B. Lighting shall be cut-off fixtures.
- C. Buffering and screening that will lessen the visual impact of large lot sales.
- D. A bufferyard of 0.4 opacity shall be provided for all storage areas. The fence height shall screen activities or be 8' in height, whichever is less. (Ordinance 2824, 01/28/03)
- E. In the BP district, this use shall take access from interior roads. (Ordinance 2824, 01/28/03)

SECTION 03.313 SINGLE FAMILY RESIDENTIAL

- A. Single family residential uses in the Business Park district shall meet one of the following standards:
 - 1. The single-family residence shall have been constructed on or before January 1, 1998.
 - 2. The owner shall hold a valid building permit for new construction that was issued prior to January 1, 1998.
- B. Single family residences in the BP district that qualify for a conditional use permit shall not be considered nonconformities under Article 9 of the Land Development Ordinance.

(Ordinance 2724, 6/22/99)

- C. Single family attached residential uses in the NC-R2 and NC-R3 district shall only be permitted provided:
 - 1. A site plan is submitted and approved by the Planning Commission and the City Council.
 - 2. Any conditions which the Planning Commission and the City Council deem necessary to ensure the compatibility with the surrounding uses in terms of scale and adherence to the traditional character of Paola are met. (Ordinance 2957, 10/23/07)

SECTION 03.314 GUEST HOUSE

- A. The guest house shall have a minimum living area of 500 square feet. The guest house shall not exceed 30% the floor area of the principal structure.
- B. The primary structure shall be owner occupied.
- C. The area where the guest house is located shall not be divided off into a new lot of record.
- D. A minimum of one off-street parking space is required. The Planning Commission may permit on-street parking to be substituted upon determining that the street can accommodate the parking and the provision of off street parking would be detrimental to the area’s appearance.
- E. The guest house shall comply with building code requirements.
- F. The combined square footage of the principal structure, guest house, detached garage, and storage/utility shed shall not exceed the maximum building coverage in Table 04.110A Use and Lot Standards. Where no maximum building coverage is provided, the combined structures shall not cover more than 70% of the lot area.

The Planning Commission may establish other conditions that protect the public health, safety, and welfare.

(Ordinance 2789, 11/27/01)

SECTION 03.315 AGRICULTURAL SUPPORT SERVICES

- A. The applicant must provide a plan showing where outdoor sales and storage will be located.
- B. Equipment may be stored or displayed outside a building, but shall not encroach on parking setbacks. All equipment on display shall be in working condition.
- C. Open space and parking requirements shall be met.
- D. Merchandise other than equipment shall be stored behind a fully opaque fence, except for special outdoor sales. Special outdoor sales, including garden materials sales, are subject to Section 03.335 “Outdoor Sales”.
- E. Service and maintenance activities shall be contained inside the building.

(Ordinance 2799, 06/11/02)

- F. The maximum building height allowed is 25’. (Ordinance 2824, 01/28/03)
- G. No grain or other product storage is allowed. (Ordinance 2824, 01/28/03)
- H. Minimum lot size for a large animal clinic in the TA and BP districts is three acres (Ordinance 2824, 01/28/03)

- I. In the D district, this use is limited to small animals with no outdoor activities (Ordinance 2824, 01/28/03)

SECTION 03.316 KENNELS AND STABLES

- A. A bufferyard shall be required when located within 1000 feet of a residential use. When adjacent to a residential use, the bufferyard opacity shall be increased by 15 feet and a 6' fence provided.
- B. Dogs shall be in an enclosed building at night.

(Ordinance 2824, 01/28/03)

SECTION 03.317 PET GROOMING SERVICES

Pet Grooming Services shall meet the following standards:

- A. Adequate ventilation shall be provided between adjoining structures.
- B. Prior to receiving a permit, the applicant must submit copies of approvals from all regulatory agencies having jurisdiction over pet grooming services.
- C. All pet waste shall be disposed of in an approved manner.
- D. Noise levels shall be limited so as not to disturb surrounding properties.
- E. All chemicals used in the grooming process shall be non-destructive to the public sanitary sewer system. (Ordinance 2918, 05/23/06)

SECTION 03.319 MANUFACTURED HOME PARK

- A. 0.4 opacity bufferyard shall be required on all property borders.
- B. 2,640 feet spacing must be provided between manufactured home park communities.
- C. The minimum site area in any district is 15 acres. Minimum site area may be increased in some zoning districts (see Table 4.110 A.).

(Ordinance 2824, 01/28/03)

SECTION 03.320 CLEARING

Clearing includes earth movement, mining, clear cutting or selective harvest for lumber purposes, or burning and shall require a zoning permit. Such permits shall be issued only under one of the following conditions.

- A. As part of a site plan or subdivision with an approved resource protection plan; or
- B. When a resource analysis is submitted along with a resource protection plan demonstrating that this Ordinance's standards are met, and a record of the property's original conditions is filed with the Zoning Officer.

SECTION 03.321 MULTI-FAMILY RESIDENTIAL

Multi-family residential uses shall meet the following standards.

- A. In the TA District, multi-family residential uses shall only be permitted with a minimum spacing of 1,000 feet between multi-family buildings. No more than 40 dwelling units shall be constructed in any development and shall be no more than two (2) stories tall.
- B. In the D District, multi-family residential uses shall only be permitted with a minimum spacing of 200 feet between multi-family buildings. No more than 20 dwelling units shall be constructed in any development.
- C. In the TA District, multi-family residential buildings that exist prior to January 1, 1998, may be reconstructed if damaged more than 50% of fair market value through fire, explosion, act of God or the public enemy. The intent is to allow the reconstruction of the same number of units that existed on January 1, 1998 notwithstanding any limits on the maximum number of units in a multi-family residential development or with respect to the minimum spacing required between multi-family residential developments. However, the reconstructed units shall conform with all other regulations for buildings in the district in which it is located. (Ordinance 2725, 7/27/99)
- D. In the NC-R3 districts, multi-family uses shall only be permitted provided:
 - 1. A site plan is submitted and approved by the Planning Commission and the City Council.
 - 2. Any conditions which the Planning Commission or the City Council deem necessary to ensure the compatibility with the surrounding uses in terms of scale and adherence to the traditional character of Paola are met. (Ordinance 2957, 10/23/07)

SECTION 03.322 ASSEMBLY AND WORSHIP

The standards for conditional use and limited uses vary by district.

- A. Estate (E) District. The intent of the estate district is to insure that lots used for assembly and worship are large enough to maintain the desired community character.
- B. Neighborhood Conservation (NC) District. The conditional use should be evaluated based upon whether the use is compatible with the site given its location in an established part of town where traffic is strongly correlated with existing land use patterns. The degree to which activities associated with the use significantly increase traffic should be considered in determining whether the proposed use is suitable for the site.
- C. Business Park (BP) District. This use should not be allowed in high visibility areas of the business park, since the purpose of the district is provide jobs in high access locations. In general, this use should be limited to temporary occupancy until a permanent facility can be built. A maximum of two (2) percent of a BP development should be permitted for this use.
- D. Access shall be taken from a collector or arterial street. (Ordinance 2824, 01/28/03)

SECTION 03.323 INSTITUTIONAL, COMMUNITY

The lot size varies with the proposed use. Schools shall have a minimum of 10 acres. A library would require a minimum of two acres.

SECTION 03.324 PROTECTIVE CARE

All protective care facilities shall have an emergency plan filed with the police, emergency services, and disaster and emergency agency indicating that these facilities have plans ensuring against any form of emergency to protect the adjoining communities. The following standards shall apply to protective care facilities.

- A. In the D District, this use shall only be permitted as an accessory to a building containing government offices or police offices.
- B. In the I District, this use shall be permitted provided it is separated from residential by at least three hundred (300) feet.
- C. A 0.3 opacity bufferyard, including a 10' fence, shall be provided when adjacent to a residential use.
- D. At least 300 feet of separation must be provided between a protective care use and any day care, residential, school, or institutional residential use.
- E. The minimum site area in any district is one (1) acre.
- F. No more than 25 residents per acre allowed.

(Items C-F, Ordinance 2824, 01/28/03)

SECTION 03.325 UTILITIES, LOCAL

- A. In the E District, utility agencies shall submit service radii or other locational criteria that demonstrate the need to place facilities in this district. The facilities shall be designed to serve that district and surrounding, more rural zoning districts but not adjoining, more intensely zoned districts.
- B. All boundaries shall have a 0.3 opacity bufferyard. (Ordinance 2824, 01/28/03)

SECTION 03.326 COMMERCIAL RETAIL

Such lots shall be designated in the plat of subdivision for these uses. A site plan review shall be required to ensure such uses do not create strip development on major roads.

- A. In the BP district, this use shall take access from the entrance road to the business park. The use shall be located along the entrance and prior to the first road intersection in the business park.
- B. This use is limited to the ground floor of multi-story office buildings.

(Items A and B, Ordinance 2824, 01/28/03)

SECTION 03.327 LIGHT AUTO SERVICES

This use has different standards in the TA, D, and BP Districts.

- A. Thoroughfare Access (TA) District: The intent is to protect residential areas, to insure that the use cannot locate on minor streets, and to buffer adjoining streets and land uses from the Light Auto Service.
1. Lighting shall be all cut-off fixtures located to minimize impact on adjoining residential areas.
 2. A parking buffer shall be required as defined in Table 13.140. (Ordinance 2764, 01/23/01)
 3. An 8' fence shall be provided as a buffer between this use and any residential use.
 4. This use shall take access off of a street classified as a collector or arterial. (Items 3 and 4, Ordinance 2824, 01/28/03)
- B. Downtown (D) District: The suitability of the site for this use shall be determined by examining the degree to which the site plan protects the urban character of the streetscape. The building must be built to the front setback lines, as are other buildings in the urban area. The landscaping and other design features shall be determined to provide a continued pedestrian precinct that is attractive and safe.
- C. Business Park (BP) District: The intent is to permit this use only at the entrance to a business park and preserve the park for business or industrial uses.
1. A bufferyard of 0.2 opacity, including a 6' fence, shall be provided along all street yards.
 2. The minimum site area in the BP district is one (1) acre.
 3. No more than 4% of the business park area shall be this use. (Items 1-3, Ordinance 2824, 01/28/03)

SECTION 03.317 SERVICES

No more than 25% of the lot area shall be comprised of service floor area. (Ordinance 2824, 01/28/03)

SECTION 03.328 DRIVE-IN FACILITY

- A. In the SC and TA Districts, talk boxes must be screened by a sound barrier, such as a fence or masonry wall.
- B. In the D District, drive-in facility uses shall take access from an alley.
- C. In the BP District, drive-in facility uses shall take access from the entrance road to the business park. Further, these uses shall be located along the entrance road and prior to the first road intersection within the business park.
- D. A 0.4 opacity bufferyard shall be provided along all property lines adjacent to any residential use.
- E. In the BP district, this use shall take access from the entrance road to the business park. The use shall be located along the entrance and prior to the first road intersection in the business park.

(Items D and E, Ordinance 2824, 01/28/03)

SECTION 03.329 BED AND BREAKFAST

In the D and NC Districts Bed and Breakfasts shall be a reuse of an existing single-family building having a minimum floor area of 3,000 square feet. This use is limited to structures constructed prior to and including 1939 with an identifiable architectural style. While additions are permitted, they shall amount to no more than 25% of the total floor area. Off-street parking areas shall be screened from adjoining land uses by hedges and canopy trees.

In the E and S districts Bed and Breakfasts shall be the reuse of an existing single-family building or new construction with a minimum floor area of 3,000 square feet and located on a minimum of three acres.

Bed and Breakfasts in all districts shall meet the following:

- A. The owner/proprietor is required to occupy the residence.
- B. The number of bedrooms used for a Bed and Breakfast shall not exceed five (5).
- C. Bed and Breakfasts shall comply with County and State requirements/licenses as a food service or lodging facility.
- D. Short-term overnight lodging shall be permitted. Monthly rentals or leasing shall be prohibited.
- E. A minimum of one off-street parking space is required. The Planning Commission may permit on-street parking to be substituted upon determining that the street can accommodate the parking and the provision of off street parking would be detrimental to the area's appearance.

The Planning Commission may establish hours of operation, maximum number of guests, and other conditions that protect the public health, safety, and welfare.

SECTION 03.330 OUTDOOR AMUSEMENT

Commercial amusement uses shall meet the following.

- A. The use shall have only one (1) lot line facing residential.
- B. Closing hours and lighting shall be limited to 10 p.m. Facilities seeking to remain open after this time must apply for and receive approval of a conditional use permit.
- C. The Planning Commission shall review the facility and may prohibit landscaping or design that is unnatural or a problem for suburban residential neighbors in terms of the materials or other design features.
- D. A 0.4 opacity bufferyard shall be provided on all property boundaries, including a 3' berm.
- E. Access shall be taken from an arterial or collector street.

(Items D and E, Ordinance 2824, 01/28/03)

SECTION 03.331 HEAVY INDUSTRY

A wastewater study shall be conducted. Pre-treatment may be required as a condition of approval. A registered engineer shall submit the effluent data in a signed and sealed report. The following additional standards shall apply to the BP District.

- A. The use shall locate in the inner ring.
- B. No use's floor area shall be greater than ten thousand (10,000) square feet.
- C. The respective business park cannot devote more than fifteen (15) percent of the total developable land area to such uses.

SECTION 03.332 EXTRACTION

Extraction uses shall meet the following requirements.

- A. The Planning Commission shall determine if having the extraction facility inside the City limits is in the City's best interest and it will not adversely affect land designated for economic development.
- B. An end use plan shall be submitted providing the following.
 - 1. The ground surface shall be restored to a condition permitting one of the following uses: agriculture, residential, recreational (see 2. below), or nonresidential. Either an escrow account or a yearly fee shall be required as approved by the City Attorney and City Council to insure that there are sufficient funds set aside for the restoration.
 - 2. If future recreational use is identified, management of such use shall be established. Risks from any subsurface materials to future uses shall be identified.
 - 3. The quantity and quality of run-off reaching any surface water, on-site or discharging off-site shall be controlled.
 - 4. If surface water is present, the report shall indicate likely chemical water quality. The plan shall provide safe edges to prevent accidents. Safe edges require a long shelf with a slope of less than one to five (1:5) to a depth of six (6) feet.
 - 5. Special management and/or landscaping shall be used for depressional areas having slopes exceeding thirty (30) percent or depths greater than fifty (50) feet. Special management and/or landscaping shall prevent erosion, ensure rapid ground cover growth, and manage water to prevent ground cover loss.
- C. If ground water will be encountered, the plan must indicate the following.
 - 1. Probable maximum pumping rates and cone of depression impacts on surrounding public and private wells and long-term water table.
 - 2. Disposal method for pumped water and its effect on water quality and flooding.
- D. Along the district boundary or any district permitting adjoining residential uses, the required buffer width shall be increased by one hundred (100) feet. The buffer planting requirements shall be increased until the landscaping has a 1.0 opacity rating.

- E. Noise studies shall be conducted to determine the berm's exact height based on the equipment operated at the site and the blasting potential. The berm shall ensure the DNL does not exceed 55 at the property line or any building with a line of site to the property.
- F. Where surface water features remain, or a depressional area is created, a final excavation plan matched to a proposed end use plan shall be submitted. The final excavation plan shall demonstrate that sufficient land is to remain unexcavated and/or that the excavation will be done in a manner permitting the development to conform to this Ordinance's regulations without any variances.
- G. The minimum site area is 50 acres. (Ordinance 2824, 01/28/03)
- H. There shall be at least 500 feet between and extraction use and any residential use. (Ordinance 2824, 01/28/03)
- I. A 0.8 opacity (150 feet) bufferyard shall be installed on all perimeters, including a 15' berm (Ordinance 2824, 01/28/03)

SECTION 03.333 IMPOUNDMENT AND AUTO STORAGE

- A. All impoundment/auto storage uses shall be surrounded on all sides by a fence or wall at least 8' in height. The fence shall be maintained to ensure maximum safety to the public and preserve the general welfare of the neighborhood.
- B. An 8' fence with a .30 opacity landscaped bufferyard is required between the auto storage/impoundment lot and any adjacent residential use.
- C. Impoundment/auto storage uses shall not be located on arterial or collector streets.
- D. The fence shall be installed in such a manner to retain all impounded/stored vehicles within the yard.
- E. The property line of this use must be separated from residential structures by at least 50 feet.
- F. No vehicle shall be stored/impounded for more than twelve (12) months.

(Ordinance 2783, 08/21/01)

SECTION 03.334 COMMERCIAL COMMUNICATION TOWERS

- A. Applicants must provide documentation acceptable to the Planning Commission that existing structures within an appropriate one-mile radius of the proposed location are not available for co-location.
- B. All proposed towers 150 feet or less, not including lightning rod, shall be designed to accommodate at least one additional PCs/Cellular platform. All proposed towers in excess of 150 feet shall be designated to accommodate at least two additional PCs/Cellular platforms.
- C. Any application for a tower in excess of 150 feet in height shall include testimony of an

RF Engineer, or other Licensed Professional Engineer, substantiating the need for the requested height.

- D. The minimum setback from adjoining property lines shall be the height of the tower plus 20 feet. Setbacks may, on a case-by-case basis, be considered for a variance.
- E. The tower and accessory equipment must meet all requirements of the Federal Communications Commission and the Federal Aviation Administration.
- F. Any tower that is not operated for a continuous period of two years shall be considered abandoned and the owner of such tower shall remove the same within 90 days of a receipt of notice from the City Council notifying the owner of such abandonment. If such tower is not removed within 90 days, the City may remove the tower at the owner's expense.
- G. The City shall have the authority to require the applicant to file and maintain a surety bond, letter of credit or other security acceptable to the City. The security shall be equal to 20% of the cost of construction of the tower as disclosed by the applicant. The security shall be used to pay for removal of the tower if the owner fails to remove the tower as provided in (F.) above. The security shall be returned to the applicant upon proper removal of the tower.
- H. Pad sites and guy wire location must be surrounded by a minimum of a six-foot tall fence which has an opacity of 1.00

SECTION 03.335 OUTDOOR SALES

See Table 3.110A.

- A. In the D District, the following standards shall apply.
 - 1. Sales in the Paola Square shall be by permit from the City and controlled by regulations governing use of the Square.
 - 2. Sidewalk sales displays shall be arranged to leave at least six (6) feet of clear walkway for pedestrian circulation.
- B. In the TA District, the following standards shall apply.
 - 1. Garden Materials Sales
 - a. Limited Staff Review: Garden materials sales areas shall be permitted, provided they do not occupy required parking spaces, or are located on an area designated on the site plan for that purpose. Garden material sales areas exceeding 2,000 square feet shall be designated on the face of the site plan. Garden supplies, plant material, and garden furniture are permitted to be sold in these areas. Garden sales areas may be in parking areas for a maximum of five months, but not more than three consecutive months, each year.
 - b. Conditional Use Permit: Garden material sales that exceed the provisions of 1(a) above may be permitted as a Conditional Use provided:

1. All garden supplies and furniture displayed for more than three consecutive months must be screened as provided for outdoor storage (see Section 03.211 Accessory Uses, Nonresidential). Live plant materials may be displayed without being screened.
2. The Conditional Use Permit shall specify the time limits that temporary or portable greenhouses or other similar structures may be used. Such structures shall be maintained in good appearance and condition.
3. The minimum required parking spaces must be provided.
4. The requirements of Section 21.220 Conditional Uses shall be considered.
5. The Conditional Use Permit shall be issued for a period not to exceed one year.

(Ordinance 2735, 01/11/00)

2. Other sales are permitted up to four (4) times a year; owners may obtain a permit for exterior sales of merchandise related to the principal business.
 - a. The store shall have an exterior pedestrian area or sidewalk that is a minimum of twelve (12) feet wide. Sales displays shall be arranged to leave at least six (6) feet of clear walkway for pedestrian circulation.
 - b. The sales displays shall be on racks or display counters that are of similar quality to those used in the store. All displays shall be taken in at closing time.
 - c. No signage other than normal price markers shall be permitted.
 - d. The permit shall be good for no more than seven (7) consecutive days.

SECTION 03.336 PUBLIC INTEREST EVENTS

All such uses shall be held on land occupied by the organization benefiting from the proposed activity. The activity shall be permitted only during hours when the facility's parking would not be used for the primary use's high traffic generation activities. Events in stadiums or public parks shall be regulated by the City and are not limited by this Section.

SECTION 03.337 SPECIAL EVENTS

Special events in stadiums or public parks may be regulated by the City and are not limited by this Section. Events held on fairgrounds are exempt from these regulations (see §23.250(G)). All other special events shall meet the following standards:

- A. The special event shall be limited to four (4) successive days.
- B. If deemed necessary by the Police Department, property access shall be controlled by special traffic personnel. Prior to receiving a permit, the applicant must provide a written communication from the Police Department indicating adequate provisions have been made.

- C. The Community Development Department shall approve the sanitary provisions. Prior to receiving a permit, the applicant must provide a written communication from the Community Department indicating adequate provisions have been made.
- D. The Building Inspector shall approve all electric and lighting facilities. Prior to receiving a permit, the applicant must provide a written communication from the Building Inspector indicating adequate provisions have been made.
- E. Maximum noise levels may be established. The levels shall be based on the distance of the site to adjoining residential uses and any history of complaints about similar events.
- F. The applicant shall provide surety for complete site restoration upon the event's conclusion or should the permit be revoked. (Ord. 2990 05/26/09)

SECTION 03.338 TEMPORARY CONCRETE/ASPHALT BATCH PLANT

Temporary asphalt or concrete plants may be allowed by permit for City and County road projects or State or Federal highway projects in certain zoning districts (see Table 3.110 A). All standards within this section shall be complied with to qualify as a temporary asphalt or concrete plant. If any one of these standards cannot be met, the plant shall be considered a Heavy Industrial use and shall comply with applicable regulations.

- A. The temporary asphalt or concrete plant permit shall be renewed annually and shall be limited to a total of three consecutive years.
- B. The temporary asphalt or concrete plant and related materials and equipment shall be located no closer than 1,000 feet to any residence other than the residence of the land upon which the limited plant is to be located.
- C. The temporary asphalt or concrete plant shall comply with State air pollution regulations and the applicant shall obtain a permit from the Kansas Department of Health and Environment prior to operating the plant.
- D. The applicant shall comply with State and County sanitation codes and obtain a permit from the Miami County Environmental Health Department.
- E. No contaminated soils shall be stockpiled on the site, used for remediation, or used in the operation of the temporary concrete or asphalt batch plant.
- F. All fuel tanks shall include fuel/spill containment systems as approved by the Kansas Department of Health and Environment and/or the Miami County Environmental Health Department.
- G. Any spills of materials capable contaminating ground water shall be clean immediately to the satisfaction of the Kansas Department of Health and Environment.
- H. No washing or cleaning of trucks or truck beds shall be allowed on site unless a wastewater containment system is installed and used to the satisfaction of the Kansas Department of Health and Environment.

- I. No waste, production materials, discarded equipment or other such items shall be buried on the site.
- J. All equipment and materials utilized in the operation of the temporary asphalt or concrete plant shall be removed from the site and the site shall be returned to its original condition, or better, within 30 days following completion of the construction project for which the plant was established.
- K. A surety in the form of a performance bond and/or letter of credit in the amount of 125% of the estimated road restoration/replacement costs along anticipated principal truck routes must be provided to the City Clerk. The Director of Public Works will determine this amount. This surety ensures that roads will be reconstructed to their original or better condition as the use concludes or the permit is revoked.
- L. A surety in the form of a performance bond and/or letter of credit in the amount of 125% of the estimated site restoration costs must be provided to the City Clerk. The surety ensures that the site will be returned to its original or improved condition as the use concludes or the permit is revoked.
- M. If deemed necessary by the Police Department, special traffic personnel shall control the property access. Such instances warranting traffic personnel may include locations at busy intersections or other extensive interference with primary traffic from trucks.
- N. An approved site plan as outlined in the "Procedures for Application for Permit for a Temporary Asphalt/Concrete Plant" shall be submitted with the permit application.
- O. A temporary entrance permit is required for access on to any City or County right-of-way.
- P. If the site is within ¼ mile of a water body, the applicant shall comply with Kansas Department of Transportation Special Provision #90M-37-R1, regarding environmental concerns.
- Q. A map of the designated haul roads shall be submitted with the permit application and the operation shall comply with Kansas Department of Transportation Special Provision #90M-6006. If the project is not a KDOT project, an agreement must be drawn between the City, County, and Special Provision #90M-6006).

(Ordinance 2783, 08/21/01)

SECTION 03.339 TRUCK LOAD SALES

Such uses shall meet the following standards:

- A. No such use shall be closer than 150 feet from any public road frontage.
- B. Each company and all associated franchises and/or divisions are permitted three (3) limited use permits per year. Each permit shall terminate after seventy-two (72) hours from initiation of the use.

- C. Each property meeting the locational requirements of this Ordinance is permitted three (3) limited use permits per year. Each permit shall terminate after seventy-two (72) hours from initiation of the use.
- D. The minimum site area is 3 acres. (Ordinance 2824, 01/28/03)
- E. A 0.4 opacity bufferyard shall be required between this use and any residential use (Ordinance 2824, 01/28/03)

SECTION 03.340 INTENSIVE AGRICULTURE

A Conditional Use Permit under this section shall be approved and issued in accordance with the following:

- A. Permits may be issued only for land in the Estate (E) zoning district.
- B. No permit shall be issued for land within the Lake Miola watershed or Bull Creek watershed above the City of Paola water intake.
- C. A finding is made that the subject property and its environs, as determined by the Planning Commission, will not be adversely affected by the number of animal units requested to be permitted. Specifically, that the applicant has clearly demonstrated that: (1) there is not credible evidence of increased water pollution, soil erosion or harm to other natural resources resulting from the issuance of the permit, and (2) the applicant has adequate facilities to handle the proposed number of animal units. In making such a finding, the carrying capacity of the property and likelihood of adverse impact shall be examined not only with respect to present conditions but also with respect to reasonable expectation as to change conditions during the entire period of time the permit is to be in effect.
- D. When issuing a Conditional Use Permit an expiration date shall be attached thereto. In establishing such date the Planning Commission and Governing Body shall consider the request of the applicant; size of the tract, parcel or lot; type of livestock; number of animal units; and the nature and character of the livestock operation. Expiration of a permit shall not in any way prevent application for new permit.

SECTION 03.345 DANGEROUS ANIMALS

- A. No person shall keep or be permitted to keep any dangerous animal as a pet.
- B. The dangerous animal(s) shall be kept in a zoo, an accredited educational or medical institution, museum or other place where they are kept as live specimens for the public to view, in a circus or carnival, or in a licensed veterinary hospital for treatment.
- C. Applicants must provide documentation acceptable to the Planning Commission identifying:
 - a. The number and general description of all animals for which the permit is sought.
 - b. Any information known to the applicant concerning the vicious or dangerous propensities of all such animals.
 - c. The housing arrangements for all such animals with particular details as to safety of structure, locks, and fencing.

- d. Proposed safety precautions.
 - e. Noises or odors anticipated in the keeping of such animals.
 - f. Prior history of incidents involved the public health or safety involving any of said animals.
- D. Applicants must provide proof of insurance to cover those who may be injured or killed by said animals.
 - E. Applicants must provide a signed statement indemnifying the City and its agents and employees for any and all injuries resulting from said animals.
 - F. The Police Chief or his/her designated representative shall review all applications to keep dangerous animals and provide a recommendation to the Planning Commission. The applicant shall provide any additional information required by the Police Chief or his/her designee.
 - G. Animals may be replaced with others of the same kind, but the number of each shall not be in excess of the number allowed by the terms of the Conditional Use Permit. The owner shall notify the Zoning Administrator immediately upon the acquisition of any animal having a prior history of any incident involving the public health or safety, or resulting in any bodily injury or property damage.
 - H. Upon the sale of any dangerous animal, the owner shall immediately send notification of the sale along with the name and address of the buyer, the method of transporting the animal, the path of travel of such transportation, and the destination to the Zoning Administrator or his/her designated representative.
 - I. No conditional use permit shall be granted for more than one year.

(Ordinance 2799, 06/11/02)

SECTION 03.350 DOMESTIC EXOTIC ANIMALS/FARM ANIMALS AS PETS

- A. This section applies only to farm animals and exotic animals kept as pets and not commercial purposes.
- B. Minimum lot area is 3 acres.
- C. Maximum of 2 animals or 10 adult fowl/exotic cage birds or 1 animal and 5 adult fowl/exotic cage birds are allowed.
- D. A fence or cage of sufficient size, based on the carrying capacity of the land as defined by the Stockman's Handbook, must be provided. If not identified in the Stockman's Handbook, the zoning administration shall make a determination based on similar size/type animals identified in the handbook or by consulting a veterinarian.
- E. Proof of state permits (if applicable).
- F. The shed, yard, pen or other place which any animals or fowl are kept shall be maintained in a manner that is not offensive to those residing in the vicinity or annoying to the public.

(Ordinance 2799, 06/11/02)

SECTION 03.356 OUTDOOR RECREATION

- A. 0.2 opacity bufferyard shall be provided on all property boundaries.
- B. The minimum site area is five acres.

(Ordinance 2824, 01/24/03)

SECTION 03.357 INDOOR RECREATION

- A. The minimum site area is five acres.
- B. Access shall be taken from a collector or arterial street.

(Ordinance 2824, 01/28/03)

SECTION 03.358 CAMPGROUNDS

A 0.6 bufferyard shall be provided. (Ordinance 2824, 01/28/03)

SECTION 03.360 AIRPORTS

- A. The minimum site area is 300 acres.
- B. There shall be 1,500 feet separation between this use and any residential or school use.

(Ordinance 2824, 01/28/03)

SECTION 03.361 CHRISTMAS TREE SALES

Christmas tree sales shall be permitted only in conjunction with and located at an institutional use.
(Ordinance 2824, 01/28/03)

SECTION 03.362 Repealed (Ord. 2989 05/26/09)