



Public Works and Safety Committee
Standing Committee Meeting Agenda
Monday, May 23, 2016
5:00 PM

Location:

Municipal Office Building
701 N 7th Street
Kansas City, Kansas 66101
5th Floor Conference Room (Suite 515)

Name

Absent

Commissioner Melissa Bynum, Chair

☐

Commissioner Harold Johnson

☐

Commissioner Mike Kane

☐

Commissioner Angela Markley

☐

Commissioner Jane Philbrook

☐

Jeff Bryant, BPU Member

☐

I. Call to Order / Roll Call

II. Revisions to May 23, 2016 Agenda

III. Measurable Goals

Item No. 1 - MEASURABLE GOALS: FIRE DEPARTMENT

Synopsis: Presentation and discussion of measurable goals for the Fire Department, presented by John Paul Jones, Fire Chief.

Tracking #: 16544

IV. Committee Agenda

Item No. 1 - PRESENTATION: KCKPD FOUNDATION

Synopsis: Presentation by the Kansas City, KS Police Department (KCKPD) Foundation, a foundation to help the Police Department with projects, equipment, and programming needs, submitted by Terry Zeigler, Police Chief

For information only.

Tracking #: 16587

Item No. 2 - DISCUSSION: KCKPD TRAFFIC SUPPORT UNIT

Synopsis: Discussion regarding the Kansas City, KS Police Department (KCKPD) Traffic Support Unit's possible relocation on Leavenworth Road, submitted by Terry Zeigler, Police Chief.

For information only.

Tracking #: 16586

Item No. 3 - ORDINANCE: AMENDMENT TO ANIMAL CODE AND PLANNING AND ZONING CODE REGARDING ALLOWANCE OF CHICKENS

Synopsis: Proposed amendments to the Animal Code and Planning and Zoning Code for the allowance of chickens, submitted by Jennifer Myers, Senior Attorney.

Tracking #: 16590

V. Public Agenda

VI. Adjourn



Staff Request for Commission Action

Tracking No. 16544

Full Commission Meeting Date: NA

Committee: Public Works & Safety

Date of Standing Committee Action: 5/23/16

(If none, please explain):

Publication Required: No

<u>Date:</u> 04/13/2016	<u>Contact Name:</u> John Paul Jones, II, Chief	<u>Contact Phone:</u> x5948	<u>Contact Email:</u> jppjonesii@kckfd.org	<u>Department/Division:</u> Fire Department
<u>Item Description:</u> Presentation and discussion of measurable goals for the Fire Department.				
<u>Action Requested:</u> For information only				
<u>Budget Impact: (if applicable)</u> Amount: Source: Included In Budget: Other (explain):				
<u>Attachments List:</u>				



Staff Request for Commission Action

Tracking No. 16587

Full Commission Meeting Date: NA

Committee: Public Works & Safety

Date of Standing Committee Action: 5/23/16

(If none, please explain):

Publication Required: No

<u>Date:</u> 05/10/2016	<u>Contact Name:</u> Terry Zeigler, Police Chief	<u>Contact Phone:</u> x6009	<u>Contact Email:</u> tzeigler@kckpd.org	<u>Department/Division:</u> Police Department
----------------------------	--	--------------------------------	---	--

Item Description:

KCKPD Foundation: A foundation to help the Police Department with projects, equipment and programming needs.

Action Requested:

For information only

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:



Staff Request for Commission Action

Tracking No. 16586

Full Commission Meeting Date: NA

Committee: Public Works & Safety

Date of Standing Committee Action: 5/23/16

(If none, please explain):

Publication Required: No

<u>Date:</u> 05/10/2016	<u>Contact Name:</u> Terry Zeigler, Police Chief	<u>Contact Phone:</u> x6009	<u>Contact Email:</u> tzeigler@kckpd.org	<u>Department/Division:</u> Police Department
----------------------------	--	--------------------------------	---	--

Item Description:

KCKPD Traffic support unit possible relocation on Leavenworth Road

Action Requested:

For information only

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:



Staff Request for Commission Action

Tracking No. 16590

Full Commission Meeting Date: 6/9/16

Committee: Public Works & Safety

Date of Standing Committee Action: 5/23/16

(If none, please explain):

Publication Required: No

<u>Date:</u> 05/11/2016	<u>Contact Name:</u> Jennifer Myers, Senior Attorney	<u>Contact Phone:</u> x5084	<u>Contact Email:</u> jmyers@wycokck.org	<u>Department/Division:</u> Police Department
----------------------------	--	--------------------------------	---	--

Item Description:

Proposed amendments to the Animal Code and Planning and Zoning code for the allowance of chickens.

Action Requested:

Approval of the proposed changes to the animal code and planning and zoning code to go to full commission for adoption.

Budget Impact: (if applicable)

Amount:

Source:

Included In Budget:

Other (explain):

Attachments List:

Chicken Ordinance Changes 5-12-16, Chicken Ordinance Changes Clean 5-12-16, Memo to BOC

Published _____

ORDINANCE NO. _____

AN ORDINANCE relating to Chapter 7 Animals, amending Sections 7-1, 7-170, 7-175, 7-176, 7-177 of the Unified Government code, and repealing original Sections 7-1, 7-170, 7-175, 7-176, 7-177 and 7-178, and relating to Chapter 27, Planning and Development, amending Sections 27-340, and 27-593 of the Unified Government Code, and repealing original sections 27-340 and 27-593.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Chapter 7 sections 7-1, 7-170, 7-175, 7-176, 7-177 and 7-178 of the Unified Government code, be amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 7-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal. Grooming of animals is also required so that they are free from dangerous matting and nail overgrowth which can affect their health and may be painful.

Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death.

Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.

Adequate water means a continual access to a supply of clean, fresh, potable water.

Animal means any live vertebrate creature except a human.

Animal control director means the program coordinator of the unified government animal shelter and/or his designee.

Animal control officer means an officer or employee of the office of director of animal control, and officer or employee of the unified government public health department, whose duties involve the enforcement of the provisions of this chapter, or an officer of the police department.

Animal euthanasia means the humane destruction of an animal that may be accomplished by any of those methods authorized by K.S.A. 47-1718.

Animal shelter means the facility or facilities operated by the unified government or its authorized agent for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Cat means any member of the species, felis domesticus.

Commercial animal establishment means any pet shop, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer, animal dealer, or any establishment performing one or more of the principal activities of the aforementioned establishments.

Dog means any members of the species, canis familiaris.

Ear-tipped feral cat means a cat that is unsocialized to humans and has a temperament of extreme fear or resistance to contact with humans that exhibits a straight-line cutting of the tip of its ear to indicate that it has been sterilized and vaccinated against rabies.

~~Fowl means any animal that is included in the zoological classification Aves. Fowl shall~~ mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.

Health director or director of health means the director of the unified government public health department. The term includes the director's authorized representative. ~~Person means any owner or individual having the right of property in any animal, who keeps or harbors an animal, who has it in his care, acts as its custodian or who knowingly permits an animal to remain on or~~

~~about any premises occupied by such person. Native wildlife remaining on or about any premises shall not be included in this definition.~~

Owner means any person having a right of property in an animal or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by minors upon their premises.

Person means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

ARTICLE V- LIVESTOCK, ETC.

DIVISION 2. - KEEPING REGULATIONS

Sec. 7-170. - Permit.

- (a) It shall be unlawful for any person to keep or maintain any livestock or fowl or any pen for the same within the city in areas not zoned agricultural without first obtaining a permit to do so from the office of director of animal control.
- (b) Application for the permit shall be made to the office of director of animal control on forms furnished by the office. Such application shall state the name of the person so desiring to keep such animals or fowl and maintain pens therefore within the city, the location of the premises where the same are to be kept and maintained, the kind of animals and fowl to be kept and maintained, and any other information that the office may desire. Such application shall be signed by the applicant and shall bear the date that the application is made. No permit will be granted unless the request conforms with the zoning ordinances of the city. The initial permit fee and annual renewal fee shall be set by the county administrator.
- (c) A permit issued under this section shall be renewed annually without charge. Such permit shall not be transferable from one person to another or from one premises to another. This permit provision shall not be applicable to birds, less than five in number, kept in the residence as pets, such as canaries, parakeets, parrots, finches and doves.
- (d) A permit issued under this section may be cancelled by the office of director of animal control upon failure of the holder thereof to comply with any provision of this chapter. No person who has had a permit cancelled shall be permitted to make application for another permit within one month from the date of the cancellation of a previous permit. Permitted premises shall be inspected upon complaint. Permit holder has no authority to refuse inspection without forfeiting the issued permit.
- (e) No permit shall be granted unless applicant has no outstanding codes violations on the premises.
- (f) It shall be unlawful for any livestock or fowl to be off the premises of the owner, keeper, harborer, or permit holder. Any livestock or fowl found off the premises of the owner, keeper, harborer, or permit holder may be impounded pursuant to 7-46.

Sec. 7-175. - Small animals and fowl in pens.

(a) Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl,

guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zoned agricultural with the following exceptions:

(1) Ducks.

(2) Female chickens.

(a) (b) This section does not apply to the keeping of dogs or cats.

(b) (c) Except where fowl or animals are kept for sale within a bona fide produce market, commission house or store for the purposes of trade and while so kept are confined in small coops, boxes or cages, or where such animals or fowl are kept for purposes of research in a laboratory, or less than five birds are kept in a home as pets, such as canaries, parakeets, parrots, finches, and doves, it shall be unlawful for any person to keep or maintain any chicken coop, dove cote, rabbit hutch or other yard establishment for the housing of fowl or small animals closer than 400 25 feet to the nearest portion of any building occupied by or in anywise used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than 25 10 feet to the property line of the lot. Animals and fowl so kept or maintained shall be enclosed on all sides and shall not be allowed to run or fly at large, except for homing pigeons.

(d) The maximum number of Permitted Fowl shall not exceed one fowl per 500 square feet of lot size, rounded down.

(e) The maximum number of Permitted Fowl shall not exceed fowl, regardless of the size of the lot.

Sec. 7-176. - Maintenance of enclosures for fowl.

All earthen yards or runways wherein 5 or more fowl are kept or permitted to be shall be spaded and then limed once every three months from the month of April through the month of December. For the purpose of killing flies and other insects, all structures, pens or coops wherein fowl are kept or permitted to be shall be sprayed with such substances as will eliminate such insects.

Sec. 7-177. - Condition of enclosures.

(a) This section does not apply to the keeping of dogs or cats.

(b) Any structure, pen, coop, or yard wherein animals or fowl are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Applicants for permits shall include a vermin control plan with the application. Permit holders shall use bait boxes to safely poison rodents and vermin. The enclosed area of all such structures shall be constructed in such a way as to be dry at all times on the inside. The person maintaining any aforementioned structure, pen, coop or yard in the city does by such act of maintenance authorize the director of health to, at any time, inspect any such structure or premises and issue any such order as may be necessary to carry out the provisions of this section.

(c) For every three chickens, a minimum of one laying box space, with a minimum size of one square foot, shall be required. Each laying box shall contain adequate clean bedding material such as hay or other soft material. Laying boxes shall not be required for ducks.

~~Sec. 7-178. - Subsequent development of adjacent property.~~

~~Should adjacent property be later developed, or residential structures located closer than the distances in section 7-172 and section 7-175, the owner or keeper of such animals shall move or restrict such animals to comply with these provisions.~~

Secs. 7-1798—7-209. - Reserved.

Section 2. That Chapter 27, sections 27-340 and 27-593 of the Unified Government code, be amended to read as follows:

Chapter 27- PLANNING AND DEVELOPMENT

DIVISION 1- GENERALLY

Sec. 27-340. - Definitions.

For the purpose of this article, certain terms and words are herewith defined as follows: Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular. The term "building" includes the term "structure." The term "shall" is mandatory and not directory. Definitions relating specifically to floodplain zoning, signs, and landscaping and screening are included elsewhere.

Accessory building means a detached building or an attached portion of the main building, the use of which is incidental and subordinate to that of the main building.

Accessory use, accessory structure means a use of land or structure which involves all of the following characteristics:

- (1) Subordinate to and serves a principal use or structure.
- (2) Subordinate in area, extent and purpose to the principal use or structure served.
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or structure served.
- (4) Located on the same lot or lots, under the same ownership and in the same zoning district as the principal use or structure.

Adult book store or adult video store means an establishment having as a predominant part of its stock in trade or predominant portion of its revenues, books, magazines, photographs, pictures, periodicals, recordings or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and limited in sale of such sexual material to adults.

Adult nightclub or cabaret means any place serving food or drink, regardless of whether alcoholic beverages are served, which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, similar entertainers, waitresses or waiters, or features material relating to specified sexual activities or specified anatomical areas.

Adult theater means a facility with a capacity of two or more persons used predominantly for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

Agricultural use refers to the use of land where such land is devoted to the production of plants, animals or horticultural products, including, but not limited to, forages, grains and feed crops, dairy animals and dairy products, poultry and poultry products, beef cattle, sheep, swine and horses, bees and apiary products, trees and forest products, fruits, nuts and berries, vegetables, or nursery, floral, ornamental and greenhouse products. The term "agricultural use" shall not include use of land for recreational purposes, suburban residential acreage, rural home sites or farm homes sites and yard plots

whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Alley means a public right-of-way no wider than 24 feet that affords only a secondary means of access to abutting property.

Alteration means any addition, removal, extension or change in the location of any exterior wall of a building.

Antenna means any structure or device used to receive or transmit electromagnetic waves.

Apartment house means any building or portion thereof that contains three or more dwelling units.

Building means a permanently erected structure having a roof supported by columns or walls.

Building, completely enclosed, means a building separated on all sides from the adjacent open spaces or from other buildings or structures by a permanent roof, and by exterior walls having only windows and normal entrance or exit doors, or by party walls.

Bulk means a composite characteristic of a given building as located upon a given lot, not definable as a single quantity, but involving all of the following characteristics:

- (1) Size and height of building.
- (2) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings.
- (3) Gross floor area of the building in relation to lot area (floor area ratio).
- (4) All open spaces allocated to the building.
- (5) Amount of lot area provided per dwelling unit.

Campground means an area of land, including supporting sanitary and other facilities, for the overnight or temporary parking of recreational vehicles and other modes of camping while traveling by auto.

Children's day care and nursery centers means facilities where parttime lodging and meals are provided, excluding permanent or overnight lodging, for six or more children in return for compensation. For the purpose of this article, family day care homes under state regulations will not be included in this definition.

Court means an open, unoccupied space, other than a yard, bounded on three or more sides by exterior walls of a building or by exterior walls of a building and lot lines on which walls are allowable.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the high point of the crown of the street in front of the building shall be used.

Decibel means a unit of measurement of the intensity (loudness) of sound. In this article, decibel levels shall be measured on the A scale and referred to as dB(A).

Detached means a building that does not have a wall, roof or other structural member in common with or in contact with another building.

Dismantled means that a number of useful parts, including but not limited to, tires, batteries, doors, hoods, or windows, have been removed from the automobile as to render the automobile unsafe to operate.

Dog kennel means any premises where four or more dogs are ~~owned~~, boarded, bred and/or offered for sale.

Drive means an improvement which affords a means of vehicular access to or through an area and which is owned and maintained by the owner of the property it serves.

Drive-in or drive-through establishment means a place of business being operated for the retail sale of food and other goods, services, or entertainment wherein patrons may be served or otherwise conduct

their business while remaining in their automobiles. A restaurant that does not provide at least 15 seats within the enclosed interior of the building shall be considered a drive-in establishment.

Dwelling means a building or portion thereof intended for occupancy for residential purposes but not including hotels, motels, roominghouses, nursing homes, temporary shelters, tourist homes, or trailers.

Dwelling house, condominium, means a building containing dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the state.

Dwelling, multiple-family, means a dwelling, or portion thereof, containing three or more dwelling units.

Dwelling, single-family, means a dwelling containing one dwelling unit.

Dwelling, two-family means a dwelling containing two dwelling units, a duplex.

Dwelling unit means one or more rooms constituting all or part of a dwelling and which are arranged, designed, used or intended for use exclusively as a single housekeeping unit for one family, and which includes cooking, living, sanitation and sleeping facilities.

Family means one or more persons who are related by blood or marriage, including any foster children, a group of not more than five persons living together by joint agreement on a nonprofit cost sharing basis, or a combination of persons related by blood or marriage along with no more than two unrelated adults to a maximum number of five persons living together and occupying a single housekeeping unit with single kitchen facilities. In addition, up to ten persons, including eight or fewer persons with a disability or handicap and not to exceed two staff residents residing in a dwelling shall be considered to be a family. Handicapped persons are defined in title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Flea market means a market, indoors or out of doors, where new or used items are sold from individual sellers, where each seller operates independently from other sellers. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books and used magazines. The term "flea market" is interchangeable with and applicable to "swap meet," "indoor swap meet," or other similar terms regardless of whether these events are held inside a building. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular form of business and therefore subject to regulation.

Floor area means the total floor area designed for tenant or owner occupancy measured from the exterior surfaces of outside walls and including mezzanines, unfinished floors and basements, but excluding loading docks and service corridors or any common areas not leasable to individual tenants.

Floor area, habitable, means the area of all floor space on all levels measured from the exterior surface of outside walls, but excluding garages, porches and nonhabitable basements as determined by the International Building Code, as adopted and amended by the unified government.

Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zone agricultural with the following exceptions:

(1) Ducks.

(2) Female chickens.

Garage, private, means a building or a portion of a building, not more than 1,000 square feet in area, in which only motor vehicles used by tenants of the building or buildings on the premises are stored or kept.

Gross vehicle weight rating or GVWR means the manufacturer's rating of the combined weight of the vehicle and the maximum load it is designed to carry. Where such information is not available, the following shall be used to make the determination:

- (1) Vehicles of no greater than 10,000 pounds GVWR: Pickup trucks and passenger vans, trucks considered one-ton rated capacity or less.
- (2) Vehicles of no greater than 30,000 pounds GVWR: Commercial-type trucks of wide variety, but excluding dump trucks, semitrailer trucks, trucks with tandem axles, and other similar heavy-duty trucks.

Group dwelling means a residential dwelling occupied as a residence by persons who do not constitute a family.

Halfway house means a facility, such as a community corrections center, serving temporary residents who have been released or diverted from an institution. A nonfamily residential dwelling that houses persons protected by the Fair Housing Act, such as the mentally ill or the mentally retarded, is a group dwelling, not a halfway house, so long as it is clearly the domicile of the residents and the typical length of stay is long enough to differentiate it from a motel or hotel.

Heavy automotive/truck service, repair, and mechanics means major mechanical repair shops including any of the following:

- (1) Body work and painting.
- (2) Tire recapping.
- (3) Engine and transmission repair.

Height of building or structure means the vertical distance from the average elevation of the ground abutting a building or structure to the highest point of a building or structure. Height, when not regulated in feet, shall be regulated by stories and a story shall be equal to 12 feet for purposes of measuring structures other than buildings.

Home occupation means an activity for gain customarily carried on in a dwelling or structure accessory to a dwelling, clearly incidental and secondary to the use of the dwelling for residential purposes. In general, a home occupation is an accessory use so located and conducted that the average neighbor under normal circumstances would not be aware of its existence. Such activity may employ only members of the immediate family residing on the premises.

Inoperable means that an automobile or truck which cannot be driven away in a safe condition.

Inoperable vehicles means vehicles missing major body, chassis, or engine components or not fit for street travel.

Light automotive service and maintenance means any of the following:

- (1) Tire and battery sales and installation.
- (2) Brakes and other similar diagnostic and repair services.
- (3) Auto detail shops, tune-up shops, upholstery shops, radiator repair shops, lubrications service, sound system shops, or alignment and suspension services.

Livestock means horses, mules, cattle, sheep, and goats.

Lot means a parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this article, and having its principal frontage upon a public street. A lot may consist of one or more platted lots, or tracts as conveyed, or parts thereof.

Lot or site area means the land area within the tract or lot lines and excluding street right-of-way.

Lot, corner means a lot abutting upon two or more streets at their intersection. A corner lot may be deemed to front on either street frontage.

Lot, depth means the horizontal distance from the front street line to the rear line.

Lot, interior means a lot whose side lines do not abut upon any street.

Lot line, front means the street line, which is the boundary between a lot and the street on which it fronts.

Lot line, rear means the boundary line that is opposite the most distant from the front street line, except that in the case of uncertainty, the building official shall determine the rear line.

Lot line, side means any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

Lot, through means an interior lot having frontage on two streets.

Lot width means the horizontal distance between side lines, measured at the front building line.

Mobile home means a structure, transportable in one or more sections, which has a body width of eight feet or more and a body length of 36 feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein and which was designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture. This term shall not include a recreational vehicle. A structure which otherwise falls within this definition shall be considered a mobile home even if it does not have the required dimensions so long as it is in place as of May 1, 1995, and has a model year of no later than 1969.

Mobile home park means a tract of land meeting the requirements of this article containing suitable drives, utilities and other supporting elements and devoted to the sole purpose of accommodating mobile homes on a permanent or semipermanent basis.

Mobile home space means that area of land within a mobile home park set aside for use as a site for one mobile home, including the open spaces around the mobile home, as are required in this article.

Nonvehicular open space means uncovered areas such as lawns, planting space, walks, terraces, sitting areas and balconies, one-half of covered nonvehicular open space, and clubhouses and indoor recreational areas. No paved areas for vehicular traffic or parking may be included as nonvehicular open spaces.

Overlay district means a zoning district that acts in conjunction with the underlying zoning district or districts.

Parking Lot, Commercial means a paved area or structure intended or used for the off-street parking of operable motor vehicles on a temporary basis, other than accessory to a principal use.

Performance standards means criteria to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards or glare, heat or other effects generated by or inherent in uses of land or buildings.

Planned zoning district means the zoning of a lot or tract to permit that development as is specifically depicted on plans approved in the process of zoning that lot or tract.

Private club means an organization licensed hereunder to which the club members shall be permitted to resort for the purpose of consuming alcoholic liquor.

Recreational vehicle is a vehicle that is:

- (1) Built on a single chassis.
- (2) Four hundred square feet or less when measured at the exterior.
- (3) Self-propelled or permanently towable by a light duty truck.
- (4) Designed not as a dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

Residentially zoned area means an area zoned A-G, R, R-1, R-1(B), R-2, R-2(B), R-3, R-4, R-5, R-6, R-M, or these districts' planned equivalents.

Ruined, means that an automobile which is substantially damaged to the extent that it is valueless or useless as an operable automobile or truck or parts thereof are only useful as materials for reprocessing, melting, remanufacturing, or disposal for salvage or scrap material.

Seating area means open space within any enclosed structure used for purposes of seating numbers of people for any purpose, including all aisles necessary for circulation.

Self-contained recreational vehicle is a recreational vehicle that includes all of the following:

- (1) Heating and/or air conditioning.
- (2) A sink and shower.
- (3) Self-contained toilet.
- (4) Cooking facilities.
- (5) Refrigerator.

Site area means the land area within the tract or lot lines and excluding street right-of-way.

Specified anatomical area means any of the following:

- (1) Any less than completely or opaquely covered:
 - a. Human genitals, pubic region.
 - b. Buttocks.
 - c. Portion of the areola of the female breast.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Stable, riding means a structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire or sale.

Storm protection areas means any new residential use, for multifamily residential development or single-family residential development or which a preliminary plan/plat application is approved by the planning commission, shall contain an area of storm protection. Such area may be a room or space, such as a basement, a structure complying with Federal Emergency Management Agency Publication 320 ("Taking Shelter From the Storm") or Publication 361 ("Design and Construction Guidance for Community Shelters"), or subsequent updates thereto shall comply with this requirement. For residential uses designed specifically for occupancy by those age 55 and over, the basement, safe room, or community shelter must be within the structure where the particular dwelling unit is located or within 15 feet of the structure in question and accessed under roof.

Story means that part of a building included between the surface of one floor and the surface of the floor above, or if there is no floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top-story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half-story when between 50 and 75 percent of the area of its exterior walls contain windows or doors permitting the entrance of daylight and outside air.

Street means a right-of-way that affords principal means of vehicular access to property abutting thereon.

Street line means the dividing line between the street right-of-way and the abutting property.

Street, private means a street which provides principal access to abutting property, but which is not maintained by the unified government. A private street may exist within dedicated public right-of-way.

Structural alteration means any change other than incidental repairs in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to a permanent location on the ground, including, but not limited to, signs, and excepting customary utility poles, retaining walls and boundary fences.

Tavern means an establishment which sells cereal malt and/or alcoholic beverages for consumption on the premises; provided, however, this definition shall not include establishments whose sales of food for consumption on the premises exceed the sales of cereal malt and alcoholic beverages served.

Telecommunications tower means a tower constructed as a freestanding structure or in association with a building, other permanent structures or equipment, containing one or more antennas intended for transmitting or receiving television, radio, digital, microwave, cellular, telephone or similar forms of electromagnetic radiation.

Trailer means a vehicle, other than a mobile home, equipped with wheels and normally towed over the road behind a motor vehicle.

Trailer advertising means a trailer that carries or has attached thereto a sign, billboard or other media for advertising as the prime purpose and use of the trailer.

Trailer hauling means a trailer, as defined in this section, and designed and normally used for over-the-road transportation of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.

Used car/truck lot means the use of a parcel of land, either with or without structures, for the purpose of offering for sale, rent, or lease, automobiles, light duty trucks or heavy duty trucks.

Variance means a variation from a specific requirement in this article, as applied to a specific piece of property, as distinct from rezoning.

Wrecked means those automobiles or trucks that have more than 25 percent of the vehicle in damaged condition externally as to render it unsafe to operate.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street that is designated a major street on the major street plan, all yards abutting the street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback. On multibuilding projects where access is derived from private drives, the orientation of individual buildings shall be used to determine the type of yard along the project boundary.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard across the full width of the lot extending from the rear lot line to the rear line of the main building.

Yard, side, means a yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

ARTICLE VIII- ZONING

DIVISION 6- SPECIAL USE PERMITS

Sec. 27-593. - Allowable special uses.

(a) The following uses may be permitted under special use permit in any zoning district except as specifically limited herein:

- (1) Amusement parks, privately owned and operated athletic fields, and race tracks.
- (2) Assembly halls, community centers, exhibition halls, and convention centers.
- (3) Bingo parlors.
- (4) Children's day care and nursery facilities.
- (5) Concert halls, discotheques, and dance halls.
- (6) Crematories, when not an accessory use to a funeral home.
- (7) Electronic message centers in districts C-2 through M-3.
- (8) Extraction of raw material, such as rock, gravel, and sand.
- (9) Farm wineries.
- (10) Fowl. Keeping of permitted fowl in lots not zoned agricultural:

(a) closer than 25 feet to the nearest portion of any building occupied by or in any way used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than 10 feet to the property line of the lot.

(b) exceeding one fowl per 500 square feet of lot size, rounded down.

(c) exceeding a total of _____ fowl regardless of lot size.

~~(140)~~ (11) Golf driving ranges, miniature golf courses.

- ~~(112)~~ Home occupations.
- ~~(123)~~ Hospitals, special purpose hospitals and other facilities for treatment of humans.
- ~~(134)~~ Institutions of an educational, religious, philanthropic or eleemosynary nature.
- ~~(145)~~ Keeping of livestock on acreage between one and five acres.
- ~~(156)~~ Microbreweries.
- ~~(167)~~ Motels, hotels, motor hotels.
- ~~(178)~~ Nursery sales office, building, greenhouse or area.
- ~~(498)~~ Nursing and convalescent homes.
- ~~(4920)~~ Off-site directional signs for residential land developments.
- ~~(201)~~ Off-street parking lots for passenger vehicles.
- ~~(211)~~ Outdoor advertising signs whenever the zoning lot has a minimum of 2,500 square feet in area and is located abutting a freeway or expressway in the C-2 through M-2 districts.
- ~~(222)~~ Outdoor motion picture theatres.
- ~~(234)~~ Private or commercial facilities for tennis, handball, racquet ball or similar recreation.

Comment [KB1]: We discussed that the keeping of permitted fowl go at #31 after telecommunications, but on closer examination, this special use list is in alphabetical order. Before renumbering, we wanted to check with Planning & Zoning. Should this go at the end, or here?

- (245) Production or assembly of measuring and controlling instruments, optical, medical, and photographic equipment, and semiconductors and electric components which are small, precision made and of relatively low production bulk in the C-D and C-3 districts.
- (256) Public utility services or public service corporations, which buildings or uses are deemed reasonable and necessary for the public convenience and welfare.
- (267) Riding stables and tracks.
- (278) Temporary use of land for commercial or industrial uses; provided, however, that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated shall be temporary and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall not be approved for more than two years.
- (299) Veterinary clinics, dog kennels.
- (2930) The unified government board of commissioners may, upon application by the proponent, issue a special use permit for the use of a specified parcel of land for such temporary shortterm uses as trade shows, street fairs, expositions, promotional ventures and entertainment, without publication or posted notice and without referral to the planning commission, provided the following conditions are met:
 - a. The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.
 - b. The shortterm special use shall not be operated longer than ten consecutive days.
 - c. Upon the cessation of the shortterm special use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

If, after giving full consideration to the effect of the requested special use on the neighborhood and the community, the unified government board of commissioners deems the special use reasonable, the special use permit for the shortterm use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit. Such permit may be approved in any zoning district, and the required fee shall be paid.
- (301) Wireless communication facilities.
 - a. Findings. The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities. The unified government has diverse and unique landscape features, natural resources, and residential, commercial and historic neighborhoods that must be protected with quality land use development regulations, including regulations governing the location and design of wireless communication facilities.
 - b. Purpose. The purpose of these regulations is to ensure that wireless communication facilities are appropriately designed and sited to ensure compatibility with current and future land uses, while ensuring that wireless service providers are able to provide customers with adequate wireless service. Compatibility touches upon several key factors, including:
 - 1. Aesthetics, including scale (both in terms of mass and height) in association with onsite and offsite land uses.
 - 2. Preservation of open space.
 - 3. Use of existing structures to blend wireless communication facilities into existing structures.
 - 4. Safety.

5. Compliance with existing development guidelines.
6. Siting of wireless communication facilities to ensure minimal disruption to future development patterns, both onsite and offsite.

Compatibility in light of the above factors may be more readily achieved by applicants through (i) long-range planning for the needs of wireless service providers; (ii) technical documentation of the need for certain wireless communication facilities; (iii) collocation on existing structures and integration of those facilities with existing architectural features; (iv) use of design techniques that minimize the visual appearance of wireless communication facilities; (v) use of stealth communication towers where existing structures are not available upon which to place wireless communication facilities; and (vi) neighborhood participation in the siting and design of wireless communication facilities.

- c. Definitions. The following definitions control this chapter. Other terms used throughout this chapter shall have the same meaning as elsewhere defined in the zoning ordinance, if defined therein.

Administrative determination. A final decision by the director of planning or his/her designee.

Applicant. The person or entity making application for a wireless communication facility pursuant to this chapter.

Base station equipment. Base transceiver station equipment, whether stand-alone "outdoor equipment", wall-pack equipment, or equipment located within an equipment shelter.

City. The City of Kansas City, Kansas.

Collocation. The act of placing a wireless communication facility on an existing (i) building, (ii) water tank, (iii) billboard, (iv) communication tower, or other previously approved structure within the city's boundaries.

Collocation installation. A wireless communication facility located on an existing (i) building, (ii) water tank, (iii) billboard, (iv) communication tower, or other previously approved structure within the city's boundaries.

Communication tower. An uninhabitable man-made support structure constructed for the primary purpose of placement of antennas for the transmission and distribution of radio frequency signals.

Governing body. The elected political body of the city.

Guyed communication tower. A communication tower structurally supported by guy wires.

Lattice communication tower. A communication tower structurally supported through the cross-bracing of steel members, and sometimes also referred to as a "self-support tower".

Monopole communication tower. A concrete spun or prefabricated tubular steel or carbon communication tower.

Planning department. The city's urban planning and land use department.

Property owner. The owner or owners of real property in fee simple.

Stealth communication tower. A monopole communication tower designed, in order of preference (i) with antenna mounting hardware and antenna mounts that are concealed within a canister so that the antennas are not visible; (ii) with antennas that are flush mounted to the pole to minimize the horizontal profile of the structure; or (iii) to be

integrated into stadium lights at public parks or schools, or as light standards in parking lots.

Tower owner. An owner of a communication tower.

Wireless communication facility. An antenna installation, associated coaxial cable and associated base station equipment used by a wireless service provider to provide wireless service to customers. If a wireless communication facility is located on a communication tower, the communication tower and wireless communication facility are collectively the wireless communication facility.

Wireless service provider. An entity holding a license issued by the Federal Communications Commission to send and receive radio frequency signals in the cellular and PCS band spectrums within the jurisdictional boundaries of the city.

Zoning ordinance. The zoning ordinance of the city of Kansas City, Kansas, codified in chapter 27 of this Code.

- d. Burden of proof. As to the contents of the application for any wireless communication facility required hereby, the burden of proof of establishing (i) compliance with this chapter; and (ii) the need for the wireless communication facility, from a technical perspective, rests squarely on the applicant for the wireless communication facility to establish compliance by clear and convincing evidence.
- e. Applicability of chapter—Conflict. This chapter applies to the construction and maintenance, repair, upgrade and operation of wireless communication facilities and communication towers. Wireless communication facilities may be permitted subject to administrative determination, permitted by special use permit, or prohibited based upon the present zoning designation of the property on which an application for a wireless communication facility is made. The differences in designations recognize that, in certain circumstances, wireless communication facilities and communication towers may not be compatible with adjacent land uses or the health, safety and welfare of the community as a whole.

This chapter is supplementary to other dimensional and density standards set forth in the zoning ordinance. In the event of conflict between this chapter and any other chapter of the zoning ordinance, the provisions of this chapter shall control.

- f. Wireless master plan required. At the time of making application for a wireless communication facility, whether administratively or specially permitted, the wireless service provider which is the underlying user of the wireless communication facility, shall file with the city planning department a wireless master plan documenting the current location from which it operates wireless facilities in and within one-half miles of the jurisdictional limits of the city. The plan shall include the existing locations of wireless communication facilities currently operated by the user and any location at which the wireless service provider plans to construct new wireless communication facilities in the next three years. For each existing site location shown, the plan shall include the address, the name of the property owner, the height and orientation of the antennas at the site and a depiction of service coverage from the site (e.g., through a propagation map).

For proposed sites, the plan shall document the location(s) at which a wireless communication facility is anticipated to be constructed, the time in which it is anticipated to be constructed, and an explanation of the existing service deficiency.

The submission of a master plan in compliance with this section does not vest a wireless service provider with any right to construct a wireless communication facility in a region designated for future network expansion. If the wireless service provider's network design

changes, so as to render the presently filed master plan outdated or inaccurate, the burden to modify, supplement or amend the master plan is on the wireless service provider.

- g. Statement of cooperation. To minimize the aesthetic concerns associated with the proliferation of communication towers, any applicant for a new communication tower shall sign a statement indicating that it intends to rent space to other wireless service providers and allow collocation on its existing towers within the city's jurisdictional boundaries on commercially reasonable terms if it is technologically feasible. The provider shall not intentionally create technological issues for other carriers. This policy is designed to encourage the modification and/or reconstruction of existing communication towers in lieu of constructing new communication towers adjacent or in close proximity to existing communication towers.

All applicants further agree to cooperate with the city to provide the city and any technical consultant the city may retain with sufficient data to analyze an application filed pursuant to the provisions of this article.

- h. Designation of uses as administrative determination, specially permitted, and prohibited. Wireless communication facilities are authorized subject to the following:

	AG Zone	Residential Zones	Commercial Zones	Industrial Zones
Guyed Tower	Prohibited	Prohibited	Prohibited	Prohibited
Self Support Tower	Prohibited	Prohibited	Prohibited	Prohibited
Monopole Tower under 199 feet	Prohibited	Prohibited	Prohibited	Specially Permitted*
Stealth Tower between 80 and 199 feet	Specially Permitted*	Prohibited	Specially Permitted*	Administrative Determination*
Stealth Tower Under 80 feet	Specially Permitted	Specially Permitted	Administrative Determination*	Administrative Determination*
Collocation	Administrative	Administrative	Administrative	Administrative

Installation	Determination**	Determination**	Determination**	Determination**
--------------	-----------------	-----------------	-----------------	-----------------

*Subject to separation, setback and application submission requirements specified in this chapter.

**Subject to application submission requirements specified in this chapter, and provided that collocation in single family, two-family residential and agricultural zones is limited to nonresidential structures. Provided further that no collocation installation may be placed on any residential structure shorter than 30 feet in height, and any collocation on a structure shorter than 60 feet in height shall be integrated into the structure on which the wireless communication facility is placed.

The administrative determination, decision rests solely in the discretion of the director of planning, who may consider the future land use designation of the property or the area surrounding the property, based upon the city's comprehensive plan or any applicable area plan, neighborhood conditions, the existing or potential for the proliferation of wireless communication facilities in the surrounding area, or any other matter that, in the director of planning's discretion, warrants additional consideration or relates to the application. The applicant may appeal the administrative decision by filing for a special use permit within one month of the administrative determination.

- i. Who may apply for communication tower. No application for a communication tower will be accepted by the planning department unless accompanied by an affidavit by a wireless service provider that it is constructing and will own and operate the tower, or, if it will not own and/or operate the tower, that it will collocate on the communication tower within six months of issuance of a certificate of occupancy for the tower. Failure to comply with this statement will render the communication tower subject to the provisions for removal set out in [subsection n.2.] below. The purpose of this provision is to discourage the construction of speculative communication towers within the city's jurisdictional boundaries and to make clear that, if approved, these towers are constructed "at risk" and in the absence of use of the tower by a wireless service provider, the city retains the right to require its removal.
- j. Development standards applicable to construction of all wireless communication facilities.
 1. The following standards shall apply to all wireless communication facilities:
 - i. No commercial advertising shall be allowed on a wireless communication facility, unless that wireless communication facility is actually located on an existing, approved sign. wireless communication facilities may have safety or warning signs in appropriate places;
 - ii. No signals, lights or illumination shall be permitted on a wireless communication facility, unless required by the Federal Aviation Administration. Should lighting be required by state or federal law, the lighting shall be placed on the communication tower and designed in a way as to minimize, to the fullest extent possible, glare onto adjacent residential properties;
 - iii. Light fixtures may be attached if required by the FAA, as described in (vi) below or if part of a stealth communication tower design of or incorporated into and used for the illumination of athletic fields, parking lots, streets or other similar areas. Lighting of the accessory buildings for basic security purposes is permissible but may not result in glare on adjacent properties;

- iv. The height of a communication tower or wireless communication facility shall conform to the height limitations of an applicable overlay district, if an overlay is used;
 - v. All wireless communication facilities shall be sited to have the least intrusive visual effect, as is practical, on the environment and adjacent properties.
 - vi. For existing communication towers, lighting and painting requirements shall be in accordance with FAA guidelines. For new communication towers, if an option exists to light a tower in lieu of painting the tower, applicant must agree to light the tower.
- k. Application submission requirements for wireless communication facilities.

Prior to submission of an application for a communication tower or a wireless communication facility, the applicant shall arrange a pre-application conference with the director of planning. The director of planning will advise the applicant of the process that will be employed by his or her designee and discuss alternative designs, if appropriate.

The materials listed below must be submitted by the applicant to the planning department before the application shall be deemed complete and before an administrative determination is made or the submittal is forwarded to the planning commission for consideration. On receipt of an application, within one week thereof, the director of planning or his/her designee will notify the applicant if the application is complete. A finding that an application is complete has no bearing on the appropriateness of the use applied for and does not mitigate the director of planning's authority to (i) continue the matter for further investigation for review of the application materials provided; (ii) request additional technical information relating to compliance with the standards adopted herein.

At the time of application for a wireless communication facility or a communication tower, the applicant shall submit:

1. Written authorization from the owner of the property on which the wireless communication facility will be located.
2. A final development plan in accordance with subsection 27-277(g) of the zoning ordinance, showing existing and proposed structures, the location of the proposed wireless communication facility and/or other uses, access road(s) location, access road surface material, parking area, screening walls and materials, location and content of warning signs, exterior lighting specifications, a landscaping plan, land elevation contours, existing land uses and zoning designations surrounding the site. If any accessory structure is proposed, details of the structure, including elevations and proposed use of the structure, shall be included.
3. A title report and vesting deed, or certification of current ownership from the county register of deeds, documenting ownership of the property.

The following additional information is required for communication towers and [collocation] installations except for collocations on existing telecommunication tower facilities, as applicable:

- (a) Application submission requirements for communication towers (regardless of whether subject to approval by administrative determination or special use permit).
 1. Technical documentation of need for communication tower. No new communication tower shall be permitted unless the applicant demonstrates, based on substantial evidence and to the reasonable satisfaction of the city, that no existing communication tower or other collocation structure can accommodate the wireless service provider's proposed wireless communication facility. The applicant for a communication tower must present the following:

- i. A collocation study documenting the efforts of the wireless service provider to locate on existing structures within the area of deficient service;
 - ii. Propagation studies documenting deficiencies in wireless service by the wireless service provider;
 - iii. Drive test data, if requested by the director of planning or the planning commission or board of commissioners, to support the data depicted in the computer-generated propagation study models;
 - iv. Dropped call data from adjacent wireless communication facilities, separated according to site and by sector, to document the wireless service provider's deficiency in coverage and to document that a new communication tower in the precise region in which it will be located will alleviate the coverage deficiency if requested by the director of planning, or the planning commission or board of commissioners;
 - v. Documentation showing how a greater number of shorter towers or collocation on existing structures would not sufficiently satisfy the deficiency in service coverage;
 - vi. For any special use permit for a monopole tower, documentation explaining why a stealth communication tower cannot accommodate the wireless service provider's coverage needs, even if the use of a stealth communication tower results in the need for additional or shorter towers;
 - vii. If asserted as a reason for applying for a new communication tower, documentation that existing communication towers or structures do not have sufficient structural capacity to support the wireless service provider's wireless communication facility, and that existing or approved communication towers cannot be reinforced or modified; and
 - viii. Other limiting factors the applicant can demonstrate, not including the provisions of this chapter, that render existing communication towers or structures unsuitable for the wireless service provider's needs.
2. Security deposit. In addition to the special use permit and/or administrative determination filing fee applicable to all requests for wireless communication facilities except collocation facilities, an applicant for a communication tower may be required to deposit a fee of \$4,000.00 with the planning department to cover the cost of an independent study of the level of service in the area in question, and shall sign a form (i) authorizing the city to use those funds to hire consulting engineers to review the application and to advise the city on the extent to which the applicant has, or has not, met the burden of proof documenting the need for the tower as required by this chapter. Upon the conclusion of this technical review process funds remaining unexpended, if any, shall be refunded to the applicant, and the applicant shall be provided with an accounting for the funds expended. Any unused portion of the deposit will be returned to the applicant within 30 days of disposition of the application.
 3. Additional criteria for review. In addition to the standards and conditions listed in subsections 1 and 2 above, the city shall consider the following factors in determining whether or not to issue a special use permit or an administrative determination allowing the communication tower:
 - i. The height of the proposed communication tower;
 - ii. Proximity of the communication tower to residential structures and to residential district boundaries and property master planned for residential use;

- iii. Technical or engineering requirements limiting placement of the wireless communication facility at other, more appropriate areas, to provide the required coverage;
 - iv. Nature of uses on adjacent and nearby properties;
 - v. Surrounding topography, tree coverage and foliage (natural clutter);
 - vi. Design of the communication tower, based upon consideration of the preferences set out in the definition of stealth communication tower, to mitigate the visual obtrusiveness of the communication tower.
4. Setbacks and design standards. The following standards shall apply to communication towers:
- i. No communication tower may exceed 199 feet in height.
 - ii. The communication tower shall be set back from the property line in all directions a distance equal to at least the height of the communication tower, if the site is in the AG zone. The communication tower shall be set back from the property line in all directions a distance that is equal to at least one-half its height, if the site is zoned for commercial or industrial purposes. These setbacks may be waived upon receipt of a notarized letter from the fee owner(s) of the parcel from which the waiver is sought acknowledging consent to the waiver and the precise distance of the waiver required from this section.
 - iii. Communication towers other than stealth communication towers shall be set back from residential structures by a distance of 300 feet.
 - iv. Communication towers other than stealth communication towers shall be set back from all property zoned for residential use or planned for residential use, according to an adopted future land use plan or map, by a distance of 300 feet.
 - v. Distance to other communication towers. communication towers shall not be located closer than one-half mile from another communication tower, unless an applicant proposes a stealth communication tower less than 80 feet in height. In certain circumstances where existing towers are at capacity, the planning commission may recommend a variance to this requirement to the board of commissioners.
 - vi. Communication towers shall be designed and built to allow expansion at a later date to accommodate collocation by at least one additional wireless service provider for each additional 20 feet of height in excess of 60 feet; provided, however, that no communication tower is required to accommodate more than three wireless service providers.
 - vii. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any wireless communication facility, nor any lines, cable, equipment, wires or braces in connection with the facility, shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
 - viii. Coaxial cable and conduit from base station equipment to the wireless service provider's antennas shall be routed through entry and exit ports and shall be concealed from view (by traversing the distance between the base station equipment to the antennas through the internal portion of the tower) to the greatest extent possible.
 - ix. Screening.
 - A. Wireless communication facility compounds shall be screened with minimum ten-foot walls, from grade. These walls must be composed of

either (a) solid masonry or (b) wooden fencing set on steel rails with a maximum one-quarter-inch gap between wood slats and masonry columns with a minimum width of two feet and a maximum separation of 16 feet per column. The director of planning or his/her designee must approve all designs or variations to this standard.

- B. Landscaping. The applicant must submit a landscaping plan in accordance with section [27-699] of this chapter. Further, an applicant must provide the planning department with a watering plan/schedule for the first 12 months subsequent to the issuance of a certificate of occupancy for the wireless communication facility to ensure the landscaping will survive. The director of planning or his/her designee must approve all designs or variations to this standard.
 - C. All compound entry gates must be constructed of wooden slats set on steel rails.
- x. All compound facilities enclosing wireless communication facilities must be kept free of invasive weed and noxious plant species.
 - xi. Driveways. All driveways to compound facilities enclosing wireless communication facilities must be improved with a minimum three-inch thick asphaltic or cement surface.
 - xii. Compound size. No special use permit or administrative determination will be issued unless the applicant demonstrates that adequate base station equipment space is available for the number of collocators the communication tower is intended to accommodate.
 - xiii. Power and telephone line burial. Overhead power and telephone lines are prohibited. All power and telephone lines must be buried to a depth of 36 inches below grade, from the source of the utility to the base station equipment or other equipment requiring power associated with the communication tower or wireless communication facility.
 - xiv. Every communication tower shall be protected from trespass by unauthorized persons and shall contain an anti-climbing device to discourage climbing the communication tower.
 - xv. communication towers and wireless communication facilities shall be constructed using best available engineering practices to ensure life and property safety.
 - xvi. Mobile or immobile equipment not used in direct support of a wireless communication facility shall not be stored or parked on or adjacent the compound, unless repairs to the wireless communication facility are currently and actively being made.
 - xvii. Lighting of building entries that are part of wireless communication facilities for security is permissible, provided the lights are downward facing 180 degree fixtures with no greater than one foot candle power and are otherwise compliant with section [27-699(b)(9)] of this chapter.
 - xviii. All accessory buildings or structures accessory to communication towers shall meet all building design standards as listed in chapter 8, and require a building permit issued by the codes enforcement officer.
 - xix. All visible buildings, structures and equipment accessory to a communication tower shall be designed to blend in with the surrounding environment through the use of color, camouflage and architecture.

- xx. No communication tower site may be situated in a designated historic overlay district unless the city's historic preservation commission approves the location and design.

(b) Application submission requirements for collocation facilities.

1. Applications for collocation facilities, wherever located, shall be submitted as final development plans subject to administrative determination by the director of planning pursuant to section [27-212(g)] of this chapter.
2. The following standards apply to any proposal to attach a wireless communication facility to an existing structure:
 - i. The structure upon which collocation is proposed shall be at least 30 feet in height before a collocation facility may be erected upon, or attached to, it;
 - ii. The structure to which the collocation facility is proposed to be attached may not be a structure designated by the historic preservation commission as a historic structure or be in a designated historic overlay district unless the historic preservation commission approves that collocation;
 - iii. The addition of wireless communication facilities to an existing structure shall not cause the height of that structure to increase by more than the greater of (i) ten feet in height, or (ii) (a) 20 percent of the structure's then-existing height or (b) the maximum height allowed in that zoning district, whichever is greater but not to exceed 20 feet. Any proposed increase in height beyond these height restrictions shall require approval through the special use permit process;
 - iv. Collocation facilities erected upon, or attached to, existing structures shall not be subject to standard setback requirements;
 - v. Subject to applicable codes, collocation facilities, including accessory buildings and structures to be located on the same property, shall be located on the roof of the structure when the collocation structure is a building. If the accessory equipment, buildings and other structures can be safely located on the roof of the structure, the equipment (not including antennas) shall be set back from the edge of the roof at least five feet, and shall be painted to match the building or concealed with a screening wall;
 - vi. Ground-mounted base station equipment shall be screened with a screening wall and landscaping as specified in [subsection (a)(30)k(a)4.ix of this section], unless an existing screening wall has already been constructed (e.g., around an existing communication tower);
3. Expansion of communication tower compounds. A communication tower compound may be expanded administratively if the base station equipment complies with the requirements set out in [subsection (a)(30)k(a)4.], and if the communication tower would be allowed subject to administrative determination pursuant to this chapter if newly proposed. The compound may additionally be expanded by administrative determination if the communication tower would not be subject to administrative determination under this chapter, but was a permitted use under the city's previously adopted zoning regulations. The compound may additionally be expanded by administrative determination if the expansion is within a previously approved special use permit boundary. All other communication tower compound expansions must adhere to the special use permit process.
4. Modifications to existing communication towers and wireless communication facilities. Any communication tower or wireless communication facility may be increased in height by not more than 20 percent of its originally approved height through the administrative determination process, provided that if the height increase would have rendered the communication tower prohibited in the first instance under this chapter,

that increase is not authorized; provided further, if the increase would have rendered an otherwise administratively approved site subject to a special use permit under this chapter, the request shall be subject to the special use permit notice and hearing requirements.

- I. Governing body action.
 - 1. A request for the placement, construction or modification to a wireless communication facility or communication tower shall be acted upon within a reasonable period of time from the receipt of a complete submittal of an application, site plan and supporting documentation, as required in this chapter.
 - 2. Denial of an application to place, construct or modify a wireless communication facility or communication tower shall be supported by findings based on substantial evidence and shall be provided in written form to the applicant.
- m. Maintenance and certification standards applicable to all communications facilities. The following maintenance and operating standards shall apply to any communication tower or wireless communication facility;
 - 1. Any wireless communication facility that is not in use for a period of two or more years shall be removed by the owner at the owner's expense. Failure to remove the wireless communication facility, pursuant to non-use or for any other reason set out in this chapter, may result in removal and assessment of cost to the property pursuant to K.S.A. 12-6a17.
 - 2. Any owner of a communication tower shall submit a letter to the director of planning by July 1 of each year listing the current users and types of collocation facilities located on the facility.
 - 3. A sign shall be posted on every wireless communication facility, or on the exterior fence around the wireless communication facility, noting the name and telephone number of the wireless communication facility owner and operator.
 - 4. The owner/operator shall at all times employ at least ordinary care and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries or nuisances to the public.
 - 5. All communication towers and wireless communication facilities antennas shall conform to the requirements of the Occupational Safety and Health Administration (OSHA).
- n. Bonding required.
 - 1. Safety. Before a communication tower is erected on publicly owned property, the owner of the communication tower must file with the county clerk a written indemnification of the city and proof of liability insurance sufficient to respond to claims up to \$1,000,000.00, in the aggregate, that may arise from operation of wireless communication facilities within the city.
 - 2. Removal. Before a building permit is issued for any communication tower, the applicant shall present a removal bond to the chief counsel in the amount of \$50,000.00, which bond shall be available for use by the city for the removal of the communication tower should the communication tower ever be abandoned. The bond shall contain the following endorsement:

"It is hereby understood and agreed that this instrument may not be canceled nor any intention not to renew be exercised until 60 days after receipt by the city, by registered mail, of written notice of such intent."
- o. Inspections. All communication towers, whether existing or new, shall be inspected every five years by a Kansas licensed professional engineer at the tower owner's expense and

an inspection report shall be filed with the director of planning. All communication towers and wireless communication facilities may be inspected at any time by the director of planning. The building official or their designee to determine compliance with original construction standards. Deviation from the original approved construction standards constitutes a violation of this Code and the zoning ordinance.

Notice of violations will be sent by registered mail to the tower owner, who will have 30 days from the date the notification is issued to make adjustments or repairs. The tower owner shall notify the director of planning. The building official or their designee in writing that the adjustments or repairs have been made, and, as soon as reasonably possible thereafter, another inspection will be made by the director of planning. The building official or their designee to assess compliance. The tower owner shall then be notified of the results of the second inspection. An appeal of the decision of the codes enforcement officer can be made to the board of zoning appeals in accordance with section 27-53 of this chapter.

- p. Amateur radio, receive-only and broadcast antennas. This chapter shall not govern any communication facility that is:
 - 1. Less than 50 feet in height;
 - 2. Located in the rear yard of a residentially zoned parcel;
 - 3. Owned and operated by a federally licensed amateur radio operator; provided, however, that communications towers covered under this paragraph shall not be available for co-location by wireless service providers; or
 - 4. Used solely to transmit and receive commercial AM, FM or television broadcast signals.
 - q. Failure to enforce does not constitute waiver. No failure by the city or any of its departments to enforce any provision of this section shall constitute a waiver of the provisions thereof. Any failure of a owner or a section provider to comply with the terms of this section may subject the owner and/or provider to revocation of administrative or special permits, and penalties and municipal violations as set out below.
 - r. Violations. Failure to comply with this chapter or any condition specified in an administratively or specially approved permit constitutes a code violation for which penalties and fines may be imposed.
 - s. Severability. If any provision of this chapter shall be found to be invalid, that provision shall be severed from this and the remainder of the chapter shall remain in full force and effect.
- (b) The following uses are permitted only on approval of a special use permit regardless of the zoning district of the proposed location:
- (1) Airport or landing field.
 - (2) Salvage yards only on M-3 or MP-3.
 - (3) Campgrounds.
 - (4) Cemeteries.
 - (5) Firing ranges, gun clubs, skeet shoots.
 - (6) Halfway houses, group dwellings.
 - (7) Hazardous waste transfer stations, storage, processing or disposal sites only in M-3 or MP-3.
 - (8) Massage parlors, adult live theaters, body painting salons, nude modeling studios, adult night clubs or cabarets only in C-3, M-2 or M-3 except that such uses shall not be approved if within 500 feet of any church, school (those permitted in residential districts), or residentially zoned

area. The 500 feet shall be measured from the exterior of the building in which the specified business is to operate along the shortest line to the property line of the property to be separated.

- (9) Penal or correctional institutions.
- (10) Drinking establishments in which sales of alcoholic beverages are greater than restaurant food sales, class A or class B private clubs, taverns.
- (11) Radio, telephone, and television towers and appurtenance structures.
- (12) Solid waste transfer stations, solid waste storage, processing or disposal sites.
- (13) Special on-site signage as allowed under section 27-739.
- (14) Underground commercial and industrial development limited to uses permitted in the zoning district of the main entrance.
- (15) Any site, location, described or identified parcel of real estate, where earth material is to be brought in, removed, relocated or otherwise taken from one place to another, whether titled under the same, common, or different ownership, except no special use permit shall be required:
 - a. Where the amount of earth material is less than 50 cubic yards;
 - b. Where grading is a part of an approved subdivision development for which street and utility plans have been approved;
 - c. Where grading, excavation or filling is required for a building project for which a building permit has been issued;
 - d. Where the quantity of material is less than 5,000 cubic yards and is to be brought in or removed over a period shorter than 60 days to a site in commercial or industrial zoning districts accessible via commercial or industrial streets or major streets as designated on the major street plan; or
 - e. Where the administrator determines that the proposed earth material moving is:
 - 1. Necessary to abate an emergency situation which otherwise threatens health, safety, or the natural environment; or
 - 2. Necessary to carry out a public capital improvements project.

Grading and hauling permits shall be required as determined by the chief building inspector and unified government engineer respectively, regardless of these exceptions.
- (16) Flea markets, only in the C-1 limited business, C-2 general business, C-3 commercial, C-D central business, M-1 light industrial and industrial park, M-2 general industrial, and M-3 heavy industrial districts.
- (17) Lottery gaming facilities, racetrack gaming facilities, lottery gaming enterprises, and pari-mutuel license locations and their related facilities or campuses only in the CP-2 planned general business district subject to the following criteria:
 - a. Any approval shall be for one year unless the facility is granted a lottery gaming license or a pari-mutuel gaming license from the state. In the case that a facility is granted a lottery gaming license or a pari-mutuel gaming license from the state, the term of the special use permit shall be for the initial term of the state license.
 - b. The special use permit must be renewed prior to the expiration of any lottery gaming license or a pari-mutuel gaming license. The renewal will only be valid if a lottery gaming license is granted by the state.
 - c. In addition to the standards of the CP-2 planned general business district, any lottery gaming facility, racetrack gaming facility, lottery gaming enterprise, or pari-mutuel license

location and their related facilities or campuses shall be subject to the development standards of the overlay district for commercial design guidelines (Ordinance No. 0-50-06) regardless of the location within the city.

- d. A racetrack gaming facility may be located at any existing pari-mutuel racetrack location without securing a special use permit under this subsection (b)(17). Any new building or any substantial modification to site improvements would be a significant revision of the preliminary plan approved for the special use permit for a pari-mutuel thoroughbred, quarter horse and greyhound racing facility and would require approval following the procedures applicable to revisions to preliminary plans under section 27-211. Any improvement to the exterior of any building or to site improvements at an existing pari-mutuel location shall be subject to the development standards of the Overlay District for Commercial Design Guidelines and the standards of the CP-2 Planned General Business District.
- (18) Liquor stores with a minimum separation distance of 1,300 feet between any new liquor store location and any existing or proposed liquor store location, church, school, or public park. These distances are to be measured from the nearest property lines of each location.
- (19) Used car/truck lots and light automotive service and maintenance only in C-2 general business district, C-3 commercial district, M-1 light industrial and industrial park district, M-2 general industrial district, and M-3 heavy industrial district subject to the following criteria:
- a. Repurposing of structure(s) for used car/truck lots or light automotive service and maintenance.
 - 1. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.
 - 2. Landscaping, screening, and façade improvements to meet commercial design guidelines.
 - b. Signage.
 - 1. Following all permanent sign requirements under section 27-727.
 - 2. Following all special event display requirements under section 27-734.
 - 3. No display on sidewalks.
 - c. Façade, landscaping, and screening.
 - 1. For new buildings:
 - i. All commercial design guidelines and district regulations shall be upheld in C-3 commercial districts including, but not limited to, the creation of quality development with respect to site planning, architectural design and landscaping.
 - ii. Commercial uses in industrial districts shall be subject to commercial design guidelines.
 - 2. For existing structures:
 - i. Such modifications as:
 - A. Restoring original brick.
 - B. Any necessary repair of the facade.
 - C. New doors or windows if existing fixtures are in disrepair.
 - D. Substantial effort beyond simply painting the building is necessary. Brick structures must be cleaned, paint removed and tuck pointed.

- E. For non-brick buildings in addition to paint, additional architectural embellishments such as a brick wainscot may be required.
 - b. Condition of automobiles/trucks.
 - 1. Automobiles/trucks available for sale, rent or lease must not be inoperable, ruined, dismantled or wrecked.
 - c. Parking.
 - 1. The display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by sections 27-466 through 27-470.
 - 2. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.
 - 3. Each automobile shall be in a striped, designated parking space.
 - d. Install/repair sidewalks per code.
- (20) Heavy automotive/truck service, repair, and mechanics only in C-3 commercial district, M-1 light industrial and industrial park district, M-2 general industrial district, and M-3 heavy industrial district subject to the following criteria:
- a. Repurposing of structure(s) for heavy automotive/truck service, repair, and mechanics.
 - 1. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.
 - 2. Landscaping, screening, and façade improvements to meet commercial design guidelines.
 - b. Signage.
 - 1. Following all permanent sign requirements under section 27-727.
 - 2. Following all special event display requirements under section 27-734.
 - 3. No displays on sidewalks.
 - c. Façade, landscaping, and screening.
 - 1. For new buildings:
 - i. All commercial design guidelines and district regulations shall be upheld in C-3 commercial districts including, but not limited to, the creation of quality development with respect to site planning, architectural design and landscaping.
 - ii. Commercial uses in industrial districts shall be subject to commercial design guidelines.
 - 2. For existing structures:
 - i. Such modifications as:
 - A. Restoring original brick.
 - B. Any necessary repair of the facade.
 - C. New doors or windows if existing fixtures are in disrepair.
 - D. Substantial effort beyond simply painting the building is necessary. Brick structures must be cleaned, paint removed and tuck pointed.
 - E. For non-brick buildings in addition to paint, additional architectural embellishments such as a brick wainscot may be required.

- d. Parking.
 - 1. Parking of the automobiles under heavy service, repair, or mechanics shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by sections 27-466 through 27-470.
 - 2. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.
 - 3. Each automobile shall be in a striped, designated parking space.
- e. Install/repair sidewalks per code.

Section 3. That said original Sections 7-1, 7-170, 7-175, 7-176, 7-177, 7-178 and 27-340 and 27-593 of the Unified Government Code are hereby repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the official Unified Government newspaper.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT
OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,**

THIS _____ DAY OF _____, 2016.

Mark Holland, Mayor/CEO

Attest:

Unified Government Clerk

Approved As To Form:

Unified Government Counsel

Published _____

ORDINANCE NO. _____

AN ORDINANCE relating to Chapter 7 Animals, amending Sections 7-1, 7-170, 7-175, 7-176, 7-177 of the Unified Government code, and repealing original Sections 7-1, 7-170, 7-175, 7-176, 7-177 and 7-178, and relating to Chapter 27, Planning and Development, amending Sections 27-340, and 27-593 of the Unified Government Code, and repealing original sections 27-340 and 27-593.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Chapter 7 sections 7-1, 7-170, 7-175, 7-176, 7-177 and 7-178 of the Unified Government code, be amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 7-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific species of animal. Grooming of animals is also required so that they are free from dangerous matting and nail overgrowth which can affect their health and may be painful.

Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of wholesome foodstuff, suitable for the animal species and age, and sufficient to maintain a reasonable level of nutrition in each animal.

Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased or injured animal of necessary veterinary care or humane death.

Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter suitable for the species, condition and age of the animal which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.

Adequate water means a continual access to a supply of clean, fresh, potable water.

Animal means any live vertebrate creature except a human.

Animal control director means the program coordinator of the unified government animal shelter and/or his designee.

Animal control officer means an officer or employee of the office of director of animal control, and officer or employee of the unified government public health department, whose duties involve the enforcement of the provisions of this chapter, or an officer of the police department.

Animal euthanasia means the humane destruction of an animal that may be accomplished by any of those methods authorized by K.S.A. 47-1718.

Animal shelter means the facility or facilities operated by the unified government or its authorized agent for the purpose of impounding or caring for animals held under the authority of this chapter or state law.

Cat means any member of the species, felis domesticus.

Commercial animal establishment means any pet shop, grooming shop, auction, riding school, stable, kennel, guard dog service, dog trainer, animal dealer, or any establishment performing one or more of the principal activities of the aforementioned establishments.

Dog means any members of the species, canis familiaris.

Ear-tipped feral cat means a cat that is unsocialized to humans and has a temperament of extreme fear or resistance to contact with humans that exhibits a straight-line cutting of the tip of its ear to indicate that it has been sterilized and vaccinated against rabies.

Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus.

Health director or director of health means the director of the unified government public health department. The term includes the director's authorized representative.

Owner means any person having a right of property in an animal or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal

guardian shall be deemed to be an owner of animals owned or maintained by minors upon their premises.

Person means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

ARTICLE V- LIVESTOCK, ETC.

DIVISION 2. - KEEPING REGULATIONS

Sec. 7-170. - Permit.

- (a) It shall be unlawful for any person to keep or maintain any livestock or fowl or any pen for the same within the city in areas not zoned agricultural without first obtaining a permit to do so from the office of director of animal control.
- (b) Application for the permit shall be made to the office of director of animal control on forms furnished by the office. Such application shall state the name of the person so desiring to keep such animals or fowl and maintain pens therefore within the city, the location of the premises where the same are to be kept and maintained, the kind of animals and fowl to be kept and maintained, and any other information that the office may desire. Such application shall be signed by the applicant and shall bear the date that the application is made. No permit will be granted unless the request conforms with the zoning ordinances of the city. The initial permit fee and annual renewal fee shall be set by the county administrator.
- (c) A permit issued under this section shall be renewed annually without charge. Such permit shall not be transferable from one person to another or from one premises to another. This permit provision shall not be applicable to birds, less than five in number, kept in the residence as pets, such as canaries, parakeets, parrots, finches and doves.
- (d) A permit issued under this section may be cancelled by the office of director of animal control upon failure of the holder thereof to comply with any provision of this chapter. No person who has had a permit cancelled shall be permitted to make application for another permit within one month from the date of the cancellation of a previous permit. Permitted premises shall be inspected upon complaint. Permit holder has no authority to refuse inspection without forfeiting the issued permit.
- (e) No permit shall be granted unless applicant has no outstanding codes violations on the premises.
- (f) It shall be unlawful for any livestock or fowl to be off the premises of the owner, keeper, harbinger, or permit holder. Any livestock or fowl found off the premises of the owner, keeper, harbinger, or permit holder may be impounded pursuant to 7-46.

Sec. 7-175. - Small animals and fowl in pens.

(a) Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zoned agricultural with the following exceptions:

- (1) Ducks.
- (2) Female chickens.

(b) This section does not apply to the keeping of dogs or cats.

(c) Except where fowl or animals are kept for sale within a bona fide produce market, commission house or store for the purposes of trade and while so kept are confined in small coops, boxes or cages, or where such animals or fowl are kept for purposes of research in a laboratory, or less than five birds are kept in a home as pets, such as canaries, parakeets, parrots, finches, and doves, it shall be unlawful for any person to keep or maintain any chicken coop, dove cote, rabbit hutch or other yard establishment for the housing of fowl or small animals closer than ~~400~~ 25 feet to the nearest portion of any building occupied by or in anywise used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than ~~25~~ 10 feet to the property line of the lot. Animals and fowl so kept or maintained shall be enclosed on all sides and shall not be allowed to run or fly at large, except for homing pigeons.

(d) The maximum number of Permitted Fowl shall not exceed one fowl per 500 square feet of lot size, rounded down.

(e) The maximum number of Permitted Fowl shall not exceed _____, regardless of the size of the lot.

Sec. 7-176. - Maintenance of enclosures for fowl.

All earthen yards or runways wherein 5 or more fowl are kept or permitted to be shall be spaded and then limed once every three months from the month of April through the month of December. For the purpose of killing flies and other insects, all structures, pens or coops wherein fowl are kept or permitted to be shall be sprayed with such substances as will eliminate such insects.

Sec. 7-177. - Condition of enclosures.

(a) This section does not apply to the keeping of dogs or cats.

(b) Any structure, pen, coop, or yard wherein animals or fowl are kept or permitted to be shall be maintained in a clean and sanitary condition, devoid of all rodents and vermin, and free from objectionable odors. Applicants for permits shall include a vermin control plan with the application. Permit holders shall use bait boxes to safely poison rodents and vermin. The enclosed area of all such structures shall be constructed in such a way as to be dry at all times on the inside. The person maintaining any aforementioned structure, pen, coop or yard in the city does by such act of maintenance authorize the director of health to, at any time, inspect any such structure or premises and issue any such order as may be necessary to carry out the provisions of this section.

(c) For every three chickens, a minimum of one laying box space, with a minimum size of one square foot, shall be required. Each laying box shall contain adequate clean bedding material such as hay or other soft material. Laying boxes shall not be required for ducks.

Secs. 7-178—7-209. - Reserved.

Section 2. That Chapter 27, sections 27-340 and 27-593 of the Unified Government code, be amended to read as follows:

Chapter 27- PLANNING AND DEVELOPMENT

DIVISION 1- GENERALLY

Sec. 27-340. - Definitions.

For the purpose of this article, certain terms and words are herewith defined as follows: Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular. The term "building" includes the term "structure." The term "shall" is mandatory and not directory. Definitions relating specifically to floodplain zoning, signs, and landscaping and screening are included elsewhere.

Accessory building means a detached building or an attached portion of the main building, the use of which is incidental and subordinate to that of the main building.

Accessory use, accessory structure means a use of land or structure which involves all of the following characteristics:

- (1) Subordinate to and serves a principal use or structure.
- (2) Subordinate in area, extent and purpose to the principal use or structure served.
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or structure served.
- (4) Located on the same lot or lots, under the same ownership and in the same zoning district as the principal use or structure.

Adult book store or adult video store means an establishment having as a predominant part of its stock in trade or predominant portion of its revenues, books, magazines, photographs, pictures, periodicals, recordings or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and limited in sale of such sexual material to adults.

Adult nightclub or cabaret means any place serving food or drink, regardless of whether alcoholic beverages are served, which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, similar entertainers, waitresses or waiters, or features material relating to specified sexual activities or specified anatomical areas.

Adult theater means a facility with a capacity of two or more persons used predominantly for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

Agricultural use refers to the use of land where such land is devoted to the production of plants, animals or horticultural products, including, but not limited to, forages, grains and feed crops, dairy animals and dairy products, poultry and poultry products, beef cattle, sheep, swine and horses, bees and apiary products, trees and forest products, fruits, nuts and berries, vegetables, or nursery, floral, ornamental and greenhouse products. The term "agricultural use" shall not include use of land for recreational purposes, suburban residential acreage, rural home sites or farm homes sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Alley means a public right-of-way no wider than 24 feet that affords only a secondary means of access to abutting property.

Alteration means any addition, removal, extension or change in the location of any exterior wall of a building.

Antenna means any structure or device used to receive or transmit electromagnetic waves.

Apartment house means any building or portion thereof that contains three or more dwelling units.

Building means a permanently erected structure having a roof supported by columns or walls.

Building, completely enclosed, means a building separated on all sides from the adjacent open spaces or from other buildings or structures by a permanent roof, and by exterior walls having only windows and normal entrance or exit doors, or by party walls.

Bulk means a composite characteristic of a given building as located upon a given lot, not definable as a single quantity, but involving all of the following characteristics:

- (1) Size and height of building.
- (2) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings.
- (3) Gross floor area of the building in relation to lot area (floor area ratio).
- (4) All open spaces allocated to the building.
- (5) Amount of lot area provided per dwelling unit.

Campground means an area of land, including supporting sanitary and other facilities, for the overnight or temporary parking of recreational vehicles and other modes of camping while traveling by auto.

Children's day care and nursery centers means facilities where parttime lodging and meals are provided, excluding permanent or overnight lodging, for six or more children in return for compensation. For the purpose of this article, family day care homes under state regulations will not be included in this definition.

Court means an open, unoccupied space, other than a yard, bounded on three or more sides by exterior walls of a building or by exterior walls of a building and lot lines on which walls are allowable.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the high point of the crown of the street in front of the building shall be used.

Decibel means a unit of measurement of the intensity (loudness) of sound. In this article, decibel levels shall be measured on the A scale and referred to as dB(A).

Detached means a building that does not have a wall, roof or other structural member in common with or in contact with another building.

Dismantled means that a number of useful parts, including but not limited to, tires, batteries, doors, hoods, or windows, have been removed from the automobile as to render the automobile unsafe to operate.

Dog kennel means any premises where four or more dogs are ~~owned~~, boarded, bred and/or offered for sale.

Drive means an improvement which affords a means of vehicular access to or through an area and which is owned and maintained by the owner of the property it serves.

Drive-in or drive-through establishment means a place of business being operated for the retail sale of food and other goods, services, or entertainment wherein patrons may be served or otherwise conduct their business while remaining in their automobiles. A restaurant that does not provide at least 15 seats within the enclosed interior of the building shall be considered a drive-in establishment.

Dwelling means a building or portion thereof intended for occupancy for residential purposes but not including hotels, motels, roominghouses, nursing homes, temporary shelters, tourist homes, or trailers.

Dwelling house, condominium, means a building containing dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the state.

Dwelling, multiple-family, means a dwelling, or portion thereof, containing three or more dwelling units.

Dwelling, single-family, means a dwelling containing one dwelling unit.

Dwelling, two-family means a dwelling containing two dwelling units, a duplex.

Dwelling unit means one or more rooms constituting all or part of a dwelling and which are arranged, designed, used or intended for use exclusively as a single housekeeping unit for one family, and which includes cooking, living, sanitation and sleeping facilities.

Family means one or more persons who are related by blood or marriage, including any foster children, a group of not more than five persons living together by joint agreement on a nonprofit cost sharing basis, or a combination of persons related by blood or marriage along with no more than two unrelated adults to a maximum number of five persons living together and occupying a single housekeeping unit with single kitchen facilities. In addition, up to ten persons, including eight or fewer persons with a disability or handicap and not to exceed two staff residents residing in a dwelling shall be considered to be a family. Handicapped persons are defined in title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Flea market means a market, indoors or out of doors, where new or used items are sold from individual sellers, where each seller operates independently from other sellers. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books and used magazines. The term "flea market" is interchangeable with and applicable to "swap meet," "indoor swap meet," or other similar terms regardless of whether these events are held inside a building. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular form of business and therefore subject to regulation.

Floor area means the total floor area designed for tenant or owner occupancy measured from the exterior surfaces of outside walls and including mezzanines, unfinished floors and basements, but excluding loading docks and service corridors or any common areas not leasable to individual tenants.

Floor area, habitable, means the area of all floor space on all levels measured from the exterior surface of outside walls, but excluding garages, porches and nonhabitable basements as determined by the International Building Code, as adopted and amended by the unified government.

Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zone agricultural with the following exceptions:

- (1) Ducks.
- (2) Female chickens.

Garage, private, means a building or a portion of a building, not more than 1,000 square feet in area, in which only motor vehicles used by tenants of the building or buildings on the premises are stored or kept.

Gross vehicle weight rating or GVWR means the manufacturer's rating of the combined weight of the vehicle and the maximum load it is designed to carry. Where such information is not available, the following shall be used to make the determination:

- (1) Vehicles of no greater than 10,000 pounds GVWR: Pickup trucks and passenger vans, trucks considered one-ton rated capacity or less.
- (2) Vehicles of no greater than 30,000 pounds GVWR: Commercial-type trucks of wide variety, but excluding dump trucks, semitrailer trucks, trucks with tandem axles, and other similar heavy-duty trucks.

Group dwelling means a residential dwelling occupied as a residence by persons who do not constitute a family.

Halfway house means a facility, such as a community corrections center, serving temporary residents who have been released or diverted from an institution. A nonfamily residential dwelling that

houses persons protected by the Fair Housing Act, such as the mentally ill or the mentally retarded, is a group dwelling, not a halfway house, so long as it is clearly the domicile of the residents and the typical length of stay is long enough to differentiate it from a motel or hotel.

Heavy automotive/truck service, repair, and mechanics means major mechanical repair shops including any of the following:

- (1) Body work and painting.
- (2) Tire recapping.
- (3) Engine and transmission repair.

Height of building or structure means the vertical distance from the average elevation of the ground abutting a building or structure to the highest point of a building or structure. Height, when not regulated in feet, shall be regulated by stories and a story shall be equal to 12 feet for purposes of measuring structures other than buildings.

Home occupation means an activity for gain customarily carried on in a dwelling or structure accessory to a dwelling, clearly incidental and secondary to the use of the dwelling for residential purposes. In general, a home occupation is an accessory use so located and conducted that the average neighbor under normal circumstances would not be aware of its existence. Such activity may employ only members of the immediate family residing on the premises.

Inoperable means that an automobile or truck which cannot be driven away in a safe condition.

Inoperable vehicles means vehicles missing major body, chassis, or engine components or not fit for street travel.

Light automotive service and maintenance means any of the following:

- (1) Tire and battery sales and installation.
- (2) Brakes and other similar diagnostic and repair services.
- (3) Auto detail shops, tune-up shops, upholstery shops, radiator repair shops, lubrications service, sound system shops, or alignment and suspension services.

Livestock means horses, mules, cattle, sheep, and goats.

Lot means a parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this article, and having its principal frontage upon a public street. A lot may consist of one or more platted lots, or tracts as conveyed, or parts thereof.

Lot or site area means the land area within the tract or lot lines and excluding street right-of-way.

Lot, corner means a lot abutting upon two or more streets at their intersection. A corner lot may be deemed to front on either street frontage.

Lot, depth means the horizontal distance from the front street line to the rear line.

Lot, interior means a lot whose side lines do not abut upon any street.

Lot line, front means the street line, which is the boundary between a lot and the street on which it fronts.

Lot line, rear means the boundary line that is opposite the most distant from the front street line, except that in the case of uncertainty, the building official shall determine the rear line.

Lot line, side means any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

Lot, through means an interior lot having frontage on two streets.

Lot width means the horizontal distance between side lines, measured at the front building line.

Mobile home means a structure, transportable in one or more sections, which has a body width of eight feet or more and a body length of 36 feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein and which was designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture. This term shall not include a recreational vehicle. A structure which otherwise falls within this definition shall be considered a mobile home even if it does not have the required dimensions so long as it is in place as of May 1, 1995, and has a model year of no later than 1969.

Mobile home park means a tract of land meeting the requirements of this article containing suitable drives, utilities and other supporting elements and devoted to the sole purpose of accommodating mobile homes on a permanent or semipermanent basis.

Mobile home space means that area of land within a mobile home park set aside for use as a site for one mobile home, including the open spaces around the mobile home, as are required in this article.

Nonvehicular open space means uncovered areas such as lawns, planting space, walks, terraces, sitting areas and balconies, one-half of covered nonvehicular open space, and clubhouses and indoor recreational areas. No paved areas for vehicular traffic or parking may be included as nonvehicular open spaces.

Overlay district means a zoning district that acts in conjunction with the underlying zoning district or districts.

Parking Lot, Commercial means a paved area or structure intended or used for the off-street parking of operable motor vehicles on a temporary basis, other than accessory to a principal use.

Performance standards means criteria to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards or glare, heat or other effects generated by or inherent in uses of land or buildings.

Planned zoning district means the zoning of a lot or tract to permit that development as is specifically depicted on plans approved in the process of zoning that lot or tract.

Private club means an organization licensed hereunder to which the club members shall be permitted to resort for the purpose of consuming alcoholic liquor.

Recreational vehicle is a vehicle that is:

- (1) Built on a single chassis.
- (2) Four hundred square feet or less when measured at the exterior.
- (3) Self-propelled or permanently towable by a light duty truck.
- (4) Designed not as a dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

Residentially zoned area means an area zoned A-G, R, R-1, R-1(B), R-2, R-2(B), R-3, R-4, R-5, R-6, R-M, or these districts' planned equivalents.

Ruined, means that an automobile which is substantially damaged to the extent that it is valueless or useless as an operable automobile or truck or parts thereof are only useful as materials for reprocessing, melting, remanufacturing, or disposal for salvage or scrap material.

Seating area means open space within any enclosed structure used for purposes of seating numbers of people for any purpose, including all aisles necessary for circulation.

Self-contained recreational vehicle is a recreational vehicle that includes all of the following:

- (1) Heating and/or air conditioning.
- (2) A sink and shower.

- (3) Self-contained toilet.
- (4) Cooking facilities.
- (5) Refrigerator.

Site area means the land area within the tract or lot lines and excluding street right-of-way.

Specified anatomical area means any of the following:

- (1) Any less than completely or opaquely covered:
 - a. Human genitals, pubic region.
 - b. Buttocks.
 - c. Portion of the areola of the female breast.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Stable, riding means a structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire or sale.

Storm protection areas means any new residential use, for multifamily residential development or single-family residential development or which a preliminary plan/plat application is approved by the planning commission, shall contain an area of storm protection. Such area may be a room or space, such as a basement, a structure complying with Federal Emergency Management Agency Publication 320 ("Taking Shelter From the Storm") or Publication 361 ("Design and Construction Guidance for Community Shelters"), or subsequent updates thereto shall comply with this requirement. For residential uses designed specifically for occupancy by those age 55 and over, the basement, safe room, or community shelter must be within the structure where the particular dwelling unit is located or within 15 feet of the structure in question and accessed under roof.

Story means that part of a building included between the surface of one floor and the surface of the floor above, or if there is no floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top-story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half-story when between 50 and 75 percent of the area of its exterior walls contain windows or doors permitting the entrance of daylight and outside air.

Street means a right-of-way that affords principal means of vehicular access to property abutting thereon.

Street line means the dividing line between the street right-of-way and the abutting property.

Street, private means a street which provides principal access to abutting property, but which is not maintained by the unified government. A private street may exist within dedicated public right-of-way.

Structural alteration means any change other than incidental repairs in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to a permanent location on the ground, including, but not limited to, signs, and excepting customary utility poles, retaining walls and boundary fences.

Tavern means an establishment which sells cereal malt and/or alcoholic beverages for consumption on the premises; provided, however, this definition shall not include establishments whose sales of food for consumption on the premises exceed the sales of cereal malt and alcoholic beverages served.

Telecommunications tower means a tower constructed as a freestanding structure or in association with a building, other permanent structures or equipment, containing one or more antennas intended for transmitting or receiving television, radio, digital, microwave, cellular, telephone or similar forms of electromagnetic radiation.

Trailer means a vehicle, other than a mobile home, equipped with wheels and normally towed over the road behind a motor vehicle.

Trailer advertising means a trailer that carries or has attached thereto a sign, billboard or other media for advertising as the prime purpose and use of the trailer.

Trailer hauling means a trailer, as defined in this section, and designed and normally used for over-the-road transportation of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.

Used car/truck lot means the use of a parcel of land, either with or without structures, for the purpose of offering for sale, rent, or lease, automobiles, light duty trucks or heavy duty trucks.

Variance means a variation from a specific requirement in this article, as applied to a specific piece of property, as distinct from rezoning.

Wrecked means those automobiles or trucks that have more than 25 percent of the vehicle in damaged condition externally as to render it unsafe to operate.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street that is designated a major street on the major street plan, all yards abutting the street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback. On multibuilding projects where access is derived from private drives, the orientation of individual buildings shall be used to determine the type of yard along the project boundary.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard across the full width of the lot extending from the rear lot line to the rear line of the main building.

Yard, side, means a yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

ARTICLE VIII- ZONING

DIVISION 6- SPECIAL USE PERMITS

Sec. 27-593. - Allowable special uses.

- (a) The following uses may be permitted under special use permit in any zoning district except as specifically limited herein:
 - (1) Amusement parks, privately owned and operated athletic fields, and race tracks.
 - (2) Assembly halls, community centers, exhibition halls, and convention centers.
 - (3) Bingo parlors.
 - (4) Children's day care and nursery facilities.
 - (5) Concert halls, discotheques, and dance halls.

- (6) Crematories, when not an accessory use to a funeral home.
- (7) Electronic message centers in districts C-2 through M-3.
- (8) Extraction of raw material, such as rock, gravel, and sand.
- (9) Farm wineries.
- (10) Fowl. Keeping of permitted fowl in lots not zoned agricultural:
 - (a) closer than 25 feet to the nearest portion of any building occupied by or in any way used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than 10 feet to the property line of the lot.
 - (b) exceeding one fowl per 500 square feet of lot size, rounded down.
 - (c) exceeding a total of fowl regardless of lot size.
- (11) Golf driving ranges, miniature golf courses.
- (12) Home occupations.
- (13) Hospitals, special purpose hospitals and other facilities for treatment of humans.
- (14) Institutions of an educational, religious, philanthropic or eleemosynary nature.
- (15) Keeping of livestock on acreage between one and five acres.
- (16) Microbreweries.
- (17) Motels, hotels, motor hotels.
- (18) Nursery sales office, building, greenhouse or area.
- (98) Nursing and convalescent homes.
- (20) Off-site directional signs for residential land developments.
- (21) Off-street parking lots for passenger vehicles.
- (21) Outdoor advertising signs whenever the zoning lot has a minimum of 2,500 square feet in area and is located abutting a freeway or expressway in the C-2 through M-2 districts.
- (22) Outdoor motion picture theatres.
- (24) Private or commercial facilities for tennis, handball, racquet ball or similar recreation.
- (25) Production or assembly of measuring and controlling instruments, optical, medical, and photographic equipment, and semiconductors and electric components which are small, precision made and of relatively low production bulk in the C-D and C-3 districts.
- (26) Public utility services or public service corporations, which buildings or uses are deemed reasonable and necessary for the public convenience and welfare.
- (27) Riding stables and tracks.
- (28) Temporary use of land for commercial or industrial uses; provided, however, that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated shall be temporary and any stored equipment or material shall be removed upon the date of expiration of the special use permit, which permit shall not be approved for more than two years.
- (99) Veterinary clinics, dog kennels.
- (30) The unified government board of commissioners may, upon application by the proponent, issue a special use permit for the use of a specified parcel of land for such temporary shortterm uses as trade shows, street fairs, expositions, promotional ventures and entertainment, without

Comment [KB1]: We discussed that the keeping of permitted fowl go at #31 after telecommunications, but on closer examination, this special use list is in alphabetical order. Before renumbering, we wanted to check with Planning & Zoning. Should this go at the end, or here?

publication or posted notice and without referral to the planning commission, provided the following conditions are met:

- a. The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood.
- b. The shortterm special use shall not be operated longer than ten consecutive days.
- c. Upon the cessation of the shortterm special use, all materials and equipment shall be promptly removed and the property restored to its normal condition.

If, after giving full consideration to the effect of the requested special use on the neighborhood and the community, the unified government board of commissioners deems the special use reasonable, the special use permit for the shortterm use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the special use permit. Such permit may be approved in any zoning district, and the required fee shall be paid.

(31) Wireless communication facilities.

- a. Findings. The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication facilities. The unified government has diverse and unique landscape features, natural resources, and residential, commercial and historic neighborhoods that must be protected with quality land use development regulations, including regulations governing the location and design of wireless communication facilities.
- b. Purpose. The purpose of these regulations is to ensure that wireless communication facilities are appropriately designed and sited to ensure compatibility with current and future land uses, while ensuring that wireless service providers are able to provide customers with adequate wireless service. Compatibility touches upon several key factors, including:
 - 1. Aesthetics, including scale (both in terms of mass and height) in association with onsite and offsite land uses.
 - 2. Preservation of open space.
 - 3. Use of existing structures to blend wireless communication facilities into existing structures.
 - 4. Safety.
 - 5. Compliance with existing development guidelines.
 - 6. Siting of wireless communication facilities to ensure minimal disruption to future development patterns, both onsite and offsite.

Compatibility in light of the above factors may be more readily achieved by applicants through (i) long-range planning for the needs of wireless service providers; (ii) technical documentation of the need for certain wireless communication facilities; (iii) collocation on existing structures and integration of those facilities with existing architectural features; (iv) use of design techniques that minimize the visual appearance of wireless communication facilities; (v) use of stealth communication towers where existing structures are not available upon which to place wireless communication facilities; and (vi) neighborhood participation in the siting and design of wireless communication facilities.

- c. Definitions. The following definitions control this chapter. Other terms used throughout this chapter shall have the same meaning as elsewhere defined in the zoning ordinance, if defined therein.

Administrative determination. A final decision by the director of planning or his/her designee.

Applicant. The person or entity making application for a wireless communication facility pursuant to this chapter.

Base station equipment. Base transceiver station equipment, whether stand-alone "outdoor equipment", wall-pack equipment, or equipment located within an equipment shelter.

City. The City of Kansas City, Kansas.

Collocation. The act of placing a wireless communication facility on an existing (i) building, (ii) water tank, (iii) billboard, (iv) communication tower, or other previously approved structure within the city's boundaries.

Collocation installation. A wireless communication facility located on an existing (i) building, (ii) water tank, (iii) billboard, (iv) communication tower, or other previously approved structure within the city's boundaries.

Communication tower. An uninhabitable man-made support structure constructed for the primary purpose of placement of antennas for the transmission and distribution of radio frequency signals.

Governing body. The elected political body of the city.

Guyed communication tower. A communication tower structurally supported by guy wires.

Lattice communication tower. A communication tower structurally supported through the cross-bracing of steel members, and sometimes also referred to as a "self-support tower".

Monopole communication tower. A concrete spun or prefabricated tubular steel or carbon communication tower.

Planning department. The city's urban planning and land use department.

Property owner. The owner or owners of real property in fee simple.

Stealth communication tower. A monopole communication tower designed, in order of preference (i) with antenna mounting hardware and antenna mounts that are concealed within a canister so that the antennas are not visible; (ii) with antennas that are flush mounted to the pole to minimize the horizontal profile of the structure; or (iii) to be integrated into stadium lights at public parks or schools, or as light standards in parking lots.

Tower owner. An owner of a communication tower.

Wireless communication facility. An antenna installation, associated coaxial cable and associated base station equipment used by a wireless service provider to provide wireless service to customers. If a wireless communication facility is located on a communication tower, the communication tower and wireless communication facility are collectively the wireless communication facility.

Wireless service provider. An entity holding a license issued by the Federal Communications Commission to send and receive radio frequency signals in the cellular and PCS band spectrums within the jurisdictional boundaries of the city.

Zoning ordinance. The zoning ordinance of the city of Kansas City, Kansas, codified in chapter 27 of this Code.

- d. Burden of proof. As to the contents of the application for any wireless communication facility required hereby, the burden of proof of establishing (i) compliance with this chapter; and (ii) the need for the wireless communication facility, from a technical perspective, rests squarely on the applicant for the wireless communication facility to establish compliance by clear and convincing evidence.
- e. Applicability of chapter—Conflict. This chapter applies to the construction and maintenance, repair, upgrade and operation of wireless communication facilities and communication towers. Wireless communication facilities may be permitted subject to administrative determination, permitted by special use permit, or prohibited based upon the present zoning designation of the property on which an application for a wireless communication facility is made. The differences in designations recognize that, in certain circumstances, wireless communication facilities and communication towers may not be compatible with adjacent land uses or the health, safety and welfare of the community as a whole.

This chapter is supplementary to other dimensional and density standards set forth in the zoning ordinance. In the event of conflict between this chapter and any other chapter of the zoning ordinance, the provisions of this chapter shall control.

- f. Wireless master plan required. At the time of making application for a wireless communication facility, whether administratively or specially permitted, the wireless service provider which is the underlying user of the wireless communication facility, shall file with the city planning department a wireless master plan documenting the current location from which it operates wireless facilities in and within one-half miles of the jurisdictional limits of the city. The plan shall include the existing locations of wireless communication facilities currently operated by the user and any location at which the wireless service provider plans to construct new wireless communication facilities in the next three years. For each existing site location shown, the plan shall include the address, the name of the property owner, the height and orientation of the antennas at the site and a depiction of service coverage from the site (e.g., through a propagation map).

For proposed sites, the plan shall document the location(s) at which a wireless communication facility is anticipated to be constructed, the time in which it is anticipated to be constructed, and an explanation of the existing service deficiency.

The submission of a master plan in compliance with this section does not vest a wireless service provider with any right to construct a wireless communication facility in a region designated for future network expansion. If the wireless service provider's network design changes, so as to render the presently filed master plan outdated or inaccurate, the burden to modify, supplement or amend the master plan is on the wireless service provider.

- g. Statement of cooperation. To minimize the aesthetic concerns associated with the proliferation of communication towers, any applicant for a new communication tower shall sign a statement indicating that it intends to rent space to other wireless service providers and allow collocation on its existing towers within the city's jurisdictional boundaries on commercially reasonable terms if it is technologically feasible. The provider shall not intentionally create technological issues for other carriers. This policy is designed to encourage the modification and/or reconstruction of existing communication towers in lieu of constructing new communication towers adjacent or in close proximity to existing communication towers.

All applicants further agree to cooperate with the city to provide the city and any technical consultant the city may retain with sufficient data to analyze an application filed pursuant to the provisions of this article.

- h. Designation of uses as administrative determination, specially permitted, and prohibited. Wireless communication facilities are authorized subject to the following:

	AG Zone	Residential Zones	Commercial Zones	Industrial Zones
Guyed Tower	Prohibited	Prohibited	Prohibited	Prohibited
Self Support Tower	Prohibited	Prohibited	Prohibited	Prohibited
Monopole Tower under 199 feet	Prohibited	Prohibited	Prohibited	Specially Permitted*
Stealth Tower between 80 and 199 feet	Specially Permitted*	Prohibited	Specially Permitted*	Administrative Determination*
Stealth Tower Under 80 feet	Specially Permitted	Specially Permitted	Administrative Determination*	Administrative Determination*
Collocation Installation	Administrative Determination**	Administrative Determination**	Administrative Determination**	Administrative Determination**

*Subject to separation, setback and application submission requirements specified in this chapter.

**Subject to application submission requirements specified in this chapter, and provided that collocation in single family, two-family residential and agricultural zones is limited to nonresidential structures. Provided further that no collocation installation may be placed on any residential structure shorter than 30 feet in height, and any collocation on a structure shorter than 60 feet in height shall be integrated into the structure on which the wireless communication facility is placed.

The administrative determination, decision rests solely in the discretion of the director of planning, who may consider the future land use designation of the property or the area surrounding the property, based upon the city's comprehensive plan or any applicable area

plan, neighborhood conditions, the existing or potential for the proliferation of wireless communication facilities in the surrounding area, or any other matter that, in the director of planning's discretion, warrants additional consideration or relates to the application. The applicant may appeal the administrative decision by filing for a special use permit within one month of the administrative determination.

- i. Who may apply for communication tower. No application for a communication tower will be accepted by the planning department unless accompanied by an affidavit by a wireless service provider that it is constructing and will own and operate the tower, or, if it will not own and/or operate the tower, that it will collocate on the communication tower within six months of issuance of a certificate of occupancy for the tower. Failure to comply with this statement will render the communication tower subject to the provisions for removal set out in [subsection n.2.] below. The purpose of this provision is to discourage the construction of speculative communication towers within the city's jurisdictional boundaries and to make clear that, if approved, these towers are constructed "at risk" and in the absence of use of the tower by a wireless service provider, the city retains the right to require its removal.
- j. Development standards applicable to construction of all wireless communication facilities.
 1. The following standards shall apply to all wireless communication facilities:
 - i. No commercial advertising shall be allowed on a wireless communication facility, unless that wireless communication facility is actually located on an existing, approved sign. wireless communication facilities may have safety or warning signs in appropriate places;
 - ii. No signals, lights or illumination shall be permitted on a wireless communication facility, unless required by the Federal Aviation Administration. Should lighting be required by state or federal law, the lighting shall be placed on the communication tower and designed in a way as to minimize, to the fullest extent possible, glare onto adjacent residential properties;
 - iii. Light fixtures may be attached if required by the FAA, as described in (vi) below or if part of a stealth communication tower design of or incorporated into and used for the illumination of athletic fields, parking lots, streets or other similar areas. Lighting of the accessory buildings for basic security purposes is permissible but may not result in glare on adjacent properties;
 - iv. The height of a communication tower or wireless communication facility shall conform to the height limitations of an applicable overlay district, if an overlay is used;
 - v. All wireless communication facilities shall be sited to have the least intrusive visual effect, as is practical, on the environment and adjacent properties.
 - vi. For existing communication towers, lighting and painting requirements shall be in accordance with FAA guidelines. For new communication towers, if an option exists to light a tower in lieu of painting the tower, applicant must agree to light the tower.
- k. Application submission requirements for wireless communication facilities.

Prior to submission of an application for a communication tower or a wireless communication facility, the applicant shall arrange a pre-application conference with the director of planning. The director of planning will advise the applicant of the process that will be employed by his or her designee and discuss alternative designs, if appropriate.

The materials listed below must be submitted by the applicant to the planning department before the application shall be deemed complete and before an administrative determination is made or the submittal is forwarded to the planning commission for

consideration. On receipt of an application, within one week thereof, the director of planning or his/her designee will notify the applicant if the application is complete. A finding that an application is complete has no bearing on the appropriateness of the use applied for and does not mitigate the director of planning's authority to (i) continue the matter for further investigation for review of the application materials provided; (ii) request additional technical information relating to compliance with the standards adopted herein.

At the time of application for a wireless communication facility or a communication tower, the applicant shall submit:

1. Written authorization from the owner of the property on which the wireless communication facility will be located.
2. A final development plan in accordance with subsection 27-277(g) of the zoning ordinance, showing existing and proposed structures, the location of the proposed wireless communication facility and/or other uses, access road(s) location, access road surface material, parking area, screening walls and materials, location and content of warning signs, exterior lighting specifications, a landscaping plan, land elevation contours, existing land uses and zoning designations surrounding the site. If any accessory structure is proposed, details of the structure, including elevations and proposed use of the structure, shall be included.
3. A title report and vesting deed, or certification of current ownership from the county register of deeds, documenting ownership of the property.

The following additional information is required for communication towers and [collocation] installations except for collocations on existing telecommunication tower facilities, as applicable:

- (a) Application submission requirements for communication towers (regardless of whether subject to approval by administrative determination or special use permit).
 1. Technical documentation of need for communication tower. No new communication tower shall be permitted unless the applicant demonstrates, based on substantial evidence and to the reasonable satisfaction of the city, that no existing communication tower or other collocation structure can accommodate the wireless service provider's proposed wireless communication facility. The applicant for a communication tower must present the following:
 - i. A collocation study documenting the efforts of the wireless service provider to locate on existing structures within the area of deficient service;
 - ii. Propagation studies documenting deficiencies in wireless service by the wireless service provider;
 - iii. Drive test data, if requested by the director of planning or the planning commission or board of commissioners, to support the data depicted in the computer-generated propagation study models;
 - iv. Dropped call data from adjacent wireless communication facilities, separated according to site and by sector, to document the wireless service provider's deficiency in coverage and to document that a new communication tower in the precise region in which it will be located will alleviate the coverage deficiency if requested by the director of planning, or the planning commission or board of commissioners;
 - v. Documentation showing how a greater number of shorter towers or collocation on existing structures would not sufficiently satisfy the deficiency in service coverage;

- vi. For any special use permit for a monopole tower, documentation explaining why a stealth communication tower cannot accommodate the wireless service provider's coverage needs, even if the use of a stealth communication tower results in the need for additional or shorter towers;
 - vii. If asserted as a reason for applying for a new communication tower, documentation that existing communication towers or structures do not have sufficient structural capacity to support the wireless service provider's wireless communication facility, and that existing or approved communication towers cannot be reinforced or modified; and
 - viii. Other limiting factors the applicant can demonstrate, not including the provisions of this chapter, that render existing communication towers or structures unsuitable for the wireless service provider's needs.
2. Security deposit. In addition to the special use permit and/or administrative determination filing fee applicable to all requests for wireless communication facilities except collocation facilities, an applicant for a communication tower may be required to deposit a fee of \$4,000.00 with the planning department to cover the cost of an independent study of the level of service in the area in question, and shall sign a form (i) authorizing the city to use those funds to hire consulting engineers to review the application and to advise the city on the extent to which the applicant has, or has not, met the burden of proof documenting the need for the tower as required by this chapter. Upon the conclusion of this technical review process funds remaining unexpended, if any, shall be refunded to the applicant, and the applicant shall be provided with an accounting for the funds expended. Any unused portion of the deposit will be returned to the applicant within 30 days of disposition of the application.
 3. Additional criteria for review. In addition to the standards and conditions listed in subsections 1 and 2 above, the city shall consider the following factors in determining whether or not to issue a special use permit or an administrative determination allowing the communication tower:
 - i. The height of the proposed communication tower;
 - ii. Proximity of the communication tower to residential structures and to residential district boundaries and property master planned for residential use;
 - iii. Technical or engineering requirements limiting placement of the wireless communication facility at other, more appropriate areas, to provide the required coverage;
 - iv. Nature of uses on adjacent and nearby properties;
 - v. Surrounding topography, tree coverage and foliage (natural clutter);
 - vi. Design of the communication tower, based upon consideration of the preferences set out in the definition of stealth communication tower, to mitigate the visual obtrusiveness of the communication tower.
 4. Setbacks and design standards. The following standards shall apply to communication towers:
 - i. No communication tower may exceed 199 feet in height.
 - ii. The communication tower shall be set back from the property line in all directions a distance equal to at least the height of the communication tower, if the site is in the AG zone. The communication tower shall be set back from the property line in all directions a distance that is equal to at least one-half its height, if the site is zoned for commercial or industrial purposes. These setbacks may be waived upon receipt of a notarized letter from the fee owner(s) of the parcel from which

the waiver is sought acknowledging consent to the waiver and the precise distance of the waiver required from this section.

- iii. Communication towers other than stealth communication towers shall be set back from residential structures by a distance of 300 feet.
- iv. Communication towers other than stealth communication towers shall be set back from all property zoned for residential use or planned for residential use, according to an adopted future land use plan or map, by a distance of 300 feet.
- v. Distance to other communication towers. communication towers shall not be located closer than one-half mile from another communication tower, unless an applicant proposes a stealth communication tower less than 80 feet in height. In certain circumstances where existing towers are at capacity, the planning commission may recommend a variance to this requirement to the board of commissioners.
- vi. Communication towers shall be designed and built to allow expansion at a later date to accommodate collocation by at least one additional wireless service provider for each additional 20 feet of height in excess of 60 feet; provided, however, that no communication tower is required to accommodate more than three wireless service providers.
- vii. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any wireless communication facility, nor any lines, cable, equipment, wires or braces in connection with the facility, shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk or property line.
- viii. Coaxial cable and conduit from base station equipment to the wireless service provider's antennas shall be routed through entry and exit ports and shall be concealed from view (by traversing the distance between the base station equipment to the antennas through the internal portion of the tower) to the greatest extent possible.
- ix. Screening.
 - A. Wireless communication facility compounds shall be screened with minimum ten-foot walls, from grade. These walls must be composed of either (a) solid masonry or (b) wooden fencing set on steel rails with a maximum one-quarter-inch gap between wood slats and masonry columns with a minimum width of two feet and a maximum separation of 16 feet per column. The director of planning or his/her designee must approve all designs or variations to this standard.
 - B. Landscaping. The applicant must submit a landscaping plan in accordance with section [27-699] of this chapter. Further, an applicant must provide the planning department with a watering plan/schedule for the first 12 months subsequent to the issuance of a certificate of occupancy for the wireless communication facility to ensure the landscaping will survive. The director of planning or his/her designee must approve all designs or variations to this standard.
 - C. All compound entry gates must be constructed of wooden slats set on steel rails.
- x. All compound facilities enclosing wireless communication facilities must be kept free of invasive weed and noxious plant species.

- xi. Driveways. All driveways to compound facilities enclosing wireless communication facilities must be improved with a minimum three-inch thick asphaltic or cement surface.
- xii. Compound size. No special use permit or administrative determination will be issued unless the applicant demonstrates that adequate base station equipment space is available for the number of collocators the communication tower is intended to accommodate.
- xiii. Power and telephone line burial. Overhead power and telephone lines are prohibited. All power and telephone lines must be buried to a depth of 36 inches below grade, from the source of the utility to the base station equipment or other equipment requiring power associated with the communication tower or wireless communication facility.
- xiv. Every communication tower shall be protected from trespass by unauthorized persons and shall contain an anti-climbing device to discourage climbing the communication tower.
- xv. communication towers and wireless communication facilities shall be constructed using best available engineering practices to ensure life and property safety.
- xvi. Mobile or immobile equipment not used in direct support of a wireless communication facility shall not be stored or parked on or adjacent the compound, unless repairs to the wireless communication facility are currently and actively being made.
- xvii. Lighting of building entries that are part of wireless communication facilities for security is permissible, provided the lights are downward facing 180 degree fixtures with no greater than one foot candle power and are otherwise compliant with section [27-699(b)(9)] of this chapter.
- xviii. All accessory buildings or structures accessory to communication towers shall meet all building design standards as listed in chapter 8, and require a building permit issued by the codes enforcement officer.
- xix. All visible buildings, structures and equipment accessory to a communication tower shall be designed to blend in with the surrounding environment through the use of color, camouflage and architecture.
- xx. No communication tower site may be situated in a designated historic overlay district unless the city's historic preservation commission approves the location and design.

(b) Application submission requirements for collocation facilities.

- 1. Applications for collocation facilities, wherever located, shall be submitted as final development plans subject to administrative determination by the director of planning pursuant to section [27-212(g)] of this chapter.
- 2. The following standards apply to any proposal to attach a wireless communication facility to an existing structure:
 - i. The structure upon which collocation is proposed shall be at least 30 feet in height before a collocation facility may be erected upon, or attached to, it;
 - ii. The structure to which the collocation facility is proposed to be attached may not be a structure designated by the historic preservation commission as a historic structure or be in a designated historic overlay district unless the historic preservation commission approves that collocation;
 - iii. The addition of wireless communication facilities to an existing structure shall not cause the height of that structure to increase by more than the greater of (i) ten

feet in height, or (ii) (a) 20 percent of the structure's then-existing height or (b) the maximum height allowed in that zoning district, whichever is greater but not to exceed 20 feet. Any proposed increase in height beyond these height restrictions shall require approval through the special use permit process;

- iv. Collocation facilities erected upon, or attached to, existing structures shall not be subject to standard setback requirements;
 - v. Subject to applicable codes, collocation facilities, including accessory buildings and structures to be located on the same property, shall be located on the roof of the structure when the collocation structure is a building. If the accessory equipment, buildings and other structures can be safely located on the roof of the structure, the equipment (not including antennas) shall be set back from the edge of the roof at least five feet, and shall be painted to match the building or concealed with a screening wall;
 - vi. Ground-mounted base station equipment shall be screened with a screening wall and landscaping as specified in [subsection (a)(30)k(a)4.ix of this section], unless an existing screening wall has already been constructed (e.g., around an existing communication tower);
 - 3. Expansion of communication tower compounds. A communication tower compound may be expanded administratively if the base station equipment complies with the requirements set out in [subsection (a)(30)k(a)4.], and if the communication tower would be allowed subject to administrative determination pursuant to this chapter if newly proposed. The compound may additionally be expanded by administrative determination if the communication tower would not be subject to administrative determination under this chapter, but was a permitted use under the city's previously adopted zoning regulations. The compound may additionally be expanded by administrative determination if the expansion is within a previously approved special use permit boundary. All other communication tower compound expansions must adhere to the special use permit process.
 - 4. Modifications to existing communication towers and wireless communication facilities. Any communication tower or wireless communication facility may be increased in height by not more than 20 percent of its originally approved height through the administrative determination process, provided that if the height increase would have rendered the communication tower prohibited in the first instance under this chapter, that increase is not authorized; provided further, if the increase would have rendered an otherwise administratively approved site subject to a special use permit under this chapter, the request shall be subject to the special use permit notice and hearing requirements.
- I. Governing body action.
- 1. A request for the placement, construction or modification to a wireless communication facility or communication tower shall be acted upon within a reasonable period of time from the receipt of a complete submittal of an application, site plan and supporting documentation, as required in this chapter.
 - 2. Denial of an application to place, construct or modify a wireless communication facility or communication tower shall be supported by findings based on substantial evidence and shall be provided in written form to the applicant.
- m. Maintenance and certification standards applicable to all communications facilities. The following maintenance and operating standards shall apply to any communication tower or wireless communication facility;
- 1. Any wireless communication facility that is not in use for a period of two or more years shall be removed by the owner at the owner's expense. Failure to remove the wireless

communication facility, pursuant to non-use or for any other reason set out in this chapter, may result in removal and assessment of cost to the property pursuant to K.S.A. 12-6a17.

2. Any owner of a communication tower shall submit a letter to the director of planning by July 1 of each year listing the current users and types of collocation facilities located on the facility.
 3. A sign shall be posted on every wireless communication facility, or on the exterior fence around the wireless communication facility, noting the name and telephone number of the wireless communication facility owner and operator.
 4. The owner/operator shall at all times employ at least ordinary care and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents that are likely to cause damage, injuries or nuisances to the public.
 5. All communication towers and wireless communication facilities antennas shall conform to the requirements of the Occupational Safety and Health Administration (OSHA).
- n. Bonding required.
1. Safety. Before a communication tower is erected on publicly owned property, the owner of the communication tower must file with the county clerk a written indemnification of the city and proof of liability insurance sufficient to respond to claims up to \$1,000,000.00, in the aggregate, that may arise from operation of wireless communication facilities within the city.
 2. Removal. Before a building permit is issued for any communication tower, the applicant shall present a removal bond to the chief counsel in the amount of \$50,000.00, which bond shall be available for use by the city for the removal of the communication tower should the communication tower ever be abandoned. The bond shall contain the following endorsement:

"It is hereby understood and agreed that this instrument may not be canceled nor any intention not to renew be exercised until 60 days after receipt by the city, by registered mail, of written notice of such intent."
- o. Inspections. All communication towers, whether existing or new, shall be inspected every five years by a Kansas licensed professional engineer at the tower owner's expense and an inspection report shall be filed with the director of planning. All communication towers and wireless communication facilities may be inspected at any time by the director of planning. The building official or their designee to determine compliance with original construction standards. Deviation from the original approved construction standards constitutes a violation of this Code and the zoning ordinance.
- Notice of violations will be sent by registered mail to the tower owner, who will have 30 days from the date the notification is issued to make adjustments or repairs. The tower owner shall notify the director of planning. The building official or their designee in writing that the adjustments or repairs have been made, and, as soon as reasonably possible thereafter, another inspection will be made by the director of planning. The building official or their designee to assess compliance. The tower owner shall then be notified of the results of the second inspection. An appeal of the decision of the codes enforcement officer can be made to the board of zoning appeals in accordance with section 27-53 of this chapter.
- p. Amateur radio, receive-only and broadcast antennas. This chapter shall not govern any communication facility that is:
1. Less than 50 feet in height;

2. Located in the rear yard of a residentially zoned parcel;
 3. Owned and operated by a federally licensed amateur radio operator; provided, however, that communications towers covered under this paragraph shall not be available for co-location by wireless service providers; or
 4. Used solely to transmit and receive commercial AM, FM or television broadcast signals.
- q. Failure to enforce does not constitute waiver. No failure by the city or any of its departments to enforce any provision of this section shall constitute a waiver of the provisions thereof. Any failure of a owner or a section provider to comply with the terms of this section may subject the owner and/or provider to revocation of administrative or special permits, and penalties and municipal violations as set out below.
 - r. Violations. Failure to comply with this chapter or any condition specified in an administratively or specially approved permit constitutes a code violation for which penalties and fines may be imposed.
 - s. Severability. If any provision of this chapter shall be found to be invalid, that provision shall be severed from this and the remainder of the chapter shall remain in full force and effect.

(b) The following uses are permitted only on approval of a special use permit regardless of the zoning district of the proposed location:

- (1) Airport or landing field.
- (2) Salvage yards only on M-3 or MP-3.
- (3) Campgrounds.
- (4) Cemeteries.
- (5) Firing ranges, gun clubs, skeet shoots.
- (6) Halfway houses, group dwellings.
- (7) Hazardous waste transfer stations, storage, processing or disposal sites only in M-3 or MP-3.
- (8) Massage parlors, adult live theaters, body painting salons, nude modeling studios, adult night clubs or cabarets only in C-3, M-2 or M-3 except that such uses shall not be approved if within 500 feet of any church, school (those permitted in residential districts), or residentially zoned area. The 500 feet shall be measured from the exterior of the building in which the specified business is to operate along the shortest line to the property line of the property to be separated.
- (9) Penal or correctional institutions.
- (10) Drinking establishments in which sales of alcoholic beverages are greater than restaurant food sales, class A or class B private clubs, taverns.
- (11) Radio, telephone, and television towers and appurtenance structures.
- (12) Solid waste transfer stations, solid waste storage, processing or disposal sites.
- (13) Special on-site signage as allowed under section 27-739.
- (14) Underground commercial and industrial development limited to uses permitted in the zoning district of the main entrance.
- (15) Any site, location, described or identified parcel of real estate, where earth material is to be brought in, removed, relocated or otherwise taken from one place to another, whether titled under the same, common, or different ownership, except no special use permit shall be required:

- a. Where the amount of earth material is less than 50 cubic yards;
- b. Where grading is a part of an approved subdivision development for which street and utility plans have been approved;
- c. Where grading, excavation or filling is required for a building project for which a building permit has been issued;
- d. Where the quantity of material is less than 5,000 cubic yards and is to be brought in or removed over a period shorter than 60 days to a site in commercial or industrial zoning districts accessible via commercial or industrial streets or major streets as designated on the major street plan; or
- e. Where the administrator determines that the proposed earth material moving is:
 - 1. Necessary to abate an emergency situation which otherwise threatens health, safety, or the natural environment; or
 - 2. Necessary to carry out a public capital improvements project.

Grading and hauling permits shall be required as determined by the chief building inspector and unified government engineer respectively, regardless of these exceptions.

- (16) Flea markets, only in the C-1 limited business, C-2 general business, C-3 commercial, C-D central business, M-1 light industrial and industrial park, M-2 general industrial, and M-3 heavy industrial districts.
- (17) Lottery gaming facilities, racetrack gaming facilities, lottery gaming enterprises, and pari-mutuel license locations and their related facilities or campuses only in the CP-2 planned general business district subject to the following criteria:
 - a. Any approval shall be for one year unless the facility is granted a lottery gaming license or a pari-mutuel gaming license from the state. In the case that a facility is granted a lottery gaming license or a pari-mutuel gaming license from the state, the term of the special use permit shall be for the initial term of the state license.
 - b. The special use permit must be renewed prior to the expiration of any lottery gaming license or a pari-mutuel gaming license. The renewal will only be valid if a lottery gaming license is granted by the state.
 - c. In addition to the standards of the CP-2 planned general business district, any lottery gaming facility, racetrack gaming facility, lottery gaming enterprise, or pari-mutuel license location and their related facilities or campuses shall be subject to the development standards of the overlay district for commercial design guidelines (Ordinance No. 0-50-06) regardless of the location within the city.
 - d. A racetrack gaming facility may be located at any existing pari-mutuel racetrack location without securing a special use permit under this subsection (b)(17). Any new building or any substantial modification to site improvements would be a significant revision of the preliminary plan approved for the special use permit for a pari-mutuel thoroughbred, quarter horse and greyhound racing facility and would require approval following the procedures applicable to revisions to preliminary plans under section 27-211. Any improvement to the exterior of any building or to site improvements at an existing pari-mutuel location shall be subject to the development standards of the Overlay District for Commercial Design Guidelines and the standards of the CP-2 Planned General Business District.
- (18) Liquor stores with a minimum separation distance of 1,300 feet between any new liquor store location and any existing or proposed liquor store location, church, school, or public park. These distances are to be measured from the nearest property lines of each location.

- (19) Used car/truck lots and light automotive service and maintenance only in C-2 general business district, C-3 commercial district, M-1 light industrial and industrial park district, M-2 general industrial district, and M-3 heavy industrial district subject to the following criteria:
- a. Repurposing of structure(s) for used car/truck lots or light automotive service and maintenance.
 - 1. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.
 - 2. Landscaping, screening, and façade improvements to meet commercial design guidelines.
 - b. Signage.
 - 1. Following all permanent sign requirements under section 27-727.
 - 2. Following all special event display requirements under section 27-734.
 - 3. No display on sidewalks.
 - c. Façade, landscaping, and screening.
 - 1. For new buildings:
 - i. All commercial design guidelines and district regulations shall be upheld in C-3 commercial districts including, but not limited to, the creation of quality development with respect to site planning, architectural design and landscaping.
 - ii. Commercial uses in industrial districts shall be subject to commercial design guidelines.
 - 2. For existing structures:
 - i. Such modifications as:
 - A. Restoring original brick.
 - B. Any necessary repair of the facade.
 - C. New doors or windows if existing fixtures are in disrepair.
 - D. Substantial effort beyond simply painting the building is necessary. Brick structures must be cleaned, paint removed and tuck pointed.
 - E. For non-brick buildings in addition to paint, additional architectural embellishments such as a brick wainscot may be required.
 - b. Condition of automobiles/trucks.
 - 1. Automobiles/trucks available for sale, rent or lease must not be inoperable, ruined, dismantled or wrecked.
 - c. Parking.
 - 1. The display area shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by sections 27-466 through 27-470.
 - 2. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.
 - 3. Each automobile shall be in a striped, designated parking space.
 - d. Install/repair sidewalks per code.

(20) Heavy automotive/truck service, repair, and mechanics only in C-3 commercial district, M-1 light industrial and industrial park district, M-2 general industrial district, and M-3 heavy industrial district subject to the following criteria:

- a. Repurposing of structure(s) for heavy automotive/truck service, repair, and mechanics.
 - 1. Upgrade parking, including striping and/or resurfacing of parking lots, if deemed necessary by staff.
 - 2. Landscaping, screening, and façade improvements to meet commercial design guidelines.
- b. Signage.
 - 1. Following all permanent sign requirements under section 27-727.
 - 2. Following all special event display requirements under section 27-734.
 - 3. No displays on sidewalks.
- c. Façade, landscaping, and screening.
 - 1. For new buildings:
 - i. All commercial design guidelines and district regulations shall be upheld in C-3 commercial districts including, but not limited to, the creation of quality development with respect to site planning, architectural design and landscaping.
 - ii. Commercial uses in industrial districts shall be subject to commercial design guidelines.
 - 2. For existing structures:
 - i. Such modifications as:
 - A. Restoring original brick.
 - B. Any necessary repair of the facade.
 - C. New doors or windows if existing fixtures are in disrepair.
 - D. Substantial effort beyond simply painting the building is necessary. Brick structures must be cleaned, paint removed and tuck pointed.
 - E. For non-brick buildings in addition to paint, additional architectural embellishments such as a brick wainscot may be required.
- d. Parking.
 - 1. Parking of the automobiles under heavy service, repair, or mechanics shall not be placed within a required parking/paving setback area and shall not reduce the capacity of a parking lot below that required by sections 27-466 through 27-470.
 - 2. Parking shall be upgraded to current standards and regulations including medians, landscaping, and screening.
 - 3. Each automobile shall be in a striped, designated parking space.
- e. Install/repair sidewalks per code.

Section 3. That said original Sections 7-1, 7-170, 7-175, 7-176, 7-177, 7-178 and 27-340 and 27-593 of the Unified Government Code are hereby repealed.

Section 4. This ordinance shall take effect and be in full force from and after its passage, approval, and publication in the official Unified Government newspaper.

**PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT
OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS,**

THIS _____ DAY OF _____, 2016.

Mark Holland, Mayor/CEO

Attest:

Unified Government Clerk

Approved As To Form:

Unified Government Counsel



LEGAL DEPARTMENT of the UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS

Ninth Floor-Municipal Office Building
701 North Seventh Street
Kansas City, Kansas 66101
Phone (913) 573-5060
Fax (913) 573-5243

Chief Counsel
Kenneth J. Moore

Assistant Counsel:
Henry E. Couchman Jr.
Patrick M. Waters
Misty Brown-Polo
Ryan L. Carpenter
Ryan P. Haga
Angela J. Lawson
Jennifer L. Myers
Jane A. Wilson
Susan Q. Alig
Grant W. Williams
Wendy M. Green

To: Unified Government Board of Commissioners
From: Jennifer Myers, Senior Counsel
Cc: Ken Moore, Chief Counsel
Date: May 12, 2016
RE: Proposed changes to the animal control ordinances and planning and zoning ordinances

This memo is to explain the proposed changes to the animal control ordinances and planning and development ordinances to be presented at the May 23, 2016 Public Works and Safety standing committee:

CHAPTER 7- ANIMALS CHAPTER 27- PLANNING AND DEVELOPMENT

- Sections 7-1, 7-175(a) and 27-340
 - Defines “fowl” to be consistent throughout
 - *Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zone agricultural with the following exceptions:*
 - (1) Ducks.*
 - (2) Female chickens*
- Section 27-593
 - Adds keeping fowl as an allowable special use in areas not zoned agricultural with specific provisions.
 - Maximum number of chickens allowed has been left blank for commission discussion and approval.
 - *(10) Fowl. Keeping of permitted fowl in lots not zoned agricultural:*
 - (a) closer than 25 feet to the nearest portion of any building occupied by or in any way used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than 10 feet to the property line of the lot.*

(b) exceeding one fowl per 500 square feet of lot size, rounded down.

(c) exceeding a total of ____ fowl regardless of lot size.

- Section 7-170
 - Adds additional language for fowl permits
- Section 7-175
 - Amends and adds keeping regulations for fowl
 - Maximum number of fowl has been left blank for commission discussion and approval.
 - *(c) Except where fowl or animals are kept for sale within a bona fide produce market, commission house or store for the purposes of trade and while so kept are confined in small coops, boxes or cages, or where such animals or fowl are kept for purposes of research in a laboratory, or less than five birds are kept in a home as pets, such as canaries, parakeets, parrots, finches, and doves, it shall be unlawful for any person to keep or maintain any chicken coop, dove cote, rabbit hutch or other yard establishment for the housing of fowl or small animals closer than ~~400~~ 25 feet to the nearest portion of any building occupied by or in anywise used by human beings, other than the dwelling occupied by the owner or keeper of the animals or fowl, or closer than ~~25~~ 10 feet to the property line of the lot. Animals and fowl so kept or maintained shall be enclosed on all sides and shall not be allowed to run or fly at large, except for homing pigeons.*
 - *(d) The maximum number of Permitted Fowl shall not exceed one fowl per 500 square feet of lot size, rounded down.*
 - *(e) The maximum number of Permitted Fowl shall not exceed _____ fowl, regardless of the size of the lot.*
- Section 7-176
 - Redefines the number of fowl for specific maintenance language.
- Section 7-177
 - Outlines conditions for enclosures for fowl.

(c) For every three chickens, a minimum of one laying box space, with a minimum size of one square foot, shall be required. Each laying box shall contain adequate clean bedding material such as hay or other soft material. Laying boxes shall not be required for ducks.

- Section 7-1
 - Strikes and redefines “person” and adds “owner” definition in Section 7-1.

~~*Person means any owner or individual having the right of property in any animal, who keeps or harbors an animal, who has it in his care, acts as its custodian or who knowingly permits an animal to remain on or about any premises occupied by such person. Native wildlife remaining on or about any premises shall not be included in this definition.*~~

Owner means any person having a right of property in an animal or who keeps or harbors an animal, or who has it in his care or residence, or acts as its custodian. A parent or legal guardian shall be deemed to be an owner of animals owned or maintained by minors upon their premises.

Person means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

These ordinances must be approved by the Planning Commission before they can be sent to the full commission for approval.