

## ARTICLE 2

### RULES, INTERPRETATIONS AND DEFINITIONS

#### Sections:

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#### SECTION 2-1 RULES AND INTERPRETATIONS

##### 2-101.

##### a. Rules.

1. Meaning and Intent. All provisions, terms, phrases and expressions contained in these Regulations shall be construed in accordance with the purposes of these Regulations.
2. Text. In case of any difference of meaning or implication between the text of these Regulations and any drawing or figure, the text shall control.
3. Delegation of Authority. Whenever a provision appears requiring the head of a department or some other officer or employee to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authority subordinates to perform the required act or duty unless the terms of the provision or section specify otherwise.
4. Non-technical and Technical Words. Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.
5. Public Officials, Bodies and Agencies. All public officials, bodies and agencies to which references are made are those of the City of Fort Scott, unless otherwise indicated.
6. In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
  - (a) Words used in the present tense shall include the future.

- (b) Words in the singular number include the plural number, and words in the plural number include the singular number.
  - (c) Conjunctions. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows:
    - “And” indicates that all connected items, conditions, provisions or events shall apply; and
    - “Or” indicates that one or more of the connected items, conditions, provisions or events shall apply.
  - (d) The words “use,” “used,” “occupy” or “occupied” as applied to any land or building shall be construed to include the words “intended,” “arranged” or “designed” to be used or occupied.
  - (e) The word “shall” is mandatory, and the word “may” is permissive.
  - (f) The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
  - (g) Unless otherwise specified, all distances shall be measured horizontally.
2. Any word or phrase which is defined in this article or elsewhere in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

Unless specifically provided, in computing any period of time prescribed or allowed by these regulations, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed is to be included, unless it is Saturday, Sunday or a legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation. “Legal holiday” includes any day designated as a holiday by the Congress of the United States or by the Kansas legislature. Whenever a notice, petition or other document is required to be filed within a specified time period, the notice, petition or document must be filed with the appropriate city

official or in the appropriate city office not later than 5:00 p.m. on the last day of the period as computed.

b. Interpretations.

1. **Minimum requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of public health, safety, morals and welfare.
2. **Overlapping or contradictory regulations.** Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or of any other law, rule or regulation of any kind, the regulations which are more restrictive shall govern unless otherwise excepted.
3. **Private agreements.** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.
4. **Unlawful structures and uses.** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

## **SECTION 2-2 SEPARABILITY**

**2-201.** It is hereby declared to be the intention of the City that the several provisions of these regulations are separable, in accordance with the following rules:

- a. If any court of competent jurisdiction shall adjudge any provisions of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.

- b. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure the judgment shall not affect the applicability of the provisions to any other property or structure.

## **SECTION 2-3 DEFINITIONS**

**2-301.** For the purposes of these Regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

***Abut.*** Touching or contiguous; as distinguished from lying near to or adjacent. The term generally means the same as “adjoin” although different objects such as a lot and a street are said to abut while similar objects such as two lots are said to adjoin.

***Accessory building.*** A subordinate building located on the same lot or groups of lots as a main building and which serves a function customarily incidental to the main use. Customary accessory buildings include detached garages, carports and small storage sheds.

***Accessory use.*** A subordinate use which serves an incidental function to that of, or which is customarily found in connection with, the main use of the premises. Customary accessory uses include tennis courts, swimming pools, barbecue ovens, air conditioners, fireplaces and satellite dishes.

***Adjacent.*** Lying near or close to; sometimes contiguous; neighboring.

***Adjoin.*** To touch or to be contiguous; as distinguished from lying near to or adjacent.

***Agricultural use.*** The use of property of not less than three (3) acres for the production of plants, animals, or horticultural products, including but not limited to: forages; grains and feed crops; dairy animals and dairy products; beef cattle; sheep; swine; poultry, and horses; bees and apiary products; trees and forest products; fruits, nuts, and berries; vegetables; or nursery, floral, ornamental, or greenhouse products. Land used for agricultural purposes shall **not** include the following:

- Land which is used for recreational purposes; residential suburban property; home sites and yard areas whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of the plants listed above.
- The operation or maintenance of greenhouses, nurseries, or hydroponics farms operated at retail.

- Wholesale or retail sales as an accessory use except the seasonal retail sale of produce.
- The operation or maintenance of a commercial stockyard, feedlot, or other confined livestock feeding operation.
- The operation of auction sales yards.
- The operation of a bed and breakfast.
- The operation of junk, scrap, or salvage yards.
- The operation of kennels.
- The establishment of additional dwelling site for any purpose except as accessory dwellings for bona fide farm help employed on the premises.

***Airport or heliport.*** Any landing area, runway or other facilities designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, tie-down areas, hangers, other necessary uses, and open spaces.

***Alley.*** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property the right-of-way of which is at least twenty feet (20') in width.

***Alter or alteration.*** Any change, addition or modification in construction or use of a structure.

***Amendment.*** The change or alteration to the Zoning Regulations in one of the following forms:

- a. A comprehensive revision or modification of the zoning text and/or maps.
- b. A text change in the zone requirements.
- c. The approval of a Conditional Use Permit as provided in these regulations.
- d. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as a “rezoning” and includes overlay zoning approval.

***Animal clinic or hospital.*** Any building or structure designed for examination, observation, treatment, board or care of animals by a doctor of veterinary medicine.

***Apartment.*** See ***Dwelling, multiple.***

***Applicant.*** The owner of a tract of land, or his or her duly designated representative, for which an amendment has been requested. Consent shall be required from the legal owner of the premises if the applicant is other than the owner.

**Architectural projections.** Architectural features and accessories which are deemed desirable or necessary for the health or safety of the public, such as, but not limited to: cornice and eaves, architectural decorations (sills, pediments, etc.), ornamental columns (pillars, columns, moldings, etc.), entrance steps, decks, porches, balconies, permanent awnings and canopies, marquees, and bay windows. The term architectural projection, however, does not include any architectural feature which may be removed or retracted at will from the primary structure, such as a flag pole, retractable awnings, or gutter.

**Attached.** A foundation, wall, or roof of a building or structure which is connected to and supported by the foundation, wall, or roof of another building or structure.

**Automotive service station.** Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such a motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.

**Automobile, truck and trailer sales and service.** A building or premises used for the display and/or sales of new or used automobiles, trucks or trailers and where only incidental, minor repair work is performed.

**Basement.** That portion of a building that is partly or completely below grade plane for more than one-half of its perimeter. See **Story**.

**Bed and breakfast inn.** A residential structure other than a hotel or lodging house, where for compensation and by pre-arrangement for definite short term periods, sleeping rooms and meals are provided for one or more persons who are guests at the inn.

**Block.** A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad rights-of-way, parks, or a combination thereof.

**Board of Zoning Appeals.** The City of Fort Scott Board of Zoning Appeals.

**Boarding house.** See **Lodging house**.

**Building.** Any structure designed or intended for the enclosure, shelter, or protection of persons, animals or property.

**Building, community.** A building used and designed for social, educational, or recreational activities of a subdivision, mobile home park, neighborhood or community, providing such use is not for commercial gain.

**Building, height.** The vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields the greater height.

- a. The elevation of the highest adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall of a building when such sidewalk or ground surface is no more than ten (10) feet above the lowest grade.
- b. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in paragraph (a) above is more than ten (10) feet above the lowest grade.

**Building line.** The exterior face of a wall of an existing structure or the limits to which an exterior face of a wall of a proposed structure may be built, but shall not include the face of one story unoccupied gable roofed areas over open porches, entrances or like appendages.

**Building, principal or main.** A non-accessory building in which a principal use of the lot on which it is located is conducted.

**Building, public.** A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, hospitals and related medical facilities, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools.

**Building setback line.** A line within a lot or other parcel of land indicating the limit beyond which a building or structure may not be erected. See **Yard**.

**Bulk regulations.** Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling:

- a. Maximum height.
- b. Maximum lot coverage.
- c. Minimum size of yards and setbacks.

**Canopy.** A structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or, a

roof-like structure of permanent nature which projects from the wall of a structure and overhangs the public way.

**Car wash.** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

**Cellar.** A story having more than one-half of its height below grade.

**Cemetery.** Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

**Child care facilities.** See *Day care facilities*.

**Church or place of worship.** An establishment, the principal use of which is religious worship, but which may include accessory uses in the main structure or in separate buildings such as Sunday School rooms, child-care facilities, assembly rooms, kitchens, recreational facilities and libraries.

**City.** The city of Fort Scott, Kansas.

**City Commission.** The Fort Scott City Commission.

**Club, class A.** Premises owned or leased by a corporation, partnership, business trust or association and that is operated thereby as a bona fide nonprofit social, fraternal, or war veterans' club, as determined by the Director of Alcoholic Beverage Control of the Kansas Department of Revenue, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates and their families and guests accompanying them.

**Club, class B.** Premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for food, alcoholic beverages or entertainment.

**Club or lodge.** See *Fraternal, civic and social organizations*.

**Common open space.** An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as open space.

**Comprehensive plan.** The currently adopted Comprehensive Plan for the City of Fort Scott.



**Conditional use.** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses created after the effective date of these regulations are allowed only after public notice, hearing, and approval as prescribed in these regulations and may have special conditions and safeguards attached to assure that the public interest is served.

**Conditional use permit.** A written document of certification permitting the construction, alteration or establishment of a conditional use created after the effective date of these regulations.

**Condominium.** A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 *et seq.*) of the State of Kansas.

**Convalescent homes.** See **Nursing homes, retirement homes** or **convalescent homes**.

**County Board or County Commission.** The Board of County Commissioners of Bourbon County, Kansas.

**Day care facilities.** Definitions for those of the following facilities which provide care for children are established by state law and promulgated by regulations of the Kansas Department of Health and Environment (KDHE) and the Kansas Department of Social and Rehabilitation Services (SRS). Standards for such definitions may be periodically amended by changes to state regulations and such changes are incorporated by reference herein.

- a. **Adult day care home.** A facility for adults having some or all of the characteristics of homes for the elderly, whether operated for profit or not, which through its operation provides one (1) or more personal services for five (5) or more persons not related by blood or marriage to the owner or operator, for periods of time of less than twenty-four (24) hours. Personal services are in addition to housing and food service, and include but are not limited to: personal assistance with bathing, dressing, housekeeping, eating, supervision of self-administered medication, individual or group activities, and assistance in securing health care from appropriate sources.
- b. **Child care center.** A facility which provides care and educational activities for thirteen (13) or more children six (6) weeks to sixteen (16) years of age for more than three (3) and fewer than twenty-four (24) hours per day including daytime, evening and nighttime care; or which provides before and after school care for school-age children and licensed by the State as a child care center. A facility may have fewer than thirteen (13)

children and be licensed as a center if the program and building meet child care center regulations as defined by the State of Kansas.

- c. **Day care home.** A home in which care is provided for a maximum of twelve (12) children in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a day care home.
- d. **Family day care home.** A home maintained for the purpose of providing children with day-care away from such children's homes, for fewer than twenty-four (24) hours a day, provided that not more than seven (7) children cared for at such place are under kindergarten age and not more than three (3) of the children cared for at such place are less than eighteen (18) months of age, or a maximum of ten (10) children under sixteen (16) years of age operated in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a family day care home.
- e. **Group day care home.** A home in which care is provided for a maximum of twelve (12) children under sixteen (16) years of age, in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a group day care home. (K.A.R. 28-4-114(f)(1).)
- f. **Preschool.** A day-care facility in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool which:
  - 1. Provides learning experiences for children who have not attained the age of eligibility to enter kindergarten prescribed in K.S.A. 72-1107(c), and any amendments thereto, and who are thirty (30) months of age or older.
  - 2. Conducts sessions not exceeding three (3) hours per session;
  - 3. Does not enroll any child in more than one (1) session per day; and
  - 4. Does not serve a meal.

The term "preschool" shall include all educational preschools, nursery schools, church-sponsored schools, and cooperatives. A "preschool" may have fewer than thirteen (13) children and shall operate in compliance with the definitions and regulations of the State of Kansas, and licensed by the State as a preschool.

**Detached.** A building that does not have a wall, roof or other structural member which is connected to and supported by the foundation, wall or roof of another building or structure.

**Development.** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

**Disability.** Shall mean, with respect to a person:

- a. A physical or mental impairment which substantially limits one or more of such person's major life activities; or
- b. Having a record of having such an impairment; or
- c. Being regarded as having such an impairment.

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

**Distance.** Horizontal distances unless otherwise designated.

**District.** A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

**Drinking establishment.** Premises licensed as a drinking establishment by the State of Kansas, open to the public and selling alcoholic liquor by the individual drink, for consumption on the licensed premises, in accordance with K.S.A. 41-2642 and amendments thereto. For purposes of these regulations a drinking establishment shall be regulated the same as a tavern.

**Drive-in service.** The service of food or other goods, services or entertainment where patrons remain in their motor vehicles which are parked in spaces provided on the premises for that purpose.

**Drive-through service.** Service where patrons are served through a window or other device while remaining in their motor vehicles and where products served to patrons are normally not consumed on the premises.

**Duplex.** The use of a lot for two principal dwelling units within a single building.

**Dwelling.** A building or portion thereof, not including mobile homes, which is designed and used exclusively for residential purposes.

**Dwelling, multiple.** A residential building having accommodations for and occupied by more than two (2) families, independently.

***Dwelling, single-family.*** A residential building having accommodations for and occupied exclusively by one (1) family.

***Dwelling, two-family.*** A residential building having accommodations for and occupied exclusively by two (2) families independently.

***Dwelling unit.*** One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by not more than one family, or a congregate residence for five (5) or fewer unrelated persons, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

***Easement.*** An interest in land that is held by someone other than the owner that entitles the holder to a specific limited use or right.

***Engineer.*** The term engineer shall mean the Fort Scott City Engineer. When the context so requires, engineer shall mean an engineer licensed by the State of Kansas.

***Established building line.*** A building setback line generally parallel to the street right-of-way line established by existing principal buildings in a block.

***Exception.*** An exception from a provision of these regulations, which may be granted by the Board of Zoning Appeals only when such exception is specifically authorized in these regulations.

***Family.*** One or more persons related by blood, marriage or adoption, or pursuant to legal guardianship; living together as a single housekeeping unit; or a group of not more than five (5) unrelated persons living together as a single housekeeping unit in a dwelling unit.

***Fence.*** A free-standing structure intended to provide privacy, protection or confinement or to redirect a person's direction of travel. A fence may be constructed of but not limited to: wire, chain links, wood, stone or any standard building materials. A fence is not a structure unless it exceeds 80% visual blockage.

***Flood plain.*** Consistent with definitions set by the Federal Emergency Management Agency, land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of 1%.

***Floor area.*** For the purpose of applying the requirements of off-street loading and parking based on "floor area," floor area shall mean the floor area used or intended to be used by tenants, or for the service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment for display or sale of merchandise. It shall not include areas used for nonpublic

purposes such as storage, incidental repair, processing or packaging of merchandise, restrooms, utilities, kitchens, fitting or dressing rooms.

**Floor area ratio.** The relative comparison of building area to land area that is determined by dividing total floor area of all buildings on a platted lot or tract by the total area of the lot or tract.

**Fraternal, civic and social organizations.** A corporation, partnership, business trust or association which is nonprofit, which has been exempted from the payment of federal income taxes and for which the sale of alcoholic beverages to members and their guests may be allowed under the Class A club definition of the state statutes provided it is secondary and incidental to the promotion of some other common objective of the organization. Said organizations may include, but are not limited to the following: V.F.W., Eagles, Elks, Knights of Columbus, American Legion, Masonic Lodges and Moose Lodges.

**Frontage.** All the property on one side of a street between two (2) intersecting streets (crossing or terminatings) measured along the line of the street. Where a street is dead-ended, the frontage shall be considered as all that property abutting on one side between an intersecting street and the dead-end of the street.

**Garage, private.** An accessory building to residential uses designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is an accessory.

**Garage, public.** A building, or portion thereof, other than a private or storage garage, designed for equipping, repairing, hiring, servicing, selling or storing motor-driven vehicles.

**Garage, storage.** A building or portion thereof, designed or used exclusively for housing five (5) or more motor-driven vehicles.

**Governing body.** The Fort Scott City Commission.

**Grade.** A reference plane representing the average finished ground level adjoining the building at all exterior walls. When the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest point(s) within the area between the building and the property line, or when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

**Group boarding home for minors.** A residential dwelling unit for persons under 18 years of age who do not constitute a "family" as defined in this section, who for various reasons cannot reside in their natural home and where 24-hour adult care, supervision and consultation exists under license of the Kansas Secretary

of the Department of Health and Environment or the Secretary of the Department of Social and Rehabilitation Services; provided, however, that this definition shall not include an existing or proposed use of a residential dwelling unit which is in compliance with the definition of "group home" as defined in K.S.A. 12-736. Such latter use shall be considered to be a single-family residential use and shall not be considered to be a "group boarding home for minors."

**Group home.** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, which is a physical or mental impairment as defined by K.S.A. 12-736, who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home. Such a dwelling must be licensed as a group home by the Kansas Department of Social and Rehabilitation Services or the Kansas Department of Health and Environment. See also **Large group home**.

**Guest house.** Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.

**Highway.** A thoroughfare controlled and/or maintained by the Kansas Department of Transportation (KDOT).

**Home occupation.** An accessory occupational use conducted entirely within a dwelling unit by the occupants thereof, which is clearly incidental to the use of the structure for residential purposes and does not change the residential character of the site.

**Hospital.** A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, pharmacies, out-patient departments, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

**Hotel or motel.** A building or structure which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are offered for pay primarily to transient guests and in which four (4) or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin, motel or other type of lodging unit.

**Improvements.** Any structure, grading, street surface, curbs and gutters, sidewalks, bike-ways, cross-walks, water mains, sanitary sewers, storm sewers,

drainage ditches, culverts, bridges, trees and other additions or deletions from the natural state of land which increase its utility or habitability.

***Inoperable motor vehicle.*** A motor vehicle that is wrecked, dismantled, unable to move under its own power, impounded by a governmental agency, or is not currently licensed, all as such is defined in the Fort Scott City Code.

***Institution.*** A building occupied by a nonprofit corporation or nonprofit establishment for public use.

***Institution of higher learning.*** A college, university or incorporated academy providing general academic instruction equivalent to the standards prescribed by the State Board of Education. Dormitories, fraternity houses, sorority houses and other student housing and recreation and athletics-related facilities which are constructed on campus shall be considered accessory buildings.

***Intensity.*** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.

***Junk.*** Materials that include, but are not limited to: scrap copper, brass; rope; rags; batteries; paper; trash; rubber; debris; waste; junked, dismantled, scrapped or wrecked motor vehicles or parts thereof; iron; steel; or other old or scrap ferrous or nonferrous material or similar materials.

***Junk yard.*** See ***Salvage yard.***

***Kennel.*** Any place, area, building or structure where dogs (including those under one year of age) and other domesticated animals are boarded, housed, cared for, fed, or trained by other than the owner, or where more than three (3) domesticated animals, six (6) months of age or older, are kept for purposes of breeding, raising or as pets.

***Laboratory, medical.*** An establishment which provides bacteriological, biological, medical, pathological and similar analytical or diagnostic services.

***Landowner.*** The legal or beneficial owner or owners of a lot or tract. The holder of a contract to purchase or other person having an enforceable proprietary interest in a lot or tract shall be deemed a landowner.

***Landscape Material.*** Such living materials as trees, shrubs, ground cover, vines, turf grasses, and non-living materials such as rocks, pebbles, sand, bark, brick pavers, earthen mounds (excluding pavement), and other items of a decorative or embellishment nature such as fountains, pools, walls, fencing, sculpture, etc.

**Landscaped Open Space.** That part of the net land area which is free of streets, structures, or parking areas and provided to improve the drainage, microclimate and aesthetics of the site. Such areas are usually landscaped and appropriately located to achieve maximum effect and appeal. Typically, such space includes lawn areas, shrubs and trees, walkways, paved terraces, sitting areas and outdoor recreational areas.

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

**Large group home.** A group home occupied by more than ten (10) residents, including staff.

**Laundry (self-service).** An establishment equipped with individual coin- and/or card-operated washing, drying and/or dry cleaning machines.

**Laundry.** An establishment where commercial laundry and dry cleaning work is undertaken.

**Licensed provider.** Shall mean a person or agency who provides mental health services and is licensed by:

- a. The Department of Social and Rehabilitation Services pursuant to K.S.A. 75-3307b or K.S.A. 65-425 et seq., and amendments thereto; or
- b. The Behavioral Sciences Regulatory Board pursuant to K.S.A. 75-5346 et seq. or K.S.A. 74-5301 et seq., and amendments thereto; or
- c. The State Board of Healing Arts pursuant to K.S.A. 65-2801 et seq., and amendments thereto.

**Loading or unloading space.** An off-street space or berth, on the same tract and contiguous with the principle building or group of buildings for the temporary parking of commercial vehicles for loading and unloading of merchandise or materials.

**Lodging house.** A building other than a hotel or motel, where, for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided. Individual cooking facilities are not provided.

**Lot.** A parcel or tract of land (legally described or platted) which is on record in the office of the Bourbon County Register of Deeds. For the purposes of these regulations, a lot shall have a frontage upon a public street right-of-way.



**Lot area.** The area of a horizontal plane bound by the front, side and rear lot lines, excluding any road right-of-way or road easements. The total area within the property lines of a lot or tract.

**Lot, corner.** A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front upon that street on which it has its least dimension. A corner tract made up of more than one platted lot shall conform to all requirements established for a corner or other lot and shall be deemed to front upon that street on which one or more of such platted lots, which would individually not be classified as corner lots, front.

**Lot coverage.** The total area of building expressed as a percentage of the total lot, plot or tract.

**Lot, depth of.** The horizontal distance between the front and rear lot lines measured at the mid-point between the two side lot lines.

**Lot, double frontage.** A lot having a frontage on two (2) nonintersecting streets as distinguished from a corner lot.

**Lot, interior.** A lot whose side line or lines do not abut upon any street. An interior lot is a lot other than a corner or through lot.

**Lot, key.** A corner lot adjoining two or more non-corner (interior or through) lots.

**Lot lines.** The lines bounding a lot as defined herein.

**Lot of record.** A lot which is a part of a subdivision, which has been recorded in the office of the Register of Deeds of Bourbon County or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds of Bourbon County, prior to the effective date of Fort Scott Ordinance No. 2992.

**Lot split.** The division of a single lot into not more than two (2) tracts without having to re-subdivide said lot, providing that the resulting lots shall not again be divided without re-platting.

**Lot, through.** A lot, other than a corner lot, having frontage on two parallel or approximately parallel streets.

**Lot width.** The mean horizontal distance between the side lot lines.

**Lot, zoning.** A parcel of land that is designated by its owner or developer at the time of applying for a building permit as one lot, all of which is to be used, developed or built upon as a unit under single ownership. Such lot may consist

of: (1) a single lot of record; or (2) a portion of a lot of record; or (3) a combination or complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

***Manufacture.*** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.

***Manufactured home.*** A structure consisting of one or more mobile components manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards Act generally known as the HUD Code, established pursuant to 42 U.S.C. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all utilities in conformance with applicable regulations. For purposes of these regulations, the term “manufactured home,” when used by itself, shall not include a “residential-design manufactured home” as defined in these regulations.

***Manufactured home lot.*** A plot of ground for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.

***Manufactured home park.*** An area, parcel, tract or plot of ground equipped as required by these regulations for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, but under no circumstances shall the manufactured home spaces be sold or offered for sale individually. The term manufactured home park does not include lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage or sale.

***Manufactured home skirting.*** The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home. See also ***Residential design manufactured home.***

***Manufactured home space.*** A plot of ground within a manufactured home park, which can accommodate one manufactured home and which provides the necessary utility services for water, sewerage, gas and electricity.

***Manufactured home subdivision.*** Any area, piece, parcel, tract or plot of ground used or intended to be used primarily for the purpose of selling lots for occupancy by manufactured homes, and residential design manufactured homes.

**Manufacturing.** Any method of processing, developing, fabricating, or assembling, either raw materials, semi-finished materials, or parts into a semi-finished or finished product.

**Manufacturing, light.** Manufacturing which does not result in the emission of odor, dust, vibration, smoke, gas or noise offensive to the use and enjoyment of adjoining properties.

**Medical, dental or health clinic.** Any building designed for use by more than one person lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrist, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

**Mobile home.** A transportable, factory-built structure designed to be used as a year-round residential dwelling, which does not meet or was built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976. For purposes of these regulations a mobile home is not a manufactured home.

**Mobile home park.** Any area, piece, parcel, tract or plot of ground equipped as required by these regulations for support of mobile homes and used or intended to be used by one or more occupied mobile homes, but under no circumstances shall the mobile home spaces be sold or offered for sale individually. The term mobile home park does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purpose of sale.

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

**Modular home.** A residential structure manufactured off-site and built to a nationally-recognized and accepted construction standard published by the Building Officials and Code Administrators International, Inc. (BOCA) or the International Conference of Building Officials (ICBO) that is inspected and certified at the factory so that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures, as required of a manufactured home-residential design, and shall be permanently situated on a concrete foundation.

**Motel.** See *Hotel*.

**Motor home.** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.

**Motor vehicle.** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.

**Motor vehicle body shop.** A building or premises used for vehicle body repair including painting.

**Motor vehicle repair service.** A building or premises used for the repair and servicing of motor vehicles excluding body and paint work.

**Motor vehicle storage yard.** A building or premises where operable, inoperable, abandoned, wrecked or junked vehicles are stored while awaiting final disposition.

**Nonconforming lot of record.** A lot, whether with or without improvements, which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of subdivision regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted uses in the district in which it is located. See also **Lot of record**.

**Nonconforming structure.** An existing structure which does not comply with the lot coverage, height or yard requirements which are applicable to new structures in the zoning district in which it is located.

**Nonconforming use.** An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

**Nursing homes, retirement homes or convalescent homes.** A building operated by an institution or agency licensed by the State of Kansas for the reception, board, care or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, or alcohol or narcotics addiction.

**Overlay district.** A district which acts in conjunction with the underlying base zoning district.

**Owner.** Any person, agent, firm or corporation having a legal or equitable interest in the property.

**Package liquor store.** An establishment in which alcoholic beverages are sold for consumption off the premises.

**Parcel.** A lot or contiguous group of lots in single ownership or under single control, usually considered a unit for purposes of development.

**Parking lot.** An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.

**Parking space.** Any area surfaced for all-weather use, with materials approved by these regulations or the Engineer, used for the purpose of storing one parked motor vehicle.

**Permanent wall foundation.** An exterior wall designed to resist frost action. The wall must be continuous around the perimeter of the structure, but may have such openings as required by the Building Code of the City of Fort Scott. The wall must be designed as a footing and foundation wall and constructed in accordance with the City-adopted building code.

**Permitted use.** A use by right which is specifically authorized in a particular zoning district.

**Pharmacy.** A place or premises used for the preparation, compounding and dispensing of drugs, medicines, medical-surgical supplies and prosthetic devices.

**Place or court.** An open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

**Planning Commission.** The City of Fort Scott Planning Commission.

**Plat.** A map depicting the division or subdivision of land into lots, blocks, parcels, tracts or other portions thereof.

- a. **Plat, Final** means a drawing of a permanent nature showing the precise location and dimension of such features as streets, lots, easements and other elements pertinent to transfer of ownership and prepared for permanent record.
- b. **Plat, Preliminary** means a drawing showing the proposed general patterns of streets, lots and land uses within a tract to be subdivided.

**Porch.** A roofed structure projecting from a building and separated from the building by the walls thereof and having no enclosing features except roof supports, railing or screen wire.

**Private club.** An association organized and operated for profit or not for profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which premises is restricted to such members and their guests. Food, meals and beverages may be served on such premises, provided adequate dining room space and kitchen facilities are available. Alcoholic beverages may be served or sold to members and their guests

provided such service or sale of alcoholic beverages is in compliance with all federal, state and local laws.

**Professional office.** Any building or part thereof used by one or more persons engaged in the practice of a recognized profession, included but not limited to accounting, medicine and law.

**Public utility.** Any business of which the purpose is to furnish any of the following to the general public:

- a. Telephone and other telecommunication services.
- b. Telegraph service.
- c. Electricity.
- d. Natural gas.
- e. Water or stormwater control.
- f. Transportation of persons or property.
- g. Cable television.
- h. Sanitation control.
- i. Any other business so affecting the public interest as to be subject to supervision or regulation by a governmental agency.

**Recreational vehicle.** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.

**Rehabilitation home.** A residential building which is used by an organized group licensed or regulated by the State of Kansas to supervise the rehabilitation of the individual occupants. Sometimes such homes are known as “halfway houses” for the rehabilitation of wayward juveniles, drug or alcohol addicts or former offenders.

**Residential design manufactured home.** A manufactured home on a permanent wall foundation which has minimum dimensions of twenty-two (22) body feet in width, a pitched roof, siding and roofing materials which are customarily used on site-built homes, and that complies with the architectural and

aesthetic standards specified in these Regulations. See ***Permanent wall foundation***.

***Restaurant.*** A public eating establishment except drive-ins in which the primary function is the preparation and serving of food on the premises.

***Restaurant, drive-in.*** An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed as to include a cafeteria.

***Retirement homes.*** See ***Nursing homes, retirement homes*** or ***convalescent homes***.

***Safe house.*** A nonsecure facility providing 24-hour residential care for persons unrelated to the care givers. Emergency shelter and maternity care may be provided.

***Sale, retail.*** The sale of goods, merchandise and/or commodities to the ultimate consumer.

***Sale, wholesale.*** The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.

***Salvage yard.*** A building or premise where junk, waste, inoperable motor vehicles, airplanes, boats and similar discarded and salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, crushed, handled or prepared for recycling.

***School.*** Any public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.

***Service, gas or filling station.*** A building or group of buildings and adjacent surfaced area where motor vehicles are or may be refueled and serviced. Self-service pumps without buildings shall also be included but such service shall not include tire recapping, body repair, major overhaul, or sale or rental of motor vehicles (including automobiles, trucks, trailers, mobile homes, campers) or similar uses.

***Setback.*** The distance that is required to be maintained in an unobstructed state between a structure and the property line of the lot on which the structure is located. (Note: The term “setback” refers to a required minimum area, while the term “yard” refers to the actual open area.)

**Setback, front.** A setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is adjacent to another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

**Setback, interior side.** A setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is adjacent to another lot, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

**Setback, rear.** A setback that is to extend across the full width of a lot, the required depth of which is measured as the minimum horizontal distance between the rear lot line and a line parallel thereto on the lot.

**Setback, street side.** A setback that is to extend from the street right-of-way line to the rear lot line along the side of a lot that is abutting a street or street right-of-way line, the required depth of which is measured as the minimum horizontal distance between the side lot line and a line parallel thereto on the lot.

**Sight distances.** The area within which no sign, fence, wall, planting or other obstruction to vision shall be constructed, placed or maintained.

- a. No such obstruction above three feet (3') above the established street grade shall occur within the area of a corner lot between the lines of the intersecting streets and a straight line connecting them at points twenty feet (20') distant from the intersection of the lot lines.
- b. No wall or fence more than four feet (4') in height may project into or enclose any required front yard. Walls or fences of up to seven feet (7') in height may project into or enclose other required yards.
- c. An area comprising a triangle with legs of five feet (5') measured from the curbline shall be free from any visual obstruction at all points where alleys intersect with public streets.

**Sign.** See Article 27 for definitions relevant to signs.

**Sleeping room.** A room within a residential structure which such room is used for one or more persons for sleeping purposes, and is without cooking facilities.

**Storage area/storage yard.** An off-street area used for the placement, keeping and storage of inoperable vehicles, vehicles awaiting repair, and parts thereof; building materials, supplies and equipment; trailers; heavy construction equipment and other motorized vehicles and equipment; but not for junkyard or salvage yard purposes.



**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor or roof next above. If the finished floor level directly above a basement or unused underfloor space is six feet (6') or more above grade as defined herein for more than fifty percent (50%) of the total perimeter or is eight feet (8') or more above grade for a total lineal distance of twenty feet (20') or more, such basement or unused underfloor space shall be considered as a story.

**Story above grade plane.** Any story having its finished floor surface entire above grade plane, except that a basement shall be considered as a story above grade plane where the finished surface of the floor above the basement is:

- a. More than six (6) feet above grade plane.
- b. More than six (6) feet above the finished ground level for more than fifty percent (50%) of the total building perimeter; or
- c. More than twelve (12) feet above the finished ground level at any point.

**Street.** A right-of-way, dedicated to the public use, which provides principle vehicular and pedestrian access to adjacent properties.

**Street line or street right-of-way line.** A dividing line between a lot, tract or parcel of land and the contiguous street.

**Street network.**

- a. **Arterial.** A street which provides for through traffic movement between and around areas and across the city, with very limited direct access to abutting property; subject to necessary control of entrances, exits, and curb uses.
- b. **Collector.** A street which provides for traffic movement between arterials and local streets, with limited direct access to abutting property.
- c. **Local.** A street which provides for direct access to abutting property and for local traffic movement whether in business, industrial or residential uses.

**Structural alterations.** Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any rebuilding of the roof or the exterior walls. For purposes of these regulations, the following shall not be considered a structural alteration:

- a. Attachment of a new front where structural supports are not changed.

- b. Addition of fire escapes where structural supports are not changed.
- c. New windows where lintels and support walls are not materially changed.
- d. Repair or replacement of nonstructural members.

**Structure.** Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Structures do not include fences but do include, but are not limited to, buildings, walls, sheds and towers.

**Subdivision.** The division of a tract of land into one or more lots or parcels for the purpose of transfer of ownership or building development, or, if a new street is involved, any division of a parcel of land. The term “subdivision” includes re-subdivision and the term “re-subdivision,” as used herein, shall include any further subdivision of a lot or parcel of land previously subdivided, for sale, use or other purposes, which varies from the latest, approved subdivision of the same.

**Subdivision regulations.** The City of Fort Scott Subdivision Regulations, as adopted by the City Governing Body and as amended from time to time.

**Tavern.** An establishment in which the primary function is the public sale and serving of cereal malt beverages for consumption on the premises. For purposes of these regulations a drinking establishment shall be a tavern.

**Townhouse.** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

**Townhouse building.** A grouping of two (2) or more townhouses.

**Tract.** A plot or parcel of land, other than a lot in a subdivision which is recorded in the office of the Bourbon County Register of Deeds.

**Travel trailer.** A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.

**Use.** The purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

**Use, principal.** The main use of land or buildings as distinguished from a subordinate or accessory use. The principal use may be either a permanent or a special use.

**Variance.** A specific variation granted by the Board of Zoning Appeals from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of these regulations will, in an individual case, result in unnecessary hardship. Such variance, however, shall not permit any use not permitted by the regulations for such district.

**Vehicle, inoperable.** Any vehicle that is unable to operate or move under its own power. It shall also mean any vehicle that is in an abandoned, wrecked, dismantled, scrapped, junked or partially dismantled condition which includes having uninflated tires, no wheels, or lacking other parts necessary for the normal operation of the vehicle. It shall also mean any vehicle that because of mechanical defects, a wrecked or partially wrecked frame or body or dismantled parts, cannot be operated in a normal and safe manner. An inoperable vehicle shall not include vehicles needing only the installation of a battery or the addition of fuel in order to operate.

**Vehicle, motor.** Every vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled.

**Vehicle, recreational.** A unit designed as temporary living quarters for recreational, camping or travel use that has a body width not exceeding eight feet and a body length not exceeding 40 feet. Units may have their own power, or be designed to be drawn or mounted on an automotive vehicle. Recreational vehicles shall include motor homes, travel trailers, truck campers, camping trailers, converted buses, house boats or other similar units as determined by the Zoning Administrator. A recreational vehicle may or may not include individual toilet and bath.

**Wall.** A barrier which encloses, or partially encloses, and which is built of any materials or combination of materials erected to enclose or partially enclose areas of land or portions of a structure.

**Yard.** A space on the same lot with a main building, open, unoccupied, and unobstructed by buildings or structures from the ground to the sky, except as otherwise provided in these zoning regulations.

**Yard, front.** A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the building setback line.

**Yard, rear.** A yard extending across the full width of the lot between the rear of the main building and the rear lot line, the depth of which is the least distance between the rear lot line and the rear of such main building. Where no rear lot line exists, a line parallel to the front line shall be drawn, ten (10) feet in length between the side lot lines, and the required rear yard shall be measured from this line.

***Yard, side.*** A yard between the main building and the side lot line, extending from the front lot line to the rear lot line.

***Zone or district.*** A section of the zoning area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space are herein established.

***Zoning administrator.*** The person or persons authorized and empowered by the City Manager to administer the requirements of these zoning regulations.

***Zoning area.*** The area to be zoned as set out on the official zoning map filed of record.

***Zoning map.*** The official zoning map adopted by the City pursuant to K.S.A. 12-753.

***Zoning regulations.*** The term zoning regulations or this or these regulations shall mean the requirements set forth in these regulations.