

## **Article III. General Provisions**

### **Sec. 27-301 District Regulations, Restrictions, Boundary.**

The City Council, by adoption of an ordinance, may adopt or amend zoning regulations in the manner provided by K.S.A. 12-753 as may be amended from time to time. The City Council may divide its zoning jurisdiction into districts of such number, shape, area and of such different classes, according to the use of land and buildings and the intensity of such use, as may be deemed suited to carry out the purposes of these regulations. Such regulations may include but not be limited to provisions restricting and regulating the height, number of stories and size of buildings; the percentage of each lot that may be occupied; the size of yards, courts and other open spaces; the density of population; the location, use and appearance of buildings, structures and land for residential, commercial, industrial and other purposes; the conservation of natural resources, including agricultural land; and the use of land located in areas designated as floodplains and other areas, including the distance of any buildings and structures from a street or highway. Such regulations shall define the boundaries of zoning districts by description contained therein or by setting out such boundaries upon a map or maps incorporated and published as part of such regulations or by providing for the incorporation by reference in such regulations of an official map or maps upon which such boundaries shall be fixed.

### **Sec. 27-302 Provisions Declared to be Minimum Requirements.**

For purposes of interpretation and application, the provisions of these regulations shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare. Where these regulations impose greater restrictions than are imposed by other laws, ordinances, regulations or codes, the provisions of these regulations shall govern. However, nothing in these regulations shall be construed to prevent the enforcement of other laws, ordinances, regulations or codes that prescribe more restrictive limitations.

### **Sec. 27-303 Agricultural Land Exempted.**

Except for feedlots and areas designated as a floodplain, these regulations shall not apply to the use of land for agricultural purposes nor for the erection or maintenance of buildings thereon for such purposes, so long as such land and buildings are used for agricultural purposes and not otherwise.

### **Sec. 27-304 Zoning Affects Every Building and Use.**

No building or land shall be used and no building or part thereof shall be erected, moved or altered unless for a use expressly permitted by and in conformity with the regulations herein specified for the district in which it is located, except that any structure damaged or destroyed may be restored or reconstructed only if such structure is in full compliance with these regulations and other City of Hutchinson Municipal Codes.

**Sec. 27-305 Design Standards for the Construction and Moving of Structures and Manufactured Homes.**

All structures, whether constructed on site or moved onto a site in the Hutchinson zoning jurisdiction, shall be of a compatible scale, design and visual quality, and shall display exterior materials that are generally compatible with other structures in the surrounding neighborhood or district.

Buildings, structures and manufactured homes moved into the Hutchinson zoning jurisdiction or from one location to another within the jurisdiction must conform to the zoning regulations of the zoning district into which the building, structure or manufactured home is to be moved, and must, when relocated, be made to conform fully with these regulations and all applicable codes of the City including any building codes.

No moving permit, building permit, or zoning certificate shall be issued, unless in the determination of the zoning administrator the height, age, architectural style and texture of the materials pertaining to the exterior appearance of such building, structure or manufactured home reasonably conform to other buildings in the block and surrounding area to which it is to be constructed or moved, and would not detrimentally affect the values of surrounding properties.

The zoning administrator shall be authorized to administer and interpret the standards of this section.

**Sec. 27-306 Lot.**

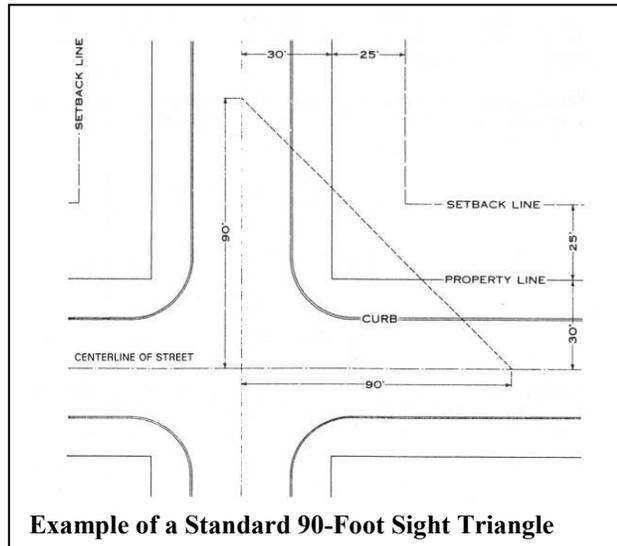
- A. Every building hereafter erected, reconstructed, converted, moved or structurally altered shall be located on a platted lot or lot of record and in no case shall there be more than one principal building or use on a zoning lot unless otherwise provided.
- B. More than one principal building of a single permitted use may be located upon a zoning lot in the following instances in accordance with these regulations:
  - 1. Institutional buildings;
  - 2. Public or quasi-public buildings;
  - 3. Multiple family dwellings;
  - 4. Commercial or industrial buildings; and
  - 5. Planned unit developments.

**Sec. 27-307 Reductions in Lot Area Prohibited.**

No zoning lot, even though it may consist of one or more lots or lots of record, shall be reduced in area so that the minimum size and setback regulations set forth in this chapter are not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

## Sec. 27-308 Obstructions to Vision at Street Intersections Prohibited.

A sight triangle shall occur at every public and private street intersection within the zoning jurisdiction. The sight triangle shall consist of an open clear area between a height of two and one-half feet and 10 feet above the grade of the bottom of the curb of the intersecting streets measured from the point of intersection of the centerlines of the streets, 90 feet in each direction along the centerlines of the streets. At the intersection of major arterial streets, the 90-foot distance shall be increased to 120 feet. Any sight triangle may be adjusted for special conditions as required by the City Engineer based upon the most current AASHTO standards. The City has the right to increase the dimensions of any sight triangle based upon subdivision design and speed limits along the intersecting streets. The requirements of this section shall not be deemed to prohibit any necessary retaining wall approved by the City.



## Sec. 27-309 Yard Requirements.

- A. Yard requirements shall be set forth under the Height and Lot Requirements for each zoning district. Front, side and rear yards shall be provided in accordance with the regulations hereinafter indicated and shall be unobstructed from the ground level to the sky, except as herein permitted.
- B. Any portion of a platted lot that fronts a street right-of-way shall be subject to the front yard setback requirements for the district in which such lot is located.
- C. Where a front yard setback is required along a side street front lot line by these regulations, that portion of the required setback between the front and rear lot setback may be reduced by 50 percent, provided that the sight triangle is not encroached upon. However, in subdivisions where there is a platted building setback line, the platted setback line shall remain in full force and effect and shall not be reduced except by replatting.
- D. All accessory buildings that are attached to principal buildings (e.g., attached garages and carports) shall comply with the yard, height, and lot coverage requirements of the principal building, unless otherwise specified.
- E. On street block faces where 50 percent of the existing principal structures are closer to the street than the required front yard setback, new principal structures and additions to principal structures may be located out to the average setback of

the existing structures along the block face, provided that no structure or addition thereto may project into the required sight triangle.

**Sec. 27-310 Through Lots.**

Through lots shall conform to the following criteria:

- A. Any portion of a through lot abutting a public street shall have a front yard setback.
- B. All detached garages on through lots shall have vehicular access only from the primary address side of the lot.

**Sec. 27-311 Zero Lot Line.**

- A. The zero lot line concept is an instance where a single or two family dwelling has one exterior wall on or within one foot of a side property line and the remaining side yard is double the normal side yard required by the district regulations. Zero lot line developments may be built only under the following conditions:
  - 1. When submitted as part of a new subdivision plat or as an amendment to an existing subdivision and each lot to be developed using the zero lot line concept is so designated showing which lot line is the zero lot line; or
  - 2. On an existing lot in a partially developed subdivision when submitted to and approved by the Board of Zoning Appeals as a special use permit in accordance with Article XI of these regulations.
- B. On any lot approved for the zero lot line concept by platting, re-platting or approval of the Board of Zoning Appeals, the following stipulations shall apply:
  - 1. An easement at least five feet in width shall be provided and recorded on the property adjoining the designated zero lot line;
  - 2. There shall be no door or window openings on the side of the house which is built on the zero lot line; and
  - 3. No portion of a roof, gutter or other part of the structure shall project past the zero lot line, and all roof drainage shall be installed so as to keep all run-off water from draining onto the adjoining property.

**Sec. 27-312 Drainage.**

No building, structure or use shall be erected on any land, and no change shall be made to the existing contours of any land, including any change in the course, width or elevation of any natural or other drainage channel that will obstruct, interfere with or substantially change the drainage from such land to the detriment of neighboring lands. Anyone desiring to build or otherwise change the existing drainage pattern shall be responsible for providing the City with information indicating that such changes will not be a detriment

to neighboring lands. The City may require a drainage plan for any development prior to construction or development. The City Engineer shall determine when a drainage study prepared by a civil engineer licensed in the State of Kansas will be required.

**Sec. 27-313 Permitted Obstructions in Required Yards.**

- A. *All Yards:* The following projections shall be permitted in all yards:
  - 1. Steps, accessibility ramps and other assisting devices that are four feet or less above grade and which are necessary for access to a permitted building or for access to a lot from the street or alley;
  - 2. Chimneys, window wells, sills, window unit air conditioners, flues, cornices, ornamental features, fire escapes, outside staircases, balconies, and similar structural features, provided the projection is no more than 24 inches into the required yard;
  - 3. Flag poles;
  - 4. Arbors and trellises; and
  - 5. Fences, subject to applicable height and other restrictions.
  
- B. *Rear and Side Yards:* Open off-street parking spaces, outside elements of central air conditioning systems and recreational and laundry-drying equipment shall be permitted in required rear and side yards.
  
- C. *Building Groupings:* For the purpose of the side yard regulations, a group of business or industrial buildings separated by a common party wall shall be considered as one building occupying one zoning lot.

**Sec. 27-314 Accessory Buildings and Uses.**

Intent and interpretation.

Unless expressly prohibited, accessory uses and structures shall be permitted in all zoning districts. Accessory uses and structures shall be clearly incidental to and customarily and commonly associated with the principal lawful use of the zoning lot on which they are located. The zoning administrator shall be granted the authority to interpret the provisions of this section and classify accessory uses and structures.

All accessory uses and accessory structures shall:

- A. Be subordinate in purpose to the principal building or buildings served;
- B. Not be established on any zoning lot unless the principal structure has been more than one-half completed and is watertight;
- C. Not be erected in or encroach into any required yard, easement or sight triangle;
- D. Be located a minimum distance of five feet from all structures, unless permanently attached to such structures; and

E. Detached accessory structures on interior lots shall not project nearer to the front lot line than the front exterior wall of the principal building and on corner lots shall not project nearer to the side street front lot line than the required setback.

F. Lot Coverage and Height.

1. The combined lot coverage of the principal building and all accessory buildings shall not exceed the lot coverage requirements found in these regulations.
2. In the MH and MP Districts, accessory buildings shall not exceed 16 feet in height.
3. In the TA District, accessory buildings shall be allowed to exceed the height of the principal building provided that all other restrictions are met. In the TA District, accessory buildings and principal buildings may have combined lot coverage of 10 percent or 25,000 square feet, whichever is less.

G. Residential Garages, Carports and Storage Buildings.

The following regulations shall apply to all garages, carports and storage buildings for residential uses in all districts except as noted in section 27-314.F.

1. Accessory buildings to residential uses shall be limited to buildings for domestic or household use or for the parking of motor vehicles and recreational vehicles. A hobby activity may be operated as an accessory use by a residential occupant of the premises solely for personal enjoyment, amusement or recreation; provided that any articles produced or constructed are not sold on the premises, except as may be permitted for an approved home occupation, and that no objectionable noise, odor, light or other adverse effects are created.
2. Accessory structures shall comply with the following maximum size requirements:

<b>Accessory Structure Type</b>	<b>Maximum Square Footage</b>
Detached Storage Building	Same as Detached Garage
Detached Garage	1200 square feet. This may be exceeded to double the size of the principal structure, provided the total rear yard lot coverage is 10% or less.
Detached Carport	600 square feet.

3. Accessory structures shall not occupy more than 35 percent of the entire rear yard from the rear of the principal building to the rear lot line. This percentage shall be calculated using all accessory structures on the property, including those that do not require a building permit.

4. For each single-family dwelling, there shall be permitted a maximum of one detached garage except for lots larger than five acres located in the TA, R-1, R2, and R-3 districts where additional detached garages shall be permitted.
  - a. For each additional detached garage, one of the following conditions shall be met:
    - (i.) The garage is screened from adjacent streets and residential lots by a natural, undisturbed wooded area at least 20 feet in width.
    - (ii.) The garage is set back at least 150 ft from any adjacent street and 100 feet from any residential lot.
    - (iii.) The garage is screened from adjacent streets and residential lots by a landscaped buffer no less than six feet in width, planted with a series of evergreen plantings at least six feet in height and spaced in a manner to provide a continuous visual barrier.
  - b. Additional garages shall conform to all other requirements found in these regulations.
5. For each duplex building, there shall be permitted a maximum of one detached garage, per unit, one detached storage building per unit, and two carports, whether such carports are attached or detached.
6. For each single-family dwelling, there shall be permitted a maximum of one detached carport.
  - a. For the purposes of these regulations, lean-tos, or carports attached to a primary structure not requiring a structure alteration of the primary structure, shall be considered an accessory, detached carport. Carports that are structurally or architecturally integrated with the primary structures shall be considered attached.
  - b. Carports shall not be attached to the front of a residential principal building, shall be located only to the side or rear of the principal building and shall not project nearer to the front lot line than the principal building.
  - c. Carports shall not exceed the height of the principal building.
7. The sidewalls of garages and storage buildings shall not exceed 12 feet in height.
8. Garages, carports and storage buildings shall be constructed of materials customarily used in residential construction, including new metal.
9. All garages and carports shall be provided and accessed by a driveway of an approved surface and design. Residential driveways accessing a detached garage or carport from a paved roadway shall be paved, as provided for in these regulations, from the roadway to the rear of the principal structure. From the rear line of the principal structure to the detached garage or detached carport, crushed rock or gravel may be used.

10. Storage sheds with access doors 8 feet wide or wider shall be considered detached garages for the purpose of these regulations.
11. All residential accessory structure setbacks shall be measured from the eave of the accessory structure.
12. Accessory structures on permanent foundations that do not meet the setback or scale requirements of these regulations may be reconstructed in the same location and at the same size without having to obtain a variance from these regulations.

**Sec. 27-315 Exemptions from Height Limitations.**

- A. The height limitations of these regulations shall not apply to the following specific uses:

Air-pollution prevention devices	Fire towers	Smoke stacks
Belfries	Flag poles	Elevator bulkheads
Chimneys	Ornamental towers and spires	Stage towers
Church spires	Public monuments	Storage tanks
Conveyors	Radio and television towers less than 50 feet in height (towers of greater height are regulated)	Water towers and standpipes
Cooling towers	Silos	

- B. When permitted in a district, public or semi-public service buildings, hospitals, institutions or schools may be erected to a height not exceeding 75 feet when each required yard setback line is increased by a minimum of one foot for each one foot of additional building height above the maximum height permitted for the district in which the building is located.

**Sec. 27-316 Occupancy of Basements and Cellars.**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been completed.

**Sec. 27-317 Nonconforming, General Intent.**

This section addresses the few instances when existing development does not conform to provisions of these regulations (nonconformities). The continued existence of nonconformities may be inconsistent with the purposes of these regulations. Therefore, this section provides for the gradual elimination of nonconformities. This section restricts further expansion of nonconforming structures and uses.

- A. Nonconforming uses which may be continued.

The following lawful nonconforming uses of land may be continued:

1. A lawful use of land which existed prior to the effective date of these regulations.
2. A lawful use of land which existed at the time such land was annexed by the City.
3. A lawful use of land which existed at the time an amendment was made to these regulations which changed such land to a more restrictive district or extended the jurisdiction of these regulations to said land use.
4. The lawful use of a building located upon any land, except as provided in Subsection "b" below, may be continued although such use does not conform with the provisions of these regulations, and such use may be continued throughout the building so long as no structural alterations are made therein, except those required by law or ordinance. The foregoing provisions shall also apply to any uses of buildings which may be made nonconforming by any subsequent amendment or change to these regulations.
5. The property owner or applicant shall be responsible for establishing that said nonconformity is a legal nonconformity.

B. Nonconforming uses which shall not be continued.

1. If a nonconforming use of a building or land is discontinued or abandoned, or remains idle or unused for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land or building shall comply with these regulations.
2. No use which is accessory to a principal nonconforming use shall continue after such principal nonconforming use shall cease or terminate.
3. No nonconforming structure shall be moved in whole or in part for any distance whatsoever to any other location on the same lot or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.
4. Whenever a nonconforming use of a building or land has been changed to a conforming use, such use shall not thereafter be changed back to a nonconforming use.
5. A nonconforming building which has been damaged to the extent of more than 50 percent of its fair market value by any means, including fire, explosion, act of God or the public enemy shall not be restored, repaired or rebuilt, except in accordance with all regulations of the zoning district in which it is located. In the event a question may arise on the fair market value of such a building, the same shall be determined by three appraisers:

one shall be selected by the City Council; one shall be selected by the owner of the building; and the third appraiser shall be selected by the two selected appraisers. If the first two appraisers selected cannot agree on the selection of the third appraiser, the judge of the appropriate court shall be requested to appoint the third appraiser. The decision of the appraisers, or a majority of them, shall be final and conclusive and shall be binding upon all concerned to the purpose of determining whether or not the damaged property may be restored, repaired or rebuilt. The cost of such appraisal shall be paid by the property owner or applicant.

**Sec. 27-318 Nonconforming Lots of Record.**

In any district notwithstanding limitations imposed by other provisions of these regulations, a principal structure and customary accessory building may be erected on any single lot of record after the effective date of adoption of these regulations, provided such development shall be subject to all applicable setback, separation and lot coverage requirements of the zoning district in which it is located, unless otherwise permitted.

**Sec. 27-319 Repair and Maintenance of Nonconforming Uses.**

- A. On any building devoted in whole or in part to any nonconforming use, work including ordinary repair or replacement of non-bearing walls, fixtures, wiring or plumbing, may be performed provided that the cubic content of the building as it existed at the time of adoption of these regulations shall not be increased.
- B. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe and dangerous by order of the Building Official.
- C. Normal maintenance and incidental repair, replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.

**Sec. 27-320 Vesting of Development Rights.**

- A. For the purpose of residential developments, development rights shall vest upon recording a plat of such land. If construction is not commenced on such land within five years of recording a plat, the development rights in such shall expire and the plat shall be resubmitted for review and approval.
- B. For all purposes other than single family residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use by the City; the commencement of construction; and the completion of substantial amounts of work in accordance with a validly issued permit.

**Sec. 27-321 Annexation Rule.**

All territory which may hereafter be annexed by the City shall be annexed as R-1 Single Family Household Suburban Residential District unless another zoning classification is otherwise established at the time of annexation.

**Sec. 27-322 Sustainability.**

The City of Hutchinson encourages all developers, contractors, property owners and individuals to implement sustainable practices in their buildings, sites and developments. The criteria used for sustainability shall be as established through the LEED and LEED-ND standards and amendments thereto, as administered by the U.S. Green Building Council.

**Sec. 27-323 Fees.**

All required fees for any zoning or subdivision related permit or action shall be paid to the City prior to the issuance or investigation of any such permit or action. Said fees shall be a part of the Master Fee Schedule adopted by the City Council.

**Sec. 27-324 Duties of the Planning Commission.**

- A. The Planning Commission shall be authorized to:
  - 1. Make recommendations to the City Council regarding the nature and number of zoning districts, zoning district boundaries and appropriate zoning regulations;
  - 2. Hold public hearings regarding the adoption of zoning regulations and amendments to the zoning regulations;
  - 3. Review applications for zoning district amendments, planned unit developments and conditional use permits and make recommendations to the City Council to approve or deny such applications;
  - 4. Review preliminary and final plats for proposed subdivisions within the city zoning jurisdiction and make recommendations to the City Council to approve or deny such applications;
  - 5. Review proposed public improvements, including the Capital Improvements Plan, for conformance with the Comprehensive Plan and make recommendations to the City Council regarding such improvements; and
  - 6. Review petitions for the vacation of streets, alleys and easements and make recommendations to the City Council to approve or deny such requests.
  
- B. The Planning Commission shall:
  - 1. Review the Comprehensive Plan each year, consider any amendments thereto, hold a public hearing and make recommendations to the City Council regarding such amendments; and
  - 2. Review the zoning regulations each year, consider any needed amendments that would be in conformance with the Comprehensive Plan, hold a public hearing and make recommendations to the City Council regarding such amendments.