

City of Marysville, Kansas

Unified Land Development Code

A Manual to Land Development, Zoning & Subdividing

City of Marysville, Kansas
Unified Land Development Code

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ARTICLE 1. AUTHORITY AND ADOPTION OF REGULATIONS

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Section 1-1 Title and Authority.

- A. **Title.** This ordinance shall be known and cited as the Marysville Unified Land Development Code.
- B. **Authority.** This ordinance is adopted pursuant to the authority granted to the Marysville Governing Body in K.S.A. 12-741 [et. seq.] as amended.

Section 1-2 Purpose and Goals. The Unified Land Development Code (ULDC) is intended to serve the following purposes.

- A. Promote the health, safety, general welfare, morals and convenience of the community.
- B. Provide and maintain a high quality living environment for the residents of Marysville and the surrounding area.
- C. Lessen or avoid congestion on the public streets and highways of the community.
- D. Secure safety from fire and flooding to persons and avoid damage to property.
- E. Prevent the overcrowding of land and undue concentrations of people.
- F. Facilitate adequate transportation, water and sewage, schools, and other public utilities and facilities.
- G. Promote the preservation of open space and provision of parks and community recreation facilities.
- H. Conserve and protect property values.
- I. Conserve farmlands and other natural resources.
- J. Promote the orderly growth and development of the community.
- K. Encourage through site planning and subdivision standards economical, aesthetically pleasing, and environmentally sensitive residential, commercial and industrial developments.
- L. Encourage the preservation and protection of buildings and landscapes that have historic or cultural significance.

Section 1-3 **Relationship to the Comprehensive Plan.**

The intent of the Unified Land Development Code is to implement the planning goals and policies in the *Land Use Plan and Development Policies* and other planning documents of the Planning Commission.

Section 1-4 **Jurisdiction and Application of Regulations.**

A. **Jurisdiction.** The rules and regulations of the Unified Land Development Code shall apply to all structures and land within the corporate boundary of the City of Marysville and the extraterritorial area as defined by ordinance and adopted by the Governing Body.

B. **Application of Regulations.**

1. **Conformance.** No building, structure, lot, tract, parcel or use of the land shall be used or occupied, erected, constructed, or moved except in conformity with all the regulations of this ordinance unless a variance or exception is granted.
2. **Bulk and Yard.** A building permit shall be issued to an applicant who is an owner of a legally created "lot of record" (established prior to the effective date of the ordinance) regardless of bulk or yard requirements, setbacks or other physical requirements with the exception that City of Marysville and Marshall County Sanitation Codes and Flood Plain Regulations, when applicable, shall be followed in order to obtain a building permit. In establishing bulk, yard or setback requirements, the Zoning Administrator shall use those requirements in force at the time the lot was recorded or platted, or as an alternative, provide an equitable manner of "averaging" requirements based on neighborhood conditions.
3. **Setback Measurement.** A front yard setback shall mean the distance between the edge of the R.O.W. to the base of a structure, and does not include any part of the structure that projects outward above this line. The side and rear yard setbacks shall mean the distance from the lot line to the base of structure, and does not include any part of the structure that projects outward above this line. The exception to this rule is when a property line runs to the center of the R.O.W.
4. **Building Height.** The maximum height shall mean the distance from the lowest part of the base of a structure to the tallest point of the roof, and does not include any accessories projecting upward from the roof. In calculating height design for building or site plan purposes, the applicant should check with an insurance agent, and the Chief of the local fire department or district to determine individual limitation.
5. **Multiple Buildings on Single Lots.** In no case shall there be more than one main use, building or structure on one lot. An exception is granted when a single lot is used or zoned for multi-family, commercial or industrial; however, all such buildings shall collectively comply with all front, side and rear yard requirements for the zoning district where the lot is located.
6. **Unlawful Acts.** It shall be unlawful to erect, move, remodel and/or increase square footage, or readapt any structure or building without a valid permit. Any person, contractor, corporation or association who applies for a building permit after construction begins shall be required

to pay a late fee to the Zoning Administrator in addition to regular charges as stated in Section 1-7 Violations. For the purpose of assessing late fees, construction officially starts at the time any footing, slab, support or foundation is poured or installed. See Article 7 Permits Required for Development.

- a. **Exemptions.** Any building used for a valid agricultural purpose is exempt from the building permit, as set forth in K.S.A. 12-758.
- C. **Plats.** Land shall not be split, divided into lots or parcels, auctioned, or conveyed for development purposes except as provided by this ordinance. It shall be unlawful for any person to sell or otherwise convey land for the purpose of laying out any subdivisions, suburban lots, building lots, tracts or parcels or any owner of any land to establish any street, alley, park or other property intended for public use or to offer for development purposes any land without reference to a valid, recorded plat or approved certificate of survey. All sales or transfers of land shall be considered for development purposes unless:
 - 1. The split, division, or transfer of land is for a valid agricultural purpose.
 - 2. The split or division of land is 40 acres or greater in area.
 - 3. The land is owned or held in trust for the United States Government; The State of Kansas; Marshall County or its political subdivisions; City of Marysville; or a public school district.
 - 4. The lot, tract, or parcel has been previously subdivided and is now proposed to be split into no more than two lots or tracts.

Section 1-5 Relationship to Previous Regulations.

Upon adoption of this Unified Land Development Code, all previous zoning regulations and subdivision rules shall be without effect and are repealed. Any uses existing before the effective date of this ordinance shall be governed by the regulations in force at the time the change, permit, or plat was granted, unless clearly indicated in these regulations.

Section 1-6 Rules for Interpretation.

- A. **Minimum Requirements.** The provisions of this ordinance (ULDC) are considered to be minimum requirements.
- B. **Overlapping Regulations.** Where the conditions imposed by any provision of this ordinance on the use of land, buildings, or structures are more restrictive than comparable conditions imposed by any other laws, ordinances, resolutions, rules or regulations of any kind, the restrictions of this ordinance shall govern.
- C. **Private Agreements.** The provisions of this ordinance are not intended to annul or otherwise interfere with any easement, covenant or private legal agreement, except that when the regulations of this ordinance are more restrictive, or impose higher standards than private agreements, the regulations of this ordinance shall govern.

- D. **Unlawful Uses.** No building, structure, or use of the land that is not lawfully existing at the time of the adoption of this ordinance, shall become or be made lawful solely by reason of the adoption of this ordinance.

Section 1-7 Violations.

- A. A violation of any regulation adopted in this ordinance shall be a misdemeanor and shall be punishable by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each offense, or by fine and imprisonment. Each day's violation shall constitute a separate offense. In addition, the City may institute appropriate action, including injunction and mandamus, to prevent unlawful erection, construction or alteration of structures, use of the land, occupation of buildings, abatement of nuisances, failure to obtain permits, sale of land for development purposes without reference to a valid plat or refusal to obey and adhere to a lawful order of the Zoning Administrator.
- B. Any person, the value or use of whose land is or may be affected by such violation, shall have the authority to maintain suits or actions in a court of competent jurisdiction to enforce these adopted regulations and to abate nuisances maintained in violation thereof.
- C. Whenever any building or structure is erected, constructed, moved, altered or converted or maintained, or any building, structure or land is purposed to be used in violation of any floodplain regulation contained herein, the city/and or the Attorney General and the Chief Engineer of the Kansas Division of Water Resources of the State Board of Agriculture, in addition to other remedies, may institute injunction, or other appropriate action to prevent such violations.
- D. Any person or agent who applies for a building permit after construction starts (after any footing, slab, support or foundation is installed) shall be required to pay a late charge in accord with the following schedule:

New or Relocated Principal Buildings		Additions to Buildings or Accessory Buildings
First Offense	\$150	\$75
Second Offense	\$200	\$75
Third Offense	\$300	\$200
Thereafter	\$400	\$400

Additional Late Charges For All Structures.

For All Offenses.

1. An additional \$500.00 late charge will be added to the initial fee if a valid permit is not obtained within 7 working days after a Stop Work Order is issued by the Zoning Administrator. A stay of this action shall be granted to the violator if a proper appeal is filed with the Board of Zoning Appeals or the District Court prior to the 7th workday period.
2. An additional \$200.00 will be added to the accumulated late fee if a valid permit is not obtained within 14 days after a Stop Work Order is issued by the Zoning Administrator. A stay of this action shall be

granted to the violator if a proper appeal is filed with the Board of Zoning Appeals or the District Court prior to the 14th working day period.

- E. The Zoning Administrator and/or the designated deputy, upon finding a violation of these regulations (or if a proposed action would constitute a violation), shall have the power to:
1. **Issue a Notice of Violation** that shall specify the offense, the name of the property owner or agent and/or occupant, the legal description of the property, and the remedy. A reasonable and prudent time shall be set to correct the violation, or to file an appeal.
 2. **Issue a Stop Work Order** which shall command any person to immediately cease and desist from any unlawful construction, use or alteration of any building or land.
 3. **Municipal Court Action.** The Zoning Administrator or designated deputy may issue a Citation and Notice to Appear before the Municipal Court. The citation shall set forth the named person, the offense, and the time to appear in municipal court.
- F. Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a complaint with the Zoning Administrator stating fully the facts or grounds upon which the complaint is based. The Zoning Administrator shall promptly record and investigate such complaint and take appropriate action as provided in this ordinance.
- G. Whenever any provision of this ordinance is violated, the Zoning Administrator shall promptly notify in writing the person(s) responsible for the violations. The notification shall contain the nature of the violation and any corrective orders.
- H. The Zoning Administrator shall have the following remedies without limitations:
1. **No Action.** After careful consideration a "No Conflict" opinion may be issued by the Zoning Administrator.
 2. **Informal Contact.** The Zoning Administrator shall have the authority to abate the zoning violation through informal meetings or conversations.
 3. **Agreement to Abate.** The Zoning Administrator may enter into an agreement with a violator to abate or remedy a violation within a period not to exceed six (6) months, unless extended by the Planning Commission.
 4. **Notice and Order.** See above Section 1-7(E).
 5. **Permits.** The Zoning Administrator may refuse to issue any required permits on parcels or lots cited for active violations of this ordinance.

Section 1-8 **Severability.**

The intent of the Governing Body of Marysville is that the provisions of this ordinance are separable, in accord with the following:

- A. If a court of competent jurisdiction adjudges any provision of this ordinance invalid, such judgment shall not affect any other provision of this ordinance.

- B. If any court of competent jurisdiction finds invalid the application of any provisions of this ordinance to a particular parcel of land, building or other structure, this judgment shall not affect the application of said provisions to any other parcel of land, building or structure.

Section 1-9 Vesting.

- A. **Residential Development Rights.** The right to construct all residential units shall vest at the time the final plat is recorded and the first valid permit is issued. If construction is not commenced on such land within five (5) years of recording the final plat, such rights shall expire and require reapproval of the plat.
- B. **Non-Residential Development Rights.** Development rights for all purposes other than residential use shall vest upon the issuance of all valid permits required by the City, and, construction has commenced beyond the foundation or slab installation, and work amounting to \$2,500 for materials is completed.

Section 1-10 Effective Date.

The provisions of this ordinance shall become effective from and after the date of their approval and adoption by the Governing Body and publication of the adopting ordinance. All zoning actions taken under prior regulations are hereby affirmed with zoning district classifications assigned as indicated on the official zoning map adopted with these regulations.

ARTICLE 2. ADMINISTRATIVE AUTHORITIES & DUTIES

Section 2-1	Planning Commission
Section 2-2	Board of Zoning Appeals
Section 2-3	Governing Body
Section 2-4	Zoning Administrator
Section 2-5	Referral Agencies and Individuals

Section 2-1 Planning Commission.

- A. **Creation.** The Planning Commission for the City of Marysville is hereby established and appointed by the Governing Body under the authority of K.S.A. 12-744 as currently enacted and any amendments.
- B. **Powers and Duties.** The Governing Body grants to the Planning Commission the following powers and duties as set forth in K.S.A. 12-745 et seq.
1. **Comprehensive Plan.** The Planning Commission is authorized to make or cause to be made a comprehensive plan for the development of the City of Marysville and any unincorporated territory lying outside of the City of Marysville, which in the opinion of the Planning Commission, forms the total community of which the city is a part. The comprehensive plan shall constitute the basis or guide for public action to insure coordinated and harmonious development or redevelopment that will best promote the health, safety, morals, order, convenience, prosperity and general welfare as well as the wise and efficient expenditure of public funds.
 2. **Annual Review of the Comprehensive Plan.** At least once each year, the Planning Commission shall review or reconsider the comprehensive plan or any part and may propose amendments, extensions or additions to the comprehensive plan.
 3. **Capital Improvement Program.** After the adoption and certification of the comprehensive plan, the Planning Commission shall review and comment on a public improvement, public facility or public utility that is embraced within the recommendations of the comprehensive plan. The Planning Commission shall evaluate the proposed public improvement, facility or utility for conformity with the comprehensive plan. An exception is permitted when the Planning Commission has reviewed a capital improvement program and found that a specific public improvement, public facility or public utility is in conformity with the comprehensive plan.
 4. **Subdivision Regulations.** The Planning Commission shall advise and recommend to the Governing Body adoption and amendment of regulations governing the subdivision of land, following the adoption of a comprehensive plan. The Planning Commission may establish subdivision regulations for all land located in the city and may apply such regulations to land outside of but within three (3) miles of the city limits. The Planning Commission shall determine if a subdivision plat conforms to the provisions of the subdivision regulations. The Planning Commission may either approve the plat and issue a certificate, or notify the applicant the plat does not conform with the requirements of the subdivision regulations.

5. **Zoning Regulations.** The Planning Commission shall advise and recommend adoption and amendment of zoning regulations, following the adoption of a comprehensive plan. The Planning Commission shall recommend to the Governing Body the nature and the number of zoning districts that it deems necessary.
 6. **Evaluate Changes in Zoning Boundaries.** The Planning Commission shall conduct public hearings and provide a recommendation to the Governing Body on all proposed amendments to the zoning boundaries. See Article 3 Land Use Determination Procedures.
 7. **Approval of Site Plans.** The Planning Commission may establish zoning regulations that require the approval of site plans to assist in the planned development of a site and the aesthetics of redevelopment or new development. See Section 5-4 Procedure for Site Plans.
 8. **Approval of Preliminary Plats.** The Planning Commission shall determine if a preliminary plat conforms to the provisions of the Unified Land Development Code. See Section 5-11 Procedure for Preliminary Plat
 9. **Approval of Final Plats.** The Planning Commission shall determine if the final plat conforms to the provisions of the Unified Land Development Code and forward the final plat to the Governing Body for acceptance of public rights-of-way and easements. See Section 5-14 Procedures for Final Plats.
 10. **Variances for Design Standards for Site Plans and Subdivisions.** The Planning Commission is authorized to grant variances for the engineering standards in Article 5 when unusual circumstances so warrant.
 11. **Planning Commission Budget.** The Planning Commission may submit a budget to the Governing Body for the employment of employees and consultants for the implementation of planning and administration of zoning and subdivision regulations.
- C. **Composition of the Planning Commission.** The Planning Commission shall consist of nine (9) regular voting members: no less than five (5) members shall be residents of the City of Marysville, two (2) members shall be appointed who reside in the extraterritorial area; two (2) members who are residents of Marshall County shall be appointed at-large. Three additional Planning Commissioners may be appointed by the Governing Body as alternates, with voting privileges when regular Planning Commissioners are not present. See Appendix-1 for Planning Commission bylaws.
- D. **Officers and Vacancies.** See Appendix-1, Planning Commission by-laws.
- E. **Conduct of Meetings.** See Appendix-1, Planning Commission by-laws
- F. **Advisory Committees.** The Planning Commission may establish subcommittees, advisory committees or technical committees, who are not

members of the Planning Commission, to advise or assist in the activities of the Planning Commission.

Section 2-2 Board of Zoning Appeals.

- A. **Creation.** The Board of Zoning Appeals for the City of Marysville is hereby established and appointed by the Governing Body under the authority of K.S.A. 12-759 as currently enacted and any amendments.
- B. **Powers and Duties.** The Governing Body grants to the Board of Zoning Appeals the following powers and duties as set forth in K.S.A. 12-759 et seq.
 - 1. **Appeals.** The Board shall hear appeals from or other matters referred to it regarding the provisions of the Unified Land Development Code, unless specific provisions refer appeals to the Planning Commission (See Section 2-1 (10) Variances for Design Standards for Site Plans and Subdivisions. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of the provisions of the Unified Land Development Code.
 - a. **Scope of Action.** In cases involving appeals, the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.
 - 2. **Variances.** The Board may grant a variance in specific cases from the specific terms of the Unified Land Development Code, unless specific provisions refer variances to the Planning Commission (See Section 2-1 (10) Variances for Design Standards for Site Plans and Subdivisions, which will not be contrary to the public interest and where, due to special conditions, a literal enforcement will result in unnecessary hardship, and provided that the spirit of the regulations shall be observed, public safety and welfare secured, and substantial justice done. A variance shall not permit any use not permitted by the zoning regulations in such district.
 - 3. **Exceptions.** The Board may grant exceptions to the provisions of the zoning regulations when specifically authorized and only under the terms of the zoning regulations. In no event shall exceptions to the provisions of this ordinance be granted where the use or exception contemplated is not specifically listed as an exception in the zoning regulations. Under no condition shall the Board have the power to grant an exception when conditions of this exception, as established by the zoning regulations by the Governing Body, are not found to be present.
- C. **Composition of the Board of Zoning Appeals.** See Appendix-1; Section 1-6 Board of Zoning Appeals.
- D. **Officers and Vacancies.** See Appendix-1; Section 1-6 Board of Zoning Appeals.

- E. **Conduct of Meetings and Bylaws.** See Appendix-1; Section 1-6 Board of Zoning Appeals.
- F. **Conditions for Granting a Variance.** A variance may be granted when the Board of Zoning Appeals finds that all of the following conditions have been met.
1. The variance arises from a condition which is unique to the property in question and which is not ordinarily found in the same zoning district.
 2. The variance will not adversely affect the rights of adjacent property owners or residents.
 3. The strict application of the provisions of the zoning regulations will constitute unnecessary hardship upon the property owner represented in the application.
 4. The variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
 5. The variance will not be opposed to the general spirit and intent of the zoning regulations.
- G. **Procedure for Public Hearing.**
1. **Application.** A person seeking a variance, appeal or exception shall apply in writing, on a form provided by the Zoning Administrator.
 2. **Scheduling of Public Hearing.** The Zoning Administrator shall notify the Chair of the Board regarding the receipt of an application. The Board Chair shall set the date and time for a public hearing. No more than 60 days shall elapse after the receipt of an application, unless the applicant requests a continuance.
 3. **Public Notice.** Notice of the time, place and subject of the public hearing shall be published once in the official newspaper of the City of Marysville at least 20 days prior to the date of the hearing. A copy of the notice shall be mailed to each party to the appeal and to the Planning Commission.
 4. **Administrative Record.** Minutes of the hearings, showing evidence presented, findings of fact by the Board, decisions of the Board and vote upon each question shall be kept. Records of all official actions of the Board shall be filed in the office of the Zoning Administrator and shall be public record.
 5. **Notification of Commissioners.** The Board shall notify the Governing Body and the Planning Commission of any official action or decision.
- H. **Fees.** The Governing Body establishes the fee for a variance, appeal or exception in a separate ordinance. The applicant shall pay the fee at the time of filing of the application.
- I. **Appeals From Action of Board.** Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may, within 30 days of the final decision of the Board, bring action in the District Court of Marshall County to determine the reasonableness of any such order or determination.

Section 2-3 Marysville Governing Body.

- A. **Powers and Duties.** The following powers and duties are granted to the Governing Body as set forth in K.S.A. 12-744 et seq.
1. **Adoption of the Comprehensive Plan.** The Governing Body must adopt a comprehensive plan or selected sections before it shall become effective. The Governing Body may approve the certified copy of the comprehensive plan, override the recommendations of the plan, or return the plan to the Planning Commission. The comprehensive plan and any amendments become effective upon publication of the adopting ordinance.
 2. **Adoption of Subdivision Regulations.** The Governing Body shall adopt subdivision regulations or selected sections before they become effective. The Governing Body may approve the subdivision regulations, override the recommendations of the regulations, or return the regulations to the Planning Commission. The subdivision regulations and any amendments become effective upon publication of the adopting ordinance.
 3. **Adoption of Zoning Regulations.** The Governing Body shall adopt zoning regulations or selected sections before they become effective. The Governing Body may approve the zoning regulations, override the recommendations of the regulations, or return the regulations to the Planning Commission. The zoning regulations and any amendments become effective upon publication of the adopting ordinance.
 4. **Adoption of Building Codes.** The Governing Body shall adopt building codes before they become effective. The building codes and any amendments become effective upon publication of the adopting ordinance. The Governing Body may adopt and enforce building codes outside the city limits.
 5. **Acceptance or Refusal of Dedication of Land for Public Purposes.** The appropriate City or County Governing Body shall accept or refuse the dedication of land for public purposes, subject to the provisions of Section 5-16 Procedure for Final Plats and Section 5-19 Dedication of Rights-of-Ways.
 6. **Zoning Map Amendments and Text Revisions.** The Governing Body shall consider a Planning Commission recommendation for rezoning or change in the zoning map, subject to provisions of Section 3-2. The Governing Body may initiate a proposed zoning text or zoning map amendment, subject to the provisions of Section 3-2.
 7. **Establishment of Floodplain Zones.** The Governing Body may establish floodplain zones and districts and restrict the use of land located in the zone and restrict lands adjacent to watercourses that are subject to 100-year floods. Floodplain regulations shall comply with the minimum requirements of the National Flood Insurance Act of 1968, as amended or any rules and regulations adopted thereafter.

Section 2-4 Zoning Administrator.

- A. **Powers and Duties.** The Zoning Administrator or their authorized representative shall carry out the duties necessary to administer and enforce the provisions of Unified Land Development Code and other duties that may be prescribed from time to time by the Governing Body or the Planning Commission in the furtherance of obtaining compliance with the provisions of Unified Land Development Code. Specific duties include, but are not limited to, are:
1. Keep and maintain all records for the Planning Commission and Board of Zoning Appeals.
 2. Maintain the official zoning map.
 3. Process all applications for changes in zoning boundaries, uses permitted upon review, site plans, and subdivision plats.
 4. Process all applications for the Board of Zoning Appeals.
 5. Review and approve Lot Splits.
 6. Issuance of Home Occupation Permits.
 7. Issuance of Zoning Certificates.
 8. Issuance of Previously Legal Conforming Use certificates.
 9. Issuance of "Stop Work" notices and "Violations".
 10. Process all violations.
 11. Supervise all Floodplain Development Permits.

Section 2-5 Referral Agencies and Individuals.

- A. **Marysville Board of Health.** Reviews lot size requirements for on-site wastewater disposal systems and is authorized to approve smaller lot sizes than required by ordinance.
- B. **Marshall County Commission.** Reviews final plats in the Marysville extra-territorial zone and considers acceptance of public dedications and Improvement and Maintenance Agreements for roads in Marshall County.
- C. **Marshall County Clerk.** Reviews and signs for acceptance of final plats, short plats, and lot splits.
- D. **Marshall County Engineer.** Reviews road plans and authorizes acceptance of roads built in the Marysville extra-territorial zone.
- E. **Marshall County Sanitarian.** Reviews sewage disposal systems in the Marysville extra-territorial zone for compliance with adopted Marshall County environmental and health codes.
- F. **Marshall County Health Department.** Reviews and issues permits for child care facilities.
- G. **Township Board.** Reviews final plats in the Marysville extra-territorial zone and considers recommending to the Board of County Commissioners acceptance of public dedications and Improvement and Maintenance Agreements.

ARTICLE 3. LAND USE DETERMINATION PROCEDURES

Section 3-1	Purpose and Intent
Section 3-2	Procedures for Zoning Amendment Application
Section 3-3	Procedures for Zoning Amendment Public Hearings
Section 3-4	Planning Commission Review for Zoning Amendment
Section 3-5	Governing Body Action for Zoning Amendment
Section 3-6	Criteria for Review for Zoning Amendment
Section 3-7	Uses Permitted Upon Review
Section 3-8	Procedures for Uses Permitted Upon Review
Section 3-9	Criteria for Review for Uses Permitted Upon Review

Section 3-1 Purpose and Intent.

The purpose of this Article is to outline the procedures for Uses Permitted Upon Review, amendments to the zoning text of the Marysville Unified Development Code, and to the zoning map. All such amendments or land use determinations shall be submitted to the Planning Commission for recommendation with the Governing Body required to take final action on the amendments.

Section 3-2 Procedures for Zoning Amendment Application.

The following procedures are pursuant to the authority granted to the Marysville Governing Body and Planning Commission in K.S.A. 12-757 et seq.

A. Initiation of an Amendment Request.

1. **Text Amendment.** A proposal to amend the text of the Unified Land Development Code may be initiated by the Governing Body or Planning Commission by a motion directing the Zoning Administrator to prepare a petition for the amendment.
2. **Zoning Boundary Revision.** A proposal that seeks to change or generally revise the zoning boundaries of a specific property may be initiated by application of the owner of the property affected; or by the Governing Body or Planning Commission.

B. **Submission of Application.** An application required by the provisions of this Article shall be submitted to the Zoning Administrator in accordance with the forms provided from their office. The landowner or the landowner's agent shall sign the application. The Zoning Administrator may request an applicant to submit evidence of their authority to act as the landowner's agent. Applications may be submitted at any time. Applications received after the advertisement of a public hearing will be subject to review at the next available meeting date of the Planning Commission.

C. **Application Requirements.** The requirements for an application for a change in zoning map boundaries and use permitted upon review shall include the following information:

1. Twelve (12) copies of any required site plan. See Section 5-2 Site Plan Requirements.
2. One (1) application form completely and correctly executed, with all required signatures.

- D. **Fees.** The applicant shall pay all filing fees associated with a change in zoning. An application not submitted with a fee can be determined as incomplete and returned to the applicant.
- E. **Pre-Application Meeting.** An applicant may request a pre-application meeting or sketch plan review to provide an opportunity to receive the advice and assistance of the city staff. The meeting is for informational purposes only and is not a substitute for a complete reading by the applicant of all applicable regulations, or is it to be considered as any indication of approval or disapproval by the Zoning Administrator.
- F. **Staff Review.** After accepting a complete application, the Zoning Administrator shall review the application and analyze the proposal for consistency with the Comprehensive Plan and other development related policies and plans. The Zoning Administrator shall prepare a staff report that summarizes the analysis and recommends approval or denial of the proposed change.

Section 3-3 Procedures for Zoning Amendment Public Hearings.

The following procedures are pursuant to the authority granted to the Marysville Governing Body and Planning Commission in K.S.A. 12-756 et seq.

- A. **Purpose and Intent.** The purpose of a public hearing is to allow all interested parties opportunity to voice their opinions about a proposed change in zoning or text amendment.
- B. **Scheduling of Public Hearing.** The Zoning Administrator shall schedule the required public hearing(s).
 - 1. **Notification of Public.**
 - a. **Newspaper.** The notice shall be published at least once in the official City newspaper at least 20 days prior to the date of the hearing. The notice shall include the following:
 - 1.) A legal description or a general description sufficient to identify the property under consideration.
 - 2.) A statement regarding the proposed changes in the regulations or restrictions or in the boundary or classification of any zone or district or a general description of the proposed development, subdivision or other proposed action.
 - 3.) The date, time and place of the public hearing and a clear statement that it is a public hearing at which public testimony is sought.
 - 4.) The notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available.
 - 2. **Mailed Notice.**
 - a. **City of Marysville.** A written notice shall be mailed at least 20 days before the public hearing to all owners of record of lands located within at least 200 feet of area proposed to be altered. The notice shall include the same information as the newspaper notice.

- b. **Extra-Territorial Area.** A written notice shall be mailed at least 20 days before the public hearing to all owners of record of lands located within at least 1,000 feet of area proposed to be altered. The notice shall include the same information as the newspaper notice.
- c. **Failure to Receive.** When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or Governing Body.
- d. **Posted Signage.** The applicant shall erect on the subject lot or parcel a public notice sign provided by the City of Marysville. The sign shall be readily visible from the street or public right-of-way. The applicant shall not remove the sign until after the Planning Commission public hearing.

Section 3-4 **Planning Commission Review for Zoning Amendment.**

The following procedures are pursuant to the authority granted to the Marysville Governing Body and Planning Commission in K.S.A. 12-757 et seq.

- A. **Commission Action.** The Planning Commission may take any action on the application that is consistent with the notice given, including approving such application, conditionally approving the application, or denying the application. The Planning Commission may impose conditions or allow amendments to the application if the effect of the conditions or the amendments is to allow a lesser use change than indicated in the application or to reduce the impact of the development or to reduce the land area involved below that indicated in the notices or the hearing. The Planning Commission may not, in any case, permit a greater amount of development or a use falling in a different zoning district.
- B. **Effect of Vote.** A majority vote of "yes" shall be deemed as a recommendation of approval. A majority vote of "no" shall be deemed as a recommendation of denial. When the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to recommend denial.
- C. **Administrative Record.** A record of all proceedings of the Planning Commission shall be kept and maintained in the office of the Zoning Administrator.
- D. **Majority Present Required for Action.** A majority of the members of the Planning Commission present at the hearing shall be required to recommend approval or denial of an application for rezoning.
- E. **Continuance of Agenda Item.** The applicant may request a continuance by either a written request to the Zoning Administrator or seeking a motion by the Planning Commission to grant a continuance. Any such continuance, when requested by the applicant, shall be made to a day certain.
- F. **Withdrawal of Application.** The applicant may withdraw a proposal at any time by submitting written notice to the Zoning Administrator.
- G. **Protest Petition.** A valid protest against the proposed rezoning can be filed with the City Clerk within 14 days after the conclusion of the Planning Commission public hearing. The petition must be signed by the owners of

record of 20% or more of any real property proposed to be rezoned or by the owners or record of 20% or more of the total area required to be notified of the proposed rezoning, excluding right-of-way. If a valid protest petition is filed, the proposal shall not be approved except by a $\frac{3}{4}$ vote of the Governing Body.

Section 3-5 Governing Body Action for Zoning Amendment..

The following procedures are pursuant to the authority granted to the Marysville Governing Body and Planning Commission in K.S.A. 12-757 et seq.

- A. **Governing Body Action.** The Governing Body may either approve the recommendation of the Planning Commission by ordinance; or override the Planning Commission recommendation by a 2/3-majority vote of the membership of the Governing Body.
- B. **Governing Body Remand.** The Governing Body may return the Planning Commission recommendation for further consideration. The Planning Commission may resubmit its original recommendation with supporting reasons, or submit a new and amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body report, the Governing Body shall consider such course of inaction as a resubmission of the Planning Commission's original recommendation.
- C. **Continuance of Agenda Item.** The applicant may request a continuance by either a written request to the Zoning Administrator or seek a motion by the Governing Body to grant a continuance. Any such continuance, when requested by the applicant, shall be made to a specified day.
- D. **Effective Date of Rezoning or Text Amendment.** An application for change in zoning or use permitted upon review or text amendment shall become effective upon publication of the adopting ordinance by the Governing Body.

Section 3-6 Criteria for Review for Zoning Amendment. The Governing Body and Planning Commission shall consider the following criteria for an application for a zoning map amendment. These criteria are not all inclusive and each may not be applicable to every application:

- A. Character of the neighborhood.
- B. Zoning and use of nearby properties.
- C. Suitability of the subject property for the uses to which it has been restricted.
- D. Extent to which the proposed use will detrimentally affect nearby property.
- E. The length of time the subject property has remained vacant as zoned.
- F. The relative gain to public health, safety and welfare due to the denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application.
- G. Recommendation of the city staff.

- H. Conformance of the requested change to the adopted or recognized comprehensive plan, or other planning policies and documents of the City to guide its growth and development.
- I. The availability and adequacy of required utilities and services to serve the proposed use. These utilities and services include, but are not limited to, sanitary and storm sewers, water and electrical service, police and fire protection, schools, parks and recreation facilities.
- J. The extent to which the proposed use will adversely affect the capacity or safety of the street or road network influenced by the use. Or if the proposed uses provide adequate access roads or ingress and egress to prevent traffic hazards.
- K. The environmental impacts generated by the proposed use including, but not limited to, loss of prime farmland, flooding problems, excessive storm water runoff, soil erosion and sedimentation, adverse effects on water supplies, including surface and ground waters, air pollution, noise pollution, excessive nighttime lighting or other environmental harm.
- L. The extent to which the proposed use will result in the destruction, loss or damage of any natural, scenic or historic feature of significant importance.
- M. The ability of the applicant to satisfy any requirement (e.g. site plan, etc.) applicable to the specific use imposed pursuant to the zoning regulations in the Unified Land Development Code and other applicable ordinances.

Section 3-7 Uses Permitted Upon Review.

- A. **Purpose and Intent.** The intent of these provisions is to recognize that certain uses may be appropriate only in a specific location. The determination of whether the proposed use and specific location are appropriate is achieved through a Planning Commission review. The purpose of the review is to allow the Planning Commission to evaluate the compatibility of the proposed use with the character of surrounding property, adequacy of services and other factors.
- B. **Restrictions.** Property must either be correctly zoned, or first undergo rezoning, before the request for use permitted upon review can be granted. A use permitted by review requires a special public hearing that is separate from an amendment to the zoning map. A change in zoning permits a range of uses, whereas a use permitted by review authorizes only one particular use as listed in the zoning district.
- C. **When Required.** A review is required when a use is listed under "Uses Permitted Upon Review" as contained in each zoning district.
- D. **Supplemental Regulations.** Uses authorized under a review shall comply with all applicable supplementary use regulations specified in Article 18.
- E. **Conditions For Approval.** In order to ensure their appropriateness at a particular location, conditions may be imposed in the approval of a use permitted by review. The Planning Commission is authorized to stipulate such conditions and restrictions as deemed necessary for the protection of the public interest and to secure compliance with the criteria for review contained in Section 3-9.

- F. **Development Agreement.** A development agreement to guarantee compliance with conditions shall be required. See Appendix for a development agreement.

Section 3-8 Procedures for Uses Permitted Upon Review.

- A. **Application.** A written application for a special review shall be filed with the Zoning Administrator. This shall include a statement indicating the section of the authorizing section of the ordinance and sufficient evidence to show that the use will conform to the criteria in Section 3-9.
- B. **Fees.** The applicant shall pay all filing fees associated with a review. An application not submitted with a fee shall be determined as incomplete and returned to the applicant.
- C. **Site Plan.** All applicants for a review shall submit with their application a site plan in accordance with the submission requirements of Section 5-2, Article 5. The Planning Commission is authorized to waive the site plan requirement when one is deemed unnecessary.
- D. **Hearing.** Upon receipt of the formal application and all accompanying material, the Zoning Administrator shall call a public hearing. A notice must be published in the official city newspaper at least 20 days prior to the date set for the hearing.
- E. **Mailed Notice.**
 - 1. **City of Marysville.** A written notice shall be mailed at least 20 days before the public hearing to all owners of record of lands located within at least 200 feet of area proposed to be altered. The notice shall include the same information as the newspaper notice.
 - 2. **Extra-Territorial Area.** A written notice shall be mailed at least 20 days before the public hearing to all owners of record of lands located within at least 1,000 feet of area proposed to be altered. The notice shall include the same information as the newspaper notice.
- F. **Lapse of Approval.** The approval of a use permitted upon review shall lapse and become void unless the applicant shall apply for a building permit within two (2) years of the date of approval by the Planning Commission. Upon the written request of the property owner and for good cause shown, the Planning Commission may grant a one-year extension.
- G. **Effect of Review Approval.** Approval of a use permitted upon review shall be deemed to authorize only the particular use for which it is approved. A use permitted by review shall run with the land.

Section 3-9 Criteria for Review for Uses Permitted Upon Review.

- A. The location and size of the proposed use in relation to the site and to adjacent sites and uses of property, and the nature and intensity of operations proposed.
- B. Accessibility of the property to police, fire, refuse collection and other municipal services.
- C. Adequacy of ingress and egress to and within the site; traffic flow and control; and the adequacy of the off-street parking and loading areas.

- D. Utilities and services, including water, sewer, drainage, gas and electricity, with particular reference to location, availability, capacity and compatibility.
- E. The location, nature and height of buildings, walls, fences, and other improvements; their relation to adjacent property and uses; and the need for buffering or screening.
- F. The adequacy of required yard and open space requirements and sign provisions.
- G. The general compatibility with adjacent properties; other properties in the neighborhood; and the safety, health, comfort and general welfare of the community.
- H. The consistency of the proposed use with the Comprehensive Plan.

ARTICLE 4. NON-CONFORMING USES

Section 4-1 General Provisions
Section 4-2 Certificate of Non-Conformity

Section 4-1 **General Provisions.**

- A. **Vested Property Right.** A previously legal conforming use is a vested property right that runs with the land. Therefore, the use cannot be lost from a sale or transfer of the property. The non-conforming use designation arises from a use of the land that is lawful but, due to a change in regulations, no longer "conforms" to current ordinance provisions.
- B. **Authority to Continue.** Any structure, building or use of the land lawfully existing before the effective date of the adoption of this ordinance shall be allowed to continue unchanged.
- C. **Damage or Destruction.** A previously legal structure or building that is damaged by fire, flood, wind or other disaster to the extent of 50 percent of the assessed value of the building, shall be reconstructed in a manner that is more conforming to the provisions of these regulations. The Board of Zoning Appeals is hereby authorized to grant Exceptions to this provision when it can be shown in a compellable manner that the property owner would be left homeless, or in an unsafe position; or, this provision would work to create an untenable and unfair economic hardship; or, that the owner is left with no practical or reasonable use of the land.
- D. **Alterations.** A previously legal use may not be changed, altered, or expanded beyond 25 percent in area unless the contemplated change would: (1) Result in a greater conformity; (2) Correct deficiencies required for licenses or permits; (3) Correct deficiencies that would endanger the life, safety or health of the public or property owners.
- E. **Repair and Maintenance.** A previously legal building or use shall be authorized to make normal maintenance and repair, or restoration to a safe condition.
- F. **Abandonment or Discontinuance.** A previously legal building or use of the land that is abandoned for a period of one (1) year or more shall thereafter not be resumed unless it is in greater conformance to the district regulations.
- G. **Moving.** A previously legal building or structure shall not be moved in whole or in part to another location on the same or any other lot, unless the entire structure shall conform tot the regulations on the zoning district where it is to be located.

Section 4-2 **Certificate of Non-Conformity.**

Any owner may request that the Zoning Administrator issue a Previously Legal Conforming Use Certificate that specifies:

- 1. The reason(s) for the conflict with ordinance.
- 2. The manner or means of bringing the facility into greater conformity.
- 3. The restrictions placed on the facility.

ARTICLE 5. LAND DEVELOPMENT & SUBDIVISION REGULATION

Section 5-1	Purpose and Intent
Section 5-2	Site Plan Requirements
Section 5-3	Filing Requirements for Site Plans
Section 5-4	Procedure for Site Plans
Section 5-5	Amendments to Site Plans
Section 5-6	Initial Procedure for Plat Approval
Section 5-7	The Lot Split
Section 5-8	Sketch Plan
Section 5-9	Procedure for Sketch Plans
Section 5-10	Preliminary Plat Requirements
Section 5-11	Procedure for Preliminary Plat
Section 5-12	General Design Standards for Preliminary Plats
Section 5-13	Final Plat Requirements
Section 5-14	Procedure for Final Plats
Section 5-15	Conflicting Requirements
Section 5-16	Instruments of Financial Assurance
Section 5-17	Dedication of Rights-of-Way
Section 5-18	Responsibility for Dedications
Section 5-19	Concurrent Preliminary and Final Plat Review
Section 5-20	Vesting of Final Plats
Section 5-21	Resubdivision (Replat) or Revision of Plats

Section 5-1 Purpose and Intent. The purpose of this Article is to provide instructions and procedures for processing and preparing land prior to actual development. These regulations set forth the necessary steps applicants are required to take in order to process their development proposal through the public reviews and hearings. The filing requirements for site plans and plats are also presented.

Section 5-2 Site Plan Requirements.

- A. **Purpose and Intent.** The purpose of a site plan review is to allow the Planning Commission the opportunity to review the physical layout, appearance, parking, circulation pattern, easements, roads, and future capacity of new development
- B. **Authority and Legal Status.** The site plan is a legal instrument requiring that building and construction is in accord with the provisions of the approved plan. No permit shall be exercised unless all subsequent development, entrances, parking, structure appearance, circulation, landscaping and screening shall conform to the official copy of the site plan on record in the Office of the City Clerk.
- C. **When Required.** Unless otherwise noted in the zoning district regulations of this Unified Land Development Code, site plans are required at the time of the rezoning or if already correctly zoned, prior to the issuance of a building permit for the following development activity. The Planning Commission is authorized to waive the site plan requirement when one is deemed unnecessary.
1. Multi-family residential development - four or more attached units.
 2. New commercial, industrial or manufacturing construction.
 3. Reconstruction, expansion, or significant alteration of existing commercial or industrial facilities if such change results in the

addition of 300 or more new square feet to the principal building; the construction of any accessory building larger than 500 square feet; an increase of 10 percent or more in new parking spaces; or, a change in use from one zoning district classification to another, unless such changes are waived by the Planning Commission.

4. Public and private institutional uses including schools, hospitals, day care involving exterior alteration of a building or commercial child or elder care, recreation facilities, and public buildings.
 5. New or expanded manufactured home parks.
- D. **Size and Quality.** Site plans shall be prepared on good quality paper no larger than 24 x 36 inches and no smaller than 11 ½ x 14 inches at a scale professionally acceptable to the area of the proposed development scope.
- E. **Timing and Copies.** Twelve copies of a site plan shall be submitted to the Zoning Administrator at least ten (10) working days in advance of a scheduled Planning Commission hearing. One copy shall be made available for public inspection at least five (5) working days in advance of a scheduled Planning Commission hearing.
- F. **Contents of Site Plans.** Unless otherwise modified in specific case by resolution of the Planning Commission, all site plans shall contain the following information:

First or Front Page

1. A vicinity map or photocopy of a map showing the location and relationship of the site to its surrounding neighborhood.
2. A project title, current zoning designation, and name of the project sponsor with a street, lot, or tract address.
3. An index to contents when necessary, and a data table which, at a minimum, includes:
 - (a) Acreage or square footage of the site.
 - (b) Number of units per acre (when necessary).
 - (c) Square feet of the building(s).
 - (d) Proposed use of the building(s).
 - (e) Building Code or Life Safety (NEPA) occupancy design load, if required.
 - (f) Total number of parking spaces; including disability and/or van accessible spaces.
4. Name of architect, engineer, surveyor, draftsman, or other preparer.
5. The following certificates and/or signature blocks:
 - (a) Received and filed for review on this _____ day of _____, _____ by _____.
 - (b) Reviewed by the Planning Commission and approved with changes as noted by the Marysville Planning Commission on this _____ day of _____, _____ by _____ (Chair of Planning Commission).
 - (c) I certify that I have reviewed this site plan, noting all changes and amendments, and will comply with all requirements

contained herein on this _____ day of _____,
_____ by _____ (Applicant/Owner)

Second Page

1. A layout of the proposed development, to scale, showing the location of the building(s), parking area(s) and size of spaces, and ingress - egress to the site.
2. Entrance(s) to the building(s) with grade and door opening sizes.
3. Paths, ramps, or sidewalks.
4. The location of any free standing signs, screening devices, lighting, and landscaping - with common names of plant materials.

Third Page

1. Topography at reasonable intervals, including the location of any flood prone areas (if requested by the Planning Commission).
2. Exterior lot lines with survey pins located; the location of any easements or utility connections (if requested by the Planning Commission).

Fourth Page (if requested by Planning Commission)

1. Scale drawing of building floor plans.
2. Dimensions and use of rooms and areas.
3. Roof pitch and materials.
4. Siding type and materials - including facie.

Section 5-3 Filing Requirements for Site Plans.

- A. **Certification.** All site plans shall be certified by the City Clerk and filed for permanent record for the Marysville Planning Commission. A filed site plan shall constitute a developer agreement to build or construct in accordance with all provisions noted on the final copy of the site plan.
- B. **Fees.** The applicant shall pay all filing fees associated with site plans as adopted by the Governing Body.

Section 5-4 Procedure for Site Plans.

- A. **Review.** All site plans shall be reviewed at a regular or special meeting, or a scheduled work session of the Planning Commission. Plans shall be submitted at the time of a rezoning or when development of a tract already zoned is contemplated. The Planning Commission may approve a preliminary plan and require submission of a final plan prior to issuance of a building permit to ensure compliance with conditions and modifications imposed on a preliminary plan.
- B. **Notice.** No notice of review of a site plan is required.

- C. **Approval.** All permissions for final approval, change, or disapproval of a site plan shall be by majority vote of the Planning Commission. All easements and other dedications shall require the approval of the Governing Body.
- D. **Modifications and Conditions.** The Planning Commission is authorized to require the modification of any site plan to conform to the Unified Land Development Code, or to modify or add conditions to any plan when such action increases the public convenience, conform to the goals of the comprehensive plan, supports property values, or secures the public health, safety and welfare.
- E. **Effective Period for Plans.** A site plan approval shall remain in effect until the first of the following occur:
 - 1. The failure of the applicant or the applicant's successor to file application for the approval of any plat required for completion of the project within one (1) year following the date of approval of the site plan.
 - 2. The failure of the applicant or the applicant's successor to complete the improvements required by any approved plat for any portion of the property within the period required by the subdivision improvements agreement, regardless of the fact that there is security enabling the City to complete such improvements.
 - 3. The failure of the applicant or the applicant's successor to file an application for a building permit for one or more buildings consistent with the approved final site plan, if any buildings are shown thereon, within one year following the approval of the site plan or, if a plat is required, following the approval of the final plat.

Section 5-5 Amendments to Site Plans.

- A. **Authority to Amend.** An approved final site plan may be amended by motion and majority vote of the Planning Commission, at the request of the applicant at a regular or special meeting of the Planning Commission. Amendments shall be signed by the Chair of the Planning Commission and certified by the City Clerk.
- B. **Substantial Changes.** Amendments to a final site plan shall be required when, in the opinion of the Planning Commission, substantial changes to the original plan are contemplated by the applicant. Substantial changes shall include, but are not limited to: an increase of more than 10 percent in the gross floor area of the principal building; the addition of an accessory building; a decrease in the number of required parking spaces; or, an alteration in egress or ingress to the site.

Section 5-6 Initial Procedure for Plat Approval.

- A. **Development Conference.** The pre-application conference affords the subdivider/applicant an opportunity to meet with the Zoning Administrator and receive assistance before formal work commences on a project. The conference consists of the following steps

Step One: Contact the Zoning Administrator at the Marysville City Hall at 209 North Eighth. (785) 562-5331

Step Two: With the Zoning Administrator's assistance, determine the legal description and legal ownership of the land. Second, determine the current zoning designation and intended use for the property to be subdivided. If the land is not zoned for the intended use, review the Marysville Comprehensive Plan and Land Use Plan Update and read the contents of the plan with regard to future intentions.

Note: Amendments to both the comprehensive plan and the zoning map may be necessary, and a waiting period of from 30 to 90 days may be required to process the required amendments.

Step Three: The Zoning Administrator will review pertinent requirements for platting, including roads, easements, physical arrangement and density, and general regulations for public water and sewer connections. When necessary, the Zoning Administrator will give specific instructions for the initial design of facilities.

Step Four: The applicant shall review all environmental and sanitary regulations and flood plain elevation maps that are currently in force in Marysville/Marshall County.

Step Five: The applicant should seek a Licensed Land Surveyor to begin the initial phase of subdivision. Please note that only a Licensed Land Surveyor {Kansas} may issue the actual Certificate of Survey.

Section 5-7 The Lot Split.

- A. **Purpose and Intent.** The lot split is intended to allow owners of a lot of record within a recorded subdivision inside the city limits to divide such lot, tract or parcel into no more than two lots, tracts or parcels without recourse to replatting. The lot split may also be used to remove or alter lot lines on adjoining lots to increase base lot size.
- B. **General Provisions.** Once a lot is split, it may not again be divided without replatting. The resulting lots shall conform in all respects to the current district zoning regulations.
- C. **Contents of Lot Split.** Lot splits shall be filed with the Zoning Administrator, with a signature block for the Zoning Administrator and the Register of Deeds. A lot split shall be submitted as a certificate of survey and sealed by a Licensed Land Surveyor in Kansas.
- D. **Fees.** The applicant shall pay all filing fees associated with lot splits as adopted by the Governing Body
- E. **Easements.** The Zoning Administrator may require that reasonable utility service and R.O.W. easements accompany the survey. Such instruments shall be recorded with the Register of Deeds.
- F. **Approval.** The Zoning Administrator is authorized to review and approve lot splits in accordance with the provisions of this section. A lot split shall not

be approved if one or more of the following applies. The Zoning Administrator shall provide a written approval, with or without conditions, or denial of the lot split within fifteen (15) days after receiving a complete application.

1. A new street or alley is needed or proposed.
2. There is less right-of-way than required by this ordinance, unless such dedication can be made by separate instrument.
3. A vacation of streets, alleys, setback lines, access control or easements is required or proposed.
4. The lot split results in a lot or tract without direct access to a street.
5. The lot split results in a lot that is unsuited for installation of an approved on-site wastewater treatment system.
6. The lot split results in a lot that does not meet minimum lot size and/or setbacks.

Section 5-8 Sketch Plan.

- A. **Purpose and Intent.** The purpose of the sketch plan is to afford an applicant the opportunity to confer early and informally with the Planning Commission. If warranted, the Planning Commission may waive the sketch plan, and the applicant may proceed to the preliminary platting process.
- B. **Timing and Copies.** One copy of the sketch plan shall be submitted at least five (5) working days prior to a scheduled meeting. The Zoning Administrator may require additional copies if the sketch plan is submitted on paper that cannot be readily photocopied.
- C. **Certification.** The Zoning Administrator shall sign all sketch plans, indicating the date of submission.
- D. **Fees.** No fee is required for the sketch plan.
- E. **Size and Quality.** The sketch plan is an informal scale drawing and may be submitted on normal quality paper of 14 by 17 inches or larger.
- F. **Contents of Sketch Plan.** The sketch plan shall contain the following information:
 1. Name, address and phone of applicant.
 2. Name and legal description of the tract.
 3. Proposed boundaries, north point.
 4. General topographic features at reasonable intervals.
 5. General drainage features.
 6. Roads adjacent to tract.
 7. Proposed general street and lot layout.
 8. General estimate of lot sizes.
- G. **Sanitary Waste Suitability Information.** If the proposed project or development will utilize lateral fields or lagoons, the Planning Commission shall be supplied with adequate physical data necessary to evaluate the type, size and overall suitability of the project. Information that must

accompany the sketch plat for sanitary purposes will include a soil analysis or a profile analysis, or percolation tests and direction of drainage

- H. **Staff Review.** The Zoning Administrator and other staff members review the sketch plan; a report on contents and suitability is prepared by the Zoning Administrator for submission to the Planning Commission.

Section 5-9 Procedure for Sketch Plans.

- A. **Review.** All sketch plans shall be reviewed, unless granted a waiver, at a regular or special meeting, or a scheduled work session of the Planning Commission.
- B. **Notice.** No notice of review of a sketch plan is required.
- C. **Approval.** The Planning Commission reviews content and sufficiency, and, if warranted, schedules a public hearing for a preliminary plat.
- D. **Modifications and Conditions.** The Planning Commission is authorized to require the modification of any sketch plan to conform to the Unified Land Development Code, or to modify or add conditions to any plan when such action increases the public convenience, conform to the goals of the comprehensive plan, supports property values, or secures the public health, safety and welfare.

Section 5-10 Preliminary Plat Requirements.

- A. **Purpose and Intent.** The Preliminary Plat is the actual review instrument used by the Planning Commission. The Planning Commission shall approve the preliminary plat, with any notations, variances and changes, before the applicant can proceed with the final platting stage.
- B. **Size and Quality.** The plat should be no smaller than 20" by 28" on regular quality paper. The plat size and number of copies may be varied by the Zoning Administrator to accommodate the size and scale of developments.
- C. **Timing and Copies.** Twelve (12) copies of a preliminary plat shall be submitted to the Zoning Administrator at least ten (10) working days in advance of a scheduled Planning Commission hearing.
- D. **Contents of Preliminary Plat.** Unless waived by the Planning Commission, all preliminary plats shall contain the following information:
 - 1. A north point and scale which is appropriate to the size of the development: one inch equal 50, 100, 150 or 200 feet is typical.
 - 2. A legal description and current zoning.
 - 3. Names of applicant, title of subdivision and proposed street names.
 - 4. Name and seal of surveyor/engineer.
 - 5. Date surveyed.
 - 6. Adequate legend; vicinity map.
 - 7. Signature block and date for review by Zoning Administrator.
 - 8. Signature block and date for review of Township Trustee, if necessary.
 - 9. Reserved for future amendment.

10. Signature block and date for review of Chair of Planning Commission.
 11. Complete outline drawing of all boundaries, lots, and streets, together with courses, distances and areas. Boundaries shall be shown as solid lines and all easements or required yards as dashed lines.
 12. Rights-of-way and/or easements proposed to be created for all drainage purposes, utilities, walkways, access, and other purposes. The location of the water/sewer distribution/collection system; the plat must show that these systems touch upon each lot, or in an easement appurtenant to each lot
 13. Total acreage and size of each lot in a data table.
 14. Contours at vertical intervals of 5 or 10 feet.
 15. Setbacks, yards and any entrance restrictions. Setbacks shall be shown as a building envelope representing that portion of the lot within the yards and setbacks that can reasonably contain, depending upon watercourses, topography or geology, the principal structure and the lateral field [if a lateral field is used].
 16. Reserved for future amendment.
 17. Existing features such as ponds, lakes, buildings and roads and adjacent exterior roads; upstream watershed data, including estimated elevation of flood waters from watershed lake dam breach
 18. A copy of the proposed restrictive covenants.
 19. When requested by the Planning Commission, the preliminary plat shall show the location of adjoining lots, parcels, structures, and natural features in the nearby vicinity.
- E. **Fees.** The applicant shall pay all filing fees associated with preliminary plats as adopted by the Governing Body.

Section 5-11 Procedure for Preliminary Plat.

- A. **Review for Plat Sufficiency.** As an agenda item, but prior to the scheduled public hearing, the Planning Commission first reviews a preliminary plat to determine if sufficient information has been assembled by the applicant to hold the public hearing. If a majority of the Planning Commissioners vote for sufficiency, then a public hearing shall be conducted. A preliminary plat deemed insufficient may be reviewed again at a subsequent hearing, but if again found insufficient, it must be retained by the developer for at least 90 days following the last scheduled hearing before it can be resubmitted.
- B. **Public Notice.** Notice of the public hearing is given in the Official City Newspaper at least twenty (20) days in advance of the hearing. Notice by regular mail is given to all adjoining property owners. If the subject property is located within a subdivision, then notice is given to all owners of record within the subdivision (or subdivision phase/unit).
- C. **Public Hearing.** The Planning Commission, after the public hearing is closed, shall review the preliminary plat in accordance with the guidelines and criteria set forth in this Unified Land Development Code.

1. **Additional Criteria for Review.** The Planning Commission may also review the plat, using reasonable criteria, to assure proper land use plan conformance, and environmental and agricultural land impact, service requirements and financial assurance. Cooperating utility companies, such as telephone, gas, and electric, shall validate the review by returning their certificate of review within a time specified by the Zoning Administrator.
 2. **Code Conformance.** If the preliminary plat is found to conform in all respects to the Unified Land Development Code and other City requirements, the Planning Commission shall approve (by majority vote) and sign the plat.
 3. **Code Non-Conformance.** If the preliminary plat does not conform in all respects with the Unified Land Development Code, at the scheduled review the Planning Commission shall either vote to disapprove the plat, or grant the applicant a period of 60 days to correct the plat deficiencies. If the developer does not return a plat for approval within the 60-day time period, the preliminary shall be considered null and void.
 4. **Corrected Plat.** When a corrected preliminary plat is returned by the applicant for review, the Planning Commission shall vote to accept or deny the plat. If denied, the applicant who continues to pursue approval shall reapply for a first hearing - including a scheduled public hearing.
- D. **Modifications and Conditions.** The Planning Commission is authorized to require the modification of a preliminary plat to conform to the Unified Land Development Code, or to modify or add conditions to any plat when such action increases the public convenience, conform to the goals of the comprehensive plan, supports property values, or secures the public health, safety and welfare.
- E. **Variances.** The Planning Commission is granted authority to vary setbacks and yard sizes to overcome practical difficulties, or to promote efficient land design, or to approve zero lot line or cluster techniques.
- F. **Easements.** The Planning Commission is authorized to compel applicants to file easements that are necessary to serve the future residents of a subdivision, protect the use and value of neighboring property and to promote the public safety and welfare; the authority to compel applicants to offer for dedication or reservation such property as necessary to safely, conveniently and effectively serve the general welfare, promote good standards of land design and land use, and to advance the practice of agricultural {and other natural resources} preservation.

Section 5-12 **General Design Standards for Preliminary Plats.**

- A. **Purpose and Intent.** The intent of this section is to inform the engineer/designer of a preliminary plat of the general design standards to be used when laying out the plat. These general design standards identify initial design considerations. The complete design standards for final plats are found in Article 6 Design Standards for Site Plans and Subdivisions.
- B. **Right-of-Way.** R.O.W.'s shall be a minimum of 60' feet wide, and greater widths may be required by the Planning Commission after preliminary

review; utility easements must be a minimum of sixteen (16) feet wide or, 8 feet for appurtenant utility easements on interior lots. If the proposed subdivision is located in a sewer benefit district (or if it will be annexed in the near future), a minimum 20' utility easement is required. Street lighting, sidewalks, and fire hydrants shall be indicated in areas planned for residential use. Cul-de-sacs are not limited in length, but Fire District fill points, if available, shall be installed every 500 feet.

- C. **Ingress/Egress.** For new developments attached, or nearly contiguous to the City of Marysville, existing street patterns should be followed. Each rural subdivision shall have no more than two means of common entrance or exit unless waived by the Planning Commission. The Planning Commission prefers the rural subdivider to provide a single road to each subdivision, and to provide internal and/or frontage distribution roads. The Planning Commission may limit or increase the number of means of ingress/egress, for the purpose of traffic safety.
- D. **Road Plans.** Road plans are required and shall include a general schedule with instructions and specifications. See Section 6.2 (K).
- E. **Utility Service.** If the development is to be served with public water or sewer, the plat shall bear a notation that the subdivision is to be served by these facilities. The Zoning Administrator may not issue a building permit for a lot noted "SERVICED BY PUBLIC WATER/SEWER" without written verification from the public water or sewer district that all distribution or collection lines have been installed and that all lots are either connected or are capable of being connected to central utilities. Lots less than five (5) acres in size shall be connected to the water distribution system, with meter installed or application for meter verified prior to the issuance of a building permit. Lots greater than five (5) acres shall provide verification that the water distribution system is installed and ready for service in the future.
- F. **Sanitary Waste Feasibility Study.** If requested by the Planning Commission, the preliminary plat shall be accompanied by a feasibility study if central sewer and water will not serve the development. The feasibility study shall indicate quality and gallons/minute of water available for individual wells, and general suitability of the soil for laterals or lagoons.
- G. **Unplanned Parcels Prohibited.** All portions of the tract being subdivided shall be taken up in lots {or phases}, streets, planned open areas or other uses so that remnants and landlocked areas are not created.

Section 5-13 Final Plat Requirements.

- A. **Purpose and Intent.** The final plat is the instrument used for recording a land development with the Register of Deeds. To be approved, the final plat shall comply with all data submitted on the preliminary plat, and all changes or conditions imposed by the Planning Commission at the initial hearing. Once the preliminary plat is approved by the Planning Commission, no changes may be required on the final plat except for honest error or the discovery of erroneous data that would impact upon the public health, safety, or welfare.
- B. **Size and Quality.** The final plat shall be produced on 24 inch high by 36-inch wide, spliceless, tapeless, and creaseless sheet of double matte mylar film with a uniform thickness of not less than .003 of an inch. A black

margin shall be drawn completely around each sheet leaving an entirely blank margin of at least ½-inch on all sides. The final plat map shall be either an original drawing using only permanent black ink that will adhere to drafting films, or an acceptable photographic reproduction of an original drawing

- C. **Timing and Copies.** Five (5) copies of a final plat, on good quality paper, shall be submitted to the Zoning Administrator at least ten (10) working days in advance of a scheduled Planning Commission hearing.
- D. **Fees.** The applicant shall pay all filing fees associated with final plats as adopted by the Governing Body.

E. **Contents of Final Plats.**

1. Scale, the same used for the preliminary plat; North point; and a vicinity map.
2. The words "FINAL PLAT" followed by the name of the subdivision.
3. A metes and bounds description of the tract.
4. The instrument of survey which shows the point of beginning, corners, bearings, courses, distances, exterior boundaries, interior lot boundaries, abandoned lot lines, pins, monuments found or set. Specifically, these shall include:
 - (a) Permanent markers accepted by the City of Marysville.
 - (b) All parcel lines dimensioned with lengths.
 - (c) Dimensions to be shown to the nearest 0.01 feet, or in the case of degrees, to the nearest second.
4. Either individual notations or a table showing: All lot sizes, setbacks, and building envelopes {if envelopes are warranted because of diverse physiography and requested by the Planning Commission}. A lot envelope indicates the area of a lot which may be used for structure development and lateral field {or lagoon} placement when physiography, drainage or general soil conditions restrict building practices.
5. A number for each lot, starting {if practical} in the northeast corner.
Note: An "a" and "b" lot may be used for large lots in anticipation of future lot splits. If this option is used, a distinct line should be employed to delineate the a and b lot.
6. All easements with widths and roads with curve data.
7. Ingress/egress limitations if required.
8. Method of water and sewer service.
9. The location of existing and proposed utility easements.
10. An instrument of dedication for all roads and easements
11. Special notations required as a condition of platting by the Planning Commission.
12. Reserved for future changes.
13. Private travel easements.
14. A statement that notes setbacks {building lines}, yards, or building envelopes are "hereby established on the plat and no building or structure, or portion thereof, may be erected between this line and the street or adjacent lot line.

F. Required Certificates.

1. The Owner's Certificate with Notary Certificate and Seal.
2. Certificate of the Marysville City Council signature block indicating acceptance of public dedications; Marshall County Commission signature block indicating acceptance of public dedications when located outside City limits; Township Board signature block indicating acknowledgement of public dedications when located outside City limits.
3. {Attest} signature block for County/City Clerk with date.
4. Marysville Planning Commission approval.
5. Certificate of the Register of Deeds.
6. Surveyor's Certificate and Seal.
7. Special Certificates as required.
8. County Clerk Transfer of Record.
9. County Treasurer Payment of Taxes.

Section 5-14 Procedure for Final Plats.

- A. **Review.** If the Planning Commission approves a preliminary plat, the applicant may submit a final plat to the Planning Commission for review of compliance.
1. **Planning Commission Action.** The question of final approval will be placed upon a consent agenda at the next regularly scheduled meeting of the Planning Commission. Unless the Commission moves to amend the agenda and require an examination for conformance, the final plat shall be considered to be approved. Alternatively, a majority of the Planning Commission may authorize the Planning Commission Chair and Secretary to sign all final plats at a time and place designated by the motion.
 2. **Governing Body Action.** After the Planning Commission approves the final plat, the appropriate Governing Body shall examine the plat to ensure conformance with all city/county/township road standards, offers of dedication, and financial assurances. Within 30 days the appropriate Governing Body must either resolve to accept the plat, require modifications to conform to development standards and polices, return the plat to the Planning Commission for modification, or refuse its acceptance. If returned to the Planning Commission or refused, the reasons shall be set forth in writing.
 3. **Affect of Denial for Public Acceptance.** If a final plat is refused because of failure to adhere to road standards, or if offers of dedication would be contrary to public policy, or if financial assurances are insufficient, the matter has reached closure, and the plat may not be filed.
 4. **Signatures Required.** After all appropriate Governing Bodies sign the final plat, the applicant has 120 days to secure all staff signatures (which denote "complies with all requirements"), a certificate of title, proof of financial assurance, and file the instrument with the City Clerk and or Register of Deeds.

Otherwise, the plat shall be considered void and expired and the process of approval must start again.

- B. **Public Notice and Hearing.** No public notice or public hearing is required for a final plat.
- C. **Modifications and Conditions.** The Planning Commission is authorized to require the modification of a final plat to conform to the Unified Land Development Code, or to modify or add conditions to any plat when such action increases the public convenience, conform to the goals of the comprehensive plan, supports property values, or secures the public health, safety and welfare.

Section 5-15 Conflicting Requirements.

- A. **Standards.** Standards {such as setbacks} appearing on a plat which are greater than those imposed by this ordinance are valid, and shall be duly noted and enforced by building permits.
- B. **Restrictive Covenants.** Restrictive covenants are private instruments between the buyer and seller. The Marysville Planning Commission does not enforce restrictive covenants unless such restrictions are part of a Planned Unit Development or Special Development Overlay District, or unless the City itself, as a condition of platting, is a party to such agreements.

Section 5-16 Instruments of Financial Assurance.

- A. **Installation of Infrastructure.** New development or additions to existing development is required to install infrastructure (which includes roads, drainage courses, culverts, potable water distribution or sewer collection) and other services to all lots as they appear on the final plat prior to receiving a building permit from the Zoning Administrator.
- B. **Financial Assurances.** Prior to the filing of the final plat, all required infrastructure must be assured by a financial instrument (letter of credit, bond, or special benefit district). Financial assurances must be made in a form and amount acceptable and approved by the City Clerk. Unless otherwise indicated by special resolution of the appropriate Governing Body, financial assurances shall equal one hundred and fifty (150) percent of the estimated cost of purchase and installation and valid for a period of one year. If substantial progress in installing the infrastructure is not evident within 280 days after filing the final plat, the city or county shall take appropriate action to exercise the financial assurance.
- C. **Exceptions.** The Zoning Administrator may issue building permits to lots in new residential developments that have direct access to existing public roads, water, and/or sewer upon verification by the Zoning Administrator that building construction will not interfere with the installation of new infrastructure.

Section 5-17 Dedication of Rights-of-Way.

- A. Subdividers, if requested by the Planning Commission, are required to dedicate right-of-way land as public streets that abut the proposed development in accordance with the following schedule.
 - 1. One half (1/2) the distance necessary to make the total right-of-way 60' on the abutting side of the development.
 - a. If the public road is a 50' right-of-way, the subdivider shall dedicate 5' to the responsible Governing Body. [Baseline 60'- 50'/2 = 5' required dedication].
 - b. If the public road is a 40' right-of-way, the subdivider shall dedicate 10' to the responsible Governing Body. [Baseline 60'- 40'/2 = 10' required dedication].
 - c. If the development lies on both sides of the right-of-way, and the public road is less than 60' feet, the subdivider shall dedicate all property necessary to make the road a full 60' right-of-way.

Note: The standards used by the Marysville Planning Commission in a general review of plats, site plans, and general sketches are normal and customary. As with all standards, they do not take into account specific conditions that are unique to certain areas of the City.

Engineers, architects and surveyors should be guided in their design practice by a trade or technical publication such as The Architectural Standards, Fundamentals of Site Design, or Planning Design Criteria. The City Clerk is empowered to substitute equivalent standards {not contained in this ordinance} when it can be demonstrated by reference that an alternate standard will provide a safe and sufficient design solution.

Section-5-18 Responsibility For Dedications.

- A. Unless otherwise amended by an official road plan of the City of Marysville, or a joint agreement between the City of Marysville and the Marshall County Commissioners, the following procedure for accepting public dedication on final plats shall govern.
 - 1. All offers of public dedication within the municipal limits of the City of Marysville shall be the responsibility of the Marysville City Council.
 - 2. All offers of public dedication in the extraterritorial zone and subdivision area on a designated county road shall be the responsibility of the Marshall County Commission.
- B. The certificate of the appropriate Governing Body signifying the acceptance of all offers to dedicate to the public shall appear on all plats. The certificate of the Marysville City Council shall appear on all plats, both within municipal boundaries and in the extraterritorial zone, indicating that the City Council has reviewed all specifications, offers of assurance, and standards in the event of future annexation.

Section 5-19 Concurrent Preliminary and Final Plat Review.

The Zoning Administrator is authorized to decide if a preliminary plat and final plat can be filed and placed on the Planning Commission agenda for concurrent approval.

Section 5-20 Vesting of Final Plats.

For residential developments (subdivisions with a final plat), development rights in such land use shall vest upon recording of the plat. If construction is not commenced on such land within five (5) years of recording the final plat, the development rights shall expire.

Section 5-21 Resubdivision (Replat) or Revision of Plats.

- A. **Replatting.** Any previously subdivided tract(s) may be resubdivided after submission of a new or corrected plat. Resubdivided plats may be used for the following purposes:
1. The division of any existing lot into two or more additional lots.
 2. The correction of any monument, distances, and/or bearing.
 3. The addition or removal of any easement or the removal of any lot line.
 4. The vacation of a lot(s) from an existing subdivision.
 5. The renaming of an existing plat.
- B. **Title Block.** All resubdivision plats shall contain the title RESUBDIVISION or REPLAT followed by the original title of the plat and, if applicable, the lot(s) that are to be divided: i.e., "A Replat of Lots 1 and 2 of Brallage Subdivision".
- C. **Renumbering of Existing Lots Using Resubdivision.** When one or more lots are created from an existing numbered (or lettered) lot(s), the new lot(s) shall be numbered as follows:
1. **Abandoning lot lines between two or more lots to create one or more lots:** the lowest lot number plus the letter beginning with (A). Example - abandoning lot lines between lots 1 and 2 and 2 and 3 to create a new, single lot; the lot is now numbered 1A. If the lot originally contained a letter designation, then the new lot shall contain the lowest letter plus the numeric character one (1).
 2. **Creating two or more new lots from an existing lot:** the letters A, B ... and so forth for each new lot created preceded by the original lot number. Example: lot 4 is split into four (4) lots - the new lots would be lots 4A, 4B, 4C, and 4D.
 3. **Adding new lots (one or more) to an existing subdivision:** as far as practicable, the lots shall continue in a consecutive fashion - or by direction of the Zoning Administrator.
 4. **Creating new lots from a lot or lots previously resubdivided:** as far as practicable, the lots shall continue using a numbered system. Example: lot 4 was resubdivided into lots 4A, 4B and 4C. If lot 4A were resubdivided into three lots, the new numbers would be lot 4A-1, lot 4A-2, and lot 4A-3.

ARTICLE 6. DESIGN STANDARDS FOR SITE PLANS & SUBDIVISIONS

Section 6-1	General Considerations
Section 6-2	Streets, Access Drives and Driveways
Section 6-3	Parking and Off-Street Loading
Section 6-4	Public Water and Sewer Connections
Section 6-5	General Design of Lots and Typical Layouts
Section 6-6	Blocks and Lots
Section 6-7	Survey Monuments and Markers
Section 6-8	Preservation of Natural Features
Section 6-9	Landscaping and Buffering

Section 6-1 General Provisions.

- A. **Purpose and Intent.** The purpose of this Article is to provide minimum design standards for site plans and subdivisions for the City of Marysville and the area of extra-territorial jurisdiction. These regulations set forth uniform standards for efficient land planning, the installation of infrastructure, and the creation of new development areas.

- B. **Variances.** The Planning Commission is authorized to vary engineering design standards when unusual circumstances so warrant.

Section 6-2 Streets, Access Drives and Driveways.

- A. **General Design and Layout Criteria.**
 - 1. **Relation to Adjoining Street System.** The arrangement of streets in new subdivisions shall make provisions for the continuation of the principal existing streets in adjoining subdivisions (or their proper projection where adjoining property is not subdivided) where required by the Planning Commission or the Governing Body. Alleys and street arrangements must also be such as to cause no hardships to owners of adjoining property when they plat their land and seek to provide convenient access to it.
 - 2. **Half-Width Streets.** Whenever there exists a dedicated or platted half street or alley adjacent to the tract subdivided, the other half the street or alley shall be platted and dedicated as a public way. New half of partial streets shall not be permitted.
 - 3. **Street Provisions for Future Development.** Where appropriate, areas shall be reserved for future street usage in conjunction with the development of adjacent tracts. Areas reserved for future street usage will not be required to be improved; however, these areas shall be reserved for street improvements to be provided by the subdivider of the adjacent tract.
 - 4. **Lot Access.** The Planning Commission may disapprove any point of ingress or egress to any lot, tract, or development from any street or highway when the proposed ingress or egress would create unsafe conditions, reduce the capacity of the adjoining street or highway, or result in substandard circulation and impaired vehicle movement.
 - 5. **Private Streets.** Private streets are discouraged unless such streets meet the design standards of these regulations for either local or suburban residential streets. All subdivision streets shall be dedicated to the public unless design objectives of the development warrant

private ownership. Approval of a subdivision involving a private street shall be solely at the discretion of the Planning Commission.

6. **Streets Adjacent to Railroad Right-of-way, Limited-Access Highway, Principal Highway.** Where lots front or side on the above, a marginal access street or frontage road may be required which parallels and is adjacent to such right-of-way. The centerline distance of the marginal access or frontage road from said right-of-way shall be based upon requirements for approach connections to existing or future grade separations.
7. **Driveway Entrances.** All driveway entrances shall be maintained at a safe distance from all public road intersections; driveway entrances shall have a minimum sight distance based on roadway design speed.
8. **Street Maintenance.** The appropriate Governing Body (i.e., City of Marysville, Marshall County or Township Board) shall become the owner and maintain all roadways and appurtenances following, proper dedication, inspection and approval by the appropriate public engineer.

B. Cul-de-Sacs.

1. Cul-de-sacs shall be permitted when a through road is determined to be unacceptable due to topography, drainage constraints, or economic reasons.
2. Cul-de-sacs shall have a closed end, a turnaround with a right-of-way having a minimum outside radius of not less than 60 feet and shall be surfaced to a radius of not less than 48 feet; drainage of a cul-de-sac shall preferably be towards the open end.

C. Street Right-of-Way and Improvement Width.

1. All roads and streets established after the effective date of this ordinance shall meet the standards in Table 1 Street Classification Summary.
2. When existing or anticipated traffic on arterial and collector streets warrant greater width of rights-of-way, the additional right-of-way shall be provided.

Table 1 Street Classification Summary		
Streets	Right-of-Way Width	Back to Back Improvement Width
Major Streets		
Arterial	80 feet	55 feet
Collector	60 feet	40 feet
Minor Streets		
Local	60 feet	31 feet
Cul-de-sac	60 feet*	48 feet*
Suburban Residential	60 feet	24 feet
* Radius at turn around		

Marginal Access Streets or Frontage Roads		
2-way traffic	60 feet	31 feet
Alleys	20 feet	12 feet
Pedestrian ways	5 feet	4-foot concrete sidewalk in any residential development.

D. Street Alignment.

1. Whenever street lines are deflected in excess of 5 degrees, connection shall be made by horizontal curves.
2. Residential streets must approach adjoining streets at an angle of not less than 80 degrees or more than 100 degrees.
3. To insure proper sight distance, minimum center line radii for horizontal curves should be 274 feet for through streets and 150 feet for residential streets.
4. A long radius of curve is always preferred to a series of curves and tangents.
5. Approaches to an intersection should follow a straight course for a minimum of 50 feet.

E. Streets Standards.

1. Alignment in residential areas shall fit closely to the existing topography to minimize the need for cuts and fills without sacrificing safety.
2. Centerline grades should not be less than 1 percent.
3. Maximum grades for residential streets shall be no greater than 8 percent.
4. Vertical curves shall be used in changes of grade to assure a minimum sight distance in the range of 200 to 475 feet based on design speed.
5. In county/township roads, all crosspipe shall be a minimum of 18" in diameter or its pipe-arch equivalent with a minimum of 16 gauge galvanized, corrugated steel. Minimum gauges for pipes larger than 18" in diameter shall correspond to Kansas Department of Transportation Specifications. Metal end sections shall be used. Pipe shall be of sufficient length to maintain 3:1 shoulder slope and 26' gravel road top or 27' paved surface. Pipe sizes shall be reviewed by the Planning Commission to correspond to the area and hydrology of the drainage.
6. In county/township roads, all entrance pipe shall be a minimum of 12" in diameter or its pipe-arch equivalent with a minimum of 16 gauge galvanized, corrugated steel. Metal end sections shall be used. Entrance pipe shall be of sufficient length to maintain 3:1 shoulder slope and 20' entrance top. Pipe sizes shall be reviewed by the Planning Commission to correspond to the area and hydrology of the drainage.

F. General Minimum Design Standards for All Roads.

1. Ditch Depth - 1.5 feet

2. Ditch Width - 4.0 feet
3. Shoulder Slope - 3:1
4. Back Slope - 3:1 (Subdivisions)
5. Back Slope - 2:1 (Rural Roads, May Vary in Rock)
6. Bridge Loading - H-20
7. Minimum Design Speeds - 30 mph

G. Minimum Design Standards for Graveled Roads.

1. Roadway Width - 26 feet
2. Surfaced Width - 24 feet
3. 5" of Crushed Rock (Type to be Approved by the Planning Commission)
4. Crown - 3"
5. Type B MR-90 Compaction Required on the Subgrade Material
6. Crushed Rock Shall be Placed in Two Lifts

H. Minimum Design Standards For Paved Roads.

1. Surfacing - 6" Reinforced Concrete or 8 1/2" Asphalt.
2. Minimum depth of 9" of subgrade stabilization (fly ash or lime, depending on soil composition). Soil testing shall be required to determine the optimum ash/lime content and moisture content and shall be the responsibility of the developer.
3. Roadway Width - 27 feet
4. Surfaced Width - 24 feet
5. Curb and Gutter - 31 feet back to back
6. Storm drains and inlets shall be provided as necessary.
7. Crown - 3/16" per foot

I. Residential Street Intersections.

1. Streets shall be laid out to intersect as nearly as possible at right angles but no street shall intersect another at an angle less than 80 degrees or more than 100 degrees.
2. Multiple street intersections involving the junction of more than two streets shall be avoided. Where this proves impossible, such intersection shall be designed with extreme care for both pedestrian and vehicular safety.
3. Clear sight triangles of 50 feet measured along the street right-of-way lines from their points of junction shall be provided at all intersections, and no obstruction shall be higher than 2 feet above the center line within the sight triangle.

J. Sidewalks.

1. The Planning Commission is authorized to require sidewalks on one or both sides of a street for residential or commercial developments and/or continue a walk on an existing street or to link areas together.
2. Sidewalk width shall be a minimum of four (4) feet in residential areas. Wider sidewalk widths may be necessary along major roadways or commercial areas.

K. Submission of Road Plans.

1. All applicants for subdivision plats shall submit a set of road plans, to the appropriate engineer or zoning administrator for approval. Plans shall be developed by a Professional Engineer and bear the stamp of that Engineer.
2. The road plan shall include the following elements.
 - a. Linear Grading. Plans, profiles and cross-sections, including approximate excavation quantities. Ditch profiles, with grade percentages, shall be shown when varying from a standard ditch.
 - b. Drainage areas.
 - c. Sizes and lengths of all drainage structures.
 - d. Entrance culverts to each lot being subdivided.
 - e. Sizes and map locations of all easements on or bordering the property to be subdivided; this shall include all travel easements and temporary construction easements.
 - f. Road Surfacing Material. Quantities or rates (in tons or yards).
 - g. The type and content of the surface soil.
 - h. Seeding Proposal.
 - i. Erosion control measures during construction.
 - j. All plans must be submitted and approved prior to the start of any construction. All plans must contain a signature space for the appropriate engineer or zoning administrator for approval.

Section 6-3 Parking and Off-Street Loading.

- A. **Number of Parking Spaces Required.** Unless waived or modified by the Marysville Planning Commission and/or the Zoning Administrator, parking requirements and space development standards for all uses shall be established in accord with the following standards set forth in Table 2.

**Table 2
Average Space/Parking Requirements**

Use	Parking
Residence - single and duplex	2 spaces per du
Residence 3 - 5 units	2 spaces per du
Residence - multi family	2 spaces per du
Church/Chapel	½ of Rated Occupancy
Funeral facility	½ of Rated Occupancy
General Office	1 per 300 sq. ft
General Office - Customer	1 per 200 sq. ft
Service - No Sales (parts)	1 per 400 sq. ft.
Service - Merchandise Sales	1 per 200 sq. ft
Retail - Convenience - 1000 sq. ft. or less	1 per 150 sq. ft.
Retail - Convenience 1,000 sq. ft. or more	1 per 125 sq. ft.
Retail/Personal Service [Video; Copying, Etc]	1 per 125 sq. ft.
Retail - General Merchandise	1 per 200 sq. ft. to 1 per 50 sq. ft
Retail - Specialized Mercantile [Furniture; Home Sales; Housewares	1 per 400 sq. ft
Taverns - Entertainment	½ of Rated Occupancy
Health Care	1 per 75 sq. ft.
Restaurant	½ of Rated Occupancy
Restaurant - Fast Food	½ of Rated Occupancy
Restaurant - Express	10 + employees
Govt., Utilities, Etc	1 per 400 sq. ft.
Public/semi-public assembly of any type	To be Negotiated
Manufacturing - Light	1 per 100 sq. ft.
Manufacturing - General	1 per 150 sq. ft.
Manufacturing - Heavy	1 per 200 sq. ft.
Day Care - Home	1 + employees
Day Care - Commercial	5 + employees
Recreation	To be Negotiated

NOTE: Minimum parking standards may be adjusted to greater or lesser capacities to account for location, expected circulation flows, and conversion probabilities by the Marysville Planning Commission and/or the Zoning Administrator. Specific uses not included in this table shall use commonly accepted parking and circulation standards promulgated by standard site design principles and anticipated occupancy loads.

B. Design Standards and Required Dimensions.

1. Regular Parking Spaces.

- a. All parking spaces shall be on a prepared surface of concrete, gravel or asphalt.
- b. Unless otherwise specified in this ordinance or waived by the Planning Commission and/or Zoning Administrator, overflow-parking spaces shall be on a prepared surface of concrete or asphalt. If waived or modified, the parking surface shall be prepared on compacted soil with a minimum of 5" of AB 3 or 4 gravel.
- c. All regular parking spaces on hard surfaces shall be delineated using painted lines or pre-cast concrete parking blocks.
- d. The minimum dimension for all regular parking spaces shall be 10' - 12' in width and 18' to 20' in depth, depending on site plan design.

2. Disability Parking Spaces.

- a. All disability parking spaces shall be on a prepared surface of concrete or asphalt.
- b. All disability parking spaces on hard surfaces shall be delineated using painted lines. Each space shall be clearly marked using a disability sign and, if requested, a symbol painted on the pavement surface indicating that it is reserved for the disabled.
- c. The minimum dimension for all regular disability parking spaces shall be 12' in width and 20' in depth on a level surface.
- d. The minimum dimension for all van and/or wheelchair accessible parking spaces shall be 13' in width and 20' in depth and accompanied by a parallel loading zone 5' wide and 20 feet long.
- e. The number of disability spaces shall be proportionate to the total number of spaces and overall need [minimum of one regular or van accessible space per 25 parking spaces] and positioned in close proximity to entrance doors.
- f. Curb cuts are required whenever sidewalks or parking spaces are being constructed or reconstructed. Ramps and curb cuts shall not exceed a maximum slope of one-in-twenty and shall blend with the common level of the street. All ramps and curb cuts shall be 40" minimum in width. Ramps must not extend out to any traffic lane, nor located where a parked vehicle could block them. If ramps are not placed at a corner, they must begin at least 48" from any obstruction. Ramp sides must be flared to grade on at least a 30° angle or protected by a handrail or a curb to grade.
- g. All curb cuts and ramps shall employ a non-slip surface; elevated ramps up to buildings shall be provided with handrails.

- h. Walks leading from parking lots to the building entrance shall have a continuous common surface, not interrupted by steps, and level at doorways.
- i. Walks shall be 48" minimum in width with a slope not more than one-in-twenty.

C. Off-Street Loading and Unloading Requirements.

Loading and unloading spaces shall be provided off-street and on the premises and in the side or rear yard for such uses involving receipt or distribution of materials or merchandise by motor vehicle or rail. All loading and unloading operations shall be so located to avoid undue interference with traffic and public use of streets, alleys and walkways.

Section 6-4 Public Water and Sewer Connections.

A. Installation Requirements.

1. Installation of and connection to a central water system is required when a proposed {platted} residential subdivision of land is located in the City of Marysville or within a public water district service area (RWD). The "service area of a public water district" is defined as a distance no greater than one half (1/2) of one mile from the nearest connection point. An exemption from this distance requirement will be permitted when the public water district issues a "Certificate of Inability to Serve."
2. Before a building permit can be issued for any principal structure, the subdivider shall install the water system so that an adequate supply of potable water is available to every lot in the development. If the principal structure is located on a lot less than 5 acres, the water meter shall be in place at the dwelling unit connected to the water supply before the structure is occupied. If the principal structure is located on a lot of 5 acres or more, direct connection to the water system is not required as long as the distribution system is available and accessible to the lot owner(s). Private wells may be used on lots of 5 acres or more, but shall be disconnected from the principal structure when connecting to a public water supply.
3. Written verification shall be required by the public water service district before a building permit can be issued for a principal structure in a residential subdivision. The verification shall be worded to assure the Zoning Administrator that all lines are in place to serve present and future structures. Written verification by the public water service district shall also be required for the principal structure on a lot less than 5 acres in size. The verification shall assure the Zoning Administrator that the principal structure has applied for a water service meter and that the public water supply will be connected upon completion of construction.
4. When a proposed subdivision is located in a public sewer district, or if annexation to the sewer district is contemplated, the subdivider shall provide connection to the nearest interceptor or main, create utility easements which touch upon all lots, and install the collection system in all approved phases [final plats] so that connection points touch

upon each lot. No building permits shall be issued until the collection system is completed and approved.

B. Letters of Credit and Assurances.

1. Before the final plat can be filed for any residential subdivision, the developer/owner shall arrange for an assurance in the form of a benefit district or letter of credit to guarantee the installation of the distribution system. The assurance shall equal one hundred and fifty percent of the cost estimate supplied by the public water district or a qualified engineer. The Marysville City Council shall approve all assurances for water and sewer distribution/collection systems.

Section 6-5 General Design of Lots and Typical Layouts.

- A. **Lot Access.** Residential lots shall front on a public right-of-way. The Planning Commission may grant a waiver from this requirement and allow permanent travel easements when appropriate.
- B. **Corner Lots.** Corner {REVERSE} lots shall have equal setbacks unless waived by the Planning Commission.
- C. **Easements.** As a general rule, utility easements shall be placed on all sides of a lot unless waived by the Zoning Administrator.
 1. Utility easements 8' (companion) in width, or 10' (companion) if sewer connections are required or anticipated.
 2. Drainage and watercourse easements are required. Building setbacks from watercourses should be measured from the thread of the stream
- D. **Side Lot Lines.** Side lot lines shall be substantially at right angles to street lines.
- E. **General Lot Design.** Lot design, before it is approved, shall demonstrate an informed sensitivity for landform, efficiency, environmental and natural resource preservation, and public safety.

Section 6-6 Blocks and Lots.

- A. Minimum width shall be as required by the Zoning Regulations. Said width shall be measured at the building setback line, except for irregular shaped lots.
- B. Minimum depth shall be as required by the Zoning Regulations. Said measurement shall be measured through the center of the lot and shall be perpendicular to the property line or radial to the property line on curved streets.
- C. Minimum area shall be subject to the Zoning Regulations in which the subdivision is located.
- D. Corner lots shall have such addition of width to observe the same frontage setback on both streets.
- E. Double frontage lots shall be avoided unless, in the opinion of the Planning Commission, a variation to this rule will give better street alignment and lot arrangement and promote a better traffic condition.

- F. Every lot shall abut on a public street or travel easement.
- G. Building setback lines shall be shown on the final plat for all lots in the subdivision and shall not be less than the setback required by the Zoning Regulations and/or ordinance adopted by the City.
- H. The subdivision or resubdivision of a tract or lot shall not be permitted where said subdivision or resubdivision places an existing permanent structure in violation of the requirements of the Zoning Regulations.
- I. No provision of these regulations shall be construed as to require a replat for the split of any lot into two tracts if it is zoned residential. Should a tract be zoned industrial, it may be divided into any number of tracts without a replat.
- J. The lot arrangement shall be such that there will be no foreseeable difficulties in securing building permits to build on all lots in compliance with City codes and in providing legal access to lots from an approved public street.

Section 6-7 Survey Monuments and Markers.

A. Locations.

- 1. The Registered Land Surveyor shall set a permanent monument at each and every controlling corner on the boundary of the parcel or tract being subdivided. Monuments shall be placed at intervals of 900 feet on straight lines.
- 2. Permanent monuments shall be set at all lot and block corners.
- 3. In cases where the placement of a monument at its proper location is impractical, it shall be permissible to set reference monuments close to that point. If such reference monument is set, its location shall be properly shown on the plat. When conditions warrant setting a monument on an offset, the location shall be selected so that the monument lies on a line of the survey or on the prolongation of such line. Offsets shall be set at even foot intervals from the true location.

B. Character, Type, Position Noted on the Plat, and Approval.

- 1. The character, type and position shall be noted on the plat, all distances must be expressed to the nearest hundredth of a foot.
- 2. Permanent monuments shall be of material capable of being detected by commonly used magnetic or electronic equipment.
 - a) The monument size shall be a solid steel rod of not less than 1/2" O.D.
 - b) The minimum length shall be 24".

C. Placement.

- 1. All boundary monuments and interior controlling corners shall be set prior to the filing of the final plat.

Section 6-8 Preservation of Natural Features.

Existing features that would add value to residential development or to the City as a whole, such as trees, watercourses, historic structures or landscapes and similar irreplaceable assets, shall be preserved in the design of the site plan or preliminary plat.

Section 6-9 Landscaping and Buffering.

A. **Bufferyards.** The Planning Commission is authorized to require the provision of additional open space, lot depth, or increased depth or width in setbacks when evaluating a site plan or preliminary plat. The intent of the bufferyard is to separate an undesirable land use from other land uses, reduce glare, and filter noise. The site plan or preliminary and final plat shall show the designated buffer areas. The buffer areas shall be a minimum of fifteen (15) feet wide in order to support mature trees, unless waived by the Planning Commission. Parking, storage and buildings are prohibited within the buffer area.

B. **Screening and Landscaping.** The Planning Commission is authorized to require the provision of landscaping, berming, and fencing in the bufferyard and/or required setback areas. The Planning Commission shall determine the appropriate landscaping and screening during the review of the site plan or preliminary plat. The intent is to obtain fencing and/or year round landscaping in locations that abut residentially used property or negatively impacts the views of adjacent property owners.

Unless otherwise specified by the Planning Commission, buffer areas shall consist of one (1) row, staggered, of mixed evergreen and deciduous trees. Coniferous trees shall be at least three (3) feet in height and deciduous trees shall be at least (6) six feet when planted, and shall be spaced not more than ten (10) feet apart on center. Deciduous plant materials shall comprise no more than thirty percent (30%) of the number of plants in the buffer.

ARTICLE 7. PERMITS REQUIRED FOR DEVELOPMENT

Section 7-1
Section 7-2

Building Permit
Temporary Permit

Section 7-1 Building Permit.

- A. **When Required.** A building permit shall be required by the city for construction and use of a building, erected or structurally altered; change in use of existing building to more restrictive use; change in use of vacant land; and any change of a non-conforming use within the city limits and extra-territorial area.
- B. **Building Permit Required.** A building permit is required for record and tracking purposes, except no permit shall be required for a valid agricultural purpose.
- C. **Building Permit Waiver.** The Zoning Administrator or Building Official may waive building permit fees for structures damaged by fire or destroyed by natural disaster.
- D. **Application.** Written application for a building permit shall be made to the building inspector.
- E. **Approval.** The building permit shall be issued within 10 days from date of inspection of the lot or building for compliance with all provisions of the unified development code. In the event that a permit is denied, the applicant shall be notified within 10 days of such inspection and/or denial, and may appeal to the Board of Zoning Appeals. A building permit shall not be issued when such use would be in violation of any provisions of the unified development code. A building permit shall not be issued unless sealed construction plans are submitted for commercial and industrial construction (electrical, plumbing, construction, and mechanical).
- F. **Building Permit Not Required.**
 - 1. Fences and retaining walls.
 - 2. Prefabricated swimming pools accessory to a Group R, Division 3 Occupancy in the Uniform Building Code in which the pool walls are entirely above the adjacent grade and capacity does not exceed 5,000 gallons.
 - 3. Playhouses, provided they have a projected roof area of less than 50 square feet and are elevated at least three feet from the ground level.
 - 4. Renovation or finishing which does not produce an increase in gross, finished square feet - unless the renovation is a change in use or a conversion of a use. For example, renovating a kitchen, finishing a basement, or building a hobby area in a garage do not result in an increase in square feet or a technical change in use.

Section 7-2 Temporary Permit.

- A. **Repair of Structures.** The Zoning Administrator may waive any provision of this ordinance related to the use of property on a temporary basis for a prudent and reasonable time, when property owners have been impacted or damaged by fire or natural disaster. If the requested period for the waiver extends beyond 120 days, the Zoning Administrator shall seek

approval from the Planning Commission to continue the waiver up to one year.

- B. **Temporary Construction Activities.** The Planning Commission is authorized to review and approve the use of property during times of construction, reconstruction, or adaptation to permit temporary living quarters for construction personnel, offices, buildings for storage, outdoor storage, machinery yards, portable concrete or asphalt mixing plants, sanitary facilities, and similar uses.
1. **Planning Commission Action.** The Planning Commission shall review and approve, deny, and impose conditions on the application.
 2. **Temporary Building Permit.** Temporary uses of six months or longer in duration require a "temporary building permit", which shall be issued by the Zoning Administrator for a period that is concurrent with the construction schedule.

ARTICLE 8. CREATION OF ZONING DISTRICTS AND OFFICIAL MAP

Section 8-1	Establishment of Zoning Districts
Section 8-2	Map Adoption
Section 8-3	Rules for Interpretation of District Boundaries

Section 8-1 Establishment of Zoning Districts. The following zoning districts are established to carry out the purposes of this ordinance.

- A-1** Agricultural District
- R-R** Rural Residential District
- S-R** Suburban Residential District
- R-1** Residential Single Family District
- R-2** Residential Single Family with Limited Mixed Density District
- R-3** Residential Single Family with Restricted Light Industrial District
- MHP** Manufactured Home Park District
- C-1** Central Commercial District
- C-2** General Commercial District
- C-3** Highway Commercial District
- I-1** Restricted Light Industrial District
- I-2** General Industrial District
- I-3** Heavy Industrial District
- SDOD** Special Development Overlay District
- F-P** Floodplain Overlay District
- A-O** Airport Hazard Overlay District
- A-P** Airport District

Section 8-2 Zoning Map Adopted.

The location and boundaries of the zoning districts are hereby established and shown on the official zoning maps of the City of Marysville and Extra-Territorial Area. The zoning maps together with all explanatory matter are declared to be a part of this ordinance.

Section 8-3 Rules for Interpretation of District Boundaries.

It is the intent of these regulations that every part of the City and extra-territorial area under the zoning authority of the Governing Body shall be included in one of the zoning districts established herein. Any land not shown as included in a zone on the Official Zoning Map shall be deemed to be in the Agricultural District. Where uncertainty exists with respect to the boundaries of any district, the following rules shall apply:

1. Where district boundaries are indicated as approximately following the centerlines of streets, alleys, highways, or railroads, such boundaries shall be deemed to follow the right-of-way line nearest to the property.
2. Where district boundaries are so indicated that they approximately follow platted lot lines or other property lines, such lines shall be construed to be the boundaries.

3. Where district boundaries are indicated that they approximately follow section lines, half-section lines, or quarter-section lines, such lines shall be construed to be the boundaries.
4. Where the boundary of a district follows a stream, lake or other body of water, the boundary line shall be construed to follow these centerlines.
5. The Zoning Administrator shall interpret questions concerning the exact location of zoning district boundary lines.

ARTICLE 9. AGRICULTURAL ZONING DISTRICT

Section 9-1 A-1, Agricultural District.

- A. **Purpose and Intent.** This district is created to preserve rural character and protect land used for production agriculture, the farm family, and support services, and promote uses necessary to assist agricultural activities in and around the Marysville area. The district allows limited suburban and rural residential development, but is primarily intended to contribute to the safe, efficient, and convenient conduct of farming and animal husbandry.
- B. **Exempt Uses.** The following uses are exempt from all regulation except environmental sanitary codes and floodplain location requirements.
1. Family farm residences.
 2. Reserved.
 3. Production agriculture; livestock; dairy; poultry and hatchery; commercial gardening; orchards; silvaculture; viticulture; horticulture; forestry; bees; fur bearing animals; necessary accessory uses to support operations.
- C. **Uses Permitted.** The following uses shall be permitted within the Agricultural District.
1. Dwelling unit(s) for members of the extended farm family or farm employee.
 2. Single family, non-farm, residential design dwelling unit for each quarter/quarter section (40 acres) exclusive of farm residences or accessory residences. Requires lot split if less than 10 acres; greater densities require rezoning to a residential use district. Residential-design manufactured homes are subject to the provisions of Article 18, Supplementary Use Regulations.
 3. Congregate housing (limited to State pre-empted categories for disabled).
 4. Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
 5. Bed & Breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
 6. Home occupations, subject to the provisions of Article 18, Supplementary Use Regulations.
 7. Place of worship and customary accessory residential use.
 8. Veterinary and veterinary supplies.
 9. Agriculture and livestock research facilities.
 10. Agricultural storage and processing facilities, including elevators and dehydrators.
 11. Sale and storage of agricultural fuels, feeds, fertilizers, pesticides, and herbicides; fuels - bulk storage.
 12. Exploration and extraction of oil and gas.
 13. Public utilities and facilities; governmental office(s) and storage facilities; public water and sewer service district facilities.
 14. Public safety services.

15. Riding academies and stables.
16. Greenhouses, nurseries and tree farms; botanical gardens; sod farms.
17. Public and private parks and recreation facilities, limited to sports complex, golf courses, driving ranges, tennis, clubhouses, and archery.
18. Cemeteries.
19. Public and private schools.
20. Libraries or museums.
21. Club or lodge.
22. Temporary construction offices; storage, and batch asphalt or concrete mixing facilities for a period of up to one year (renewable for additional year).
23. Sale of agricultural produce in roadside stands; farmers and craft markets.
24. Conversion or readapting of an existing building for use as an accessory residence or other uses approved by review by the Planning Commission. Use must have been construction prior to the effective date of this ordinance.
25. Accessory uses subordinate in size and operation to the principal use.

D. Uses Permitted Upon Review. The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.

1. Child care for six (6) persons or more, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-93, and K.A.R. 28-4-420)
2. Adult care homes, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of operations as defined by the State of Kansas (See K.S.A. 39-923): nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, boarding care home and adult day care facility.
3. Correctional facility - public or private.
4. Shops for welding and farm machinery repair, but does not include general auto repair, body or detailing shops.
5. Airport and aviation field; crop spraying facility, subject to the provisions of Article 18, Supplementary Use Regulations.
6. Communication towers greater than 60 feet in height, subject to the provisions of Article 18, Supplementary Use Regulations.
7. Recreation facilities: gun clubs; skeet and sporting clay ranges; shooting ranges; controlled wildlife shooting areas.
8. Shops, no larger than 1,000 square feet, for wood working and cabinetry, crafts, pottery; antiques; gunsmith; metal polishing and restoration; upholstery; bait and hunting supplies and similar uses. Operation is limited to the resident family and one employee.

9. Travel camper and recreational vehicle parks including accessory commercial and residential uses, subject to the provisions of Article 18, Supplementary Use Regulations.
10. Livestock sales facilities; rodeo or fairgrounds.
11. Recycling and salvage facilities, subject to the provisions of Article 18, Supplementary Use Regulations.
12. Private construction debris landfills (requires State of Kansas permit).
13. Retreats; non-profit, common ownership camps and congregate facilities.
14. Animal sanctuaries, commercial - stray or humane care of domesticated animals.
15. Kennels (five or more dogs) for breeding, boarding and or sale, subject to the provisions of Article 18, Supplementary Use Regulations.
16. Quarries; gravel extraction; mining, subject to the provisions of Article 18, Supplementary Use Regulations.
17. Asphalt and concrete plants.
18. Construction equipment yards and machinery storage.
19. Consignment auction facilities.
20. E.C.H.O. (elderly cottage housing opportunity) accessory, non-farm residential units for care of family elderly or disabled. The accessory residence may be a 16' or wider residential design manufactured dwelling unit, a site built accessory dwelling unit, or a slide-in manufactured ECHO unit, provided that such additional unit complies with all the Sanitary Code
21. Saw mills.
22. Flea markets and open air used goods sales.
23. Reserved for future use.

E. **Appearance Requirements for Non-Farm Uses.** All new non-farm uses established after the effective date of this ordinance shall comply with the following requirements.

1. All scrap materials, inoperative vehicles, scrap machinery, appliances, debris, or other similar accumulated materials must be stored in a defined area behind a screening fence. At a minimum, the screening fence must be constructed of solid wood or masonry, or a metal link fence with wooden slats.
2. All drives and parking areas shall be compacted and surfaced with asphalt, concrete, or a minimum of five (5) inches of gravel.
3. All parking and/or paved or graveled spaces must be separated from a public right-of-way by a minimum 12 feet "green area" - either seeded or landscaped unless exempted by the Planning Commission.
4. All outdoor lighting serving commercial shall be directionally shaded or directed away from property used for a residential purpose.
5. Reserved for future use.

F. **Property Development Regulations.** The following regulations shall apply to all non-farm sites in the A-1 District. The Board of Zoning Appeals

is hereby empowered to reduce these district requirements in cases of hardship, practical difficulty, irregular lot size or dimension, honest error, or low or minimum water use facilities.

Table 3	
Property Development Regulations, A-1 District	
Development Description	District Requirements
Maximum Density	One (1) non-farm dwelling unit per 40 acres - quarter-quarter
Minimum Lot Area	
Lot with individual well	5 acres
Lot with public water service	3 acres
Minimum Lot Frontage	330 feet
Minimum Lot Depth	330 feet
Minimum Front Yard	
Public R.O.W. or travel easement	50 feet
U.S. Highway 36 R.O.W.	60 feet
Minimum Side Yard	
Principal structure	30 feet
Accessory use	20 feet
Minimum Rear Yard	35 feet
Note: The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.	

G. **Special Regulations.** The following special regulations shall apply to each site in the A-1 District.

1. **Non-Farm Uses Building on Unplatted Land**

All new non-farm construction on unplatted land on less than 10 acres must prepare and record a plat or a lot split prior to the issuance of a building permit unless it is a lot of record created prior to the adoption of this ordinance.

2. **On-site Sewage Disposal Systems**

All uses, unless connected to the Marysville Sanitary Sewer District, shall provide an on-site sewer treatment system that complies with the requirements of the Sanitary Code.

3. **Legally Established Property Development Regulations**

The Zoning Administrator is hereby empowered to issue building permits to new construction on lots of record created before the effective date of the adoption of this ordinance. All permits shall adhere to the original lot size and yard requirements.

Note: A building permit shall not be collected for buildings or structures used for a valid agricultural purpose.

ARTICLE 10. RESIDENTIAL ZONING DISTRICTS

Section 10-1	R-R, Rural Residential District
Section 10-2	S-R (1-2-3) Suburban Residential District
Section 10-3	R-1, Residential Single Family District
Section 10-4	R-2, Residential Single Family with Limited Mixed Density
Section 10-5	R-3, Residential Single Family with Restricted Light Industry
Section 10-6	MHP, Manufactured Home Park District

Section-10-1 R-R, Rural Residential District.

- A. **Purpose and Intent.** The purpose of this district is to allow non-farm residential tracts to be developed at a low-density in the extraterritorial zone. This district permits platting on agricultural land to promote a rural environment or lifestyle with opportunities for limited livestock. The Rural Residential District is intended to be used in an environ that is predominately agricultural in character, at locations with adequate public roads and services. The Rural Residential District is encouraged in areas with marginal agricultural productivity.
- B. **Uses Permitted.** The following uses shall be permitted within the Rural Residential District.
1. Single family, non-farm, residential design dwelling units (one unit per lot or tract). Residential-design manufactured homes are subject to the provisions of Article 18, Supplementary Use Regulations.
 2. Place of worship and customary accessory residential use.
 3. Cemeteries.
 4. Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
 5. Congregate housing (limited to State pre-empted categories for disabled).
 6. Public and private park and recreation facilities, including a golf course and ancillary uses such as club house, tennis courts, storage sheds, and driving ranges.
 7. Public utilities and facilities; governmental office(s) and storage facilities; public water and sewer service district facilities.
 8. Public safety services.
 9. Public and private schools.
 10. Club or lodge.
 11. Bed and Breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
 12. Commercial orchard and gardens with sale of produce grown on premises.
 13. Home occupations, subject to the provisions of Article 18, Supplementary Use Regulations.
 14. Limited stock animals such as horses, cows, sheep, swine, or goats for show, pleasure and care provided that the stock is maintained in good order and in such quantities as not to become a public or private nuisance.
 15. Poultry, rabbits, guinea pigs and other small animals. Dog kennels are not permitted.

16. Sale of agricultural produce in roadside stands; farmers and craft markets.
17. Accessory uses subordinate in size and operation to the principal use.

C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.

1. Child care for six (6) persons or more, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-113, and K.A.R. 28-4-420)
2. Adult care homes, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of operations as defined by the State of Kansas (See K.S.A. 39-923): nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, boarding care home and adult day care facility.
3. E.C.H.O. (elderly cottage housing opportunity) accessory residential design dwelling unit for care of family elderly or disabled. The accessory residence may be a 16' or wider residential design manufactured dwelling unit, a site built accessory dwelling unit, or a slide-in manufactured ECHO unit, provided that such additional unit complies with all the Sanitary Code.
4. Aviation field, private strip or commercial, subject to the provisions of Article 18, Supplementary Use Regulations.
5. Communication towers and antennas 60 feet or more in height, subject to the provisions of Article 18, Supplementary Use Regulations.
6. Kennels (five or more dogs) for breeding, boarding and or sale, subject to the provisions of Article 18, Supplementary Use Regulations.
7. Nursery sales office, building, greenhouse or area operated as a retail business.
8. Riding academies and stables.
9. Reserved for future use.
10. Veterinary clinic; veterinary supplies.
11. Tack shops.

- D. **Property Development Regulations.** The following regulations shall apply to each site in the Rural Residential District.

Table 4 Property Development Regulations, R-R	
Development Description	District Requirements
Minimum Lot Area	10 acres
Minimum Lot Width	330 feet
Minimum Lot Frontage	330 feet
Minimum Lot Depth	330 feet
Minimum Front Yard Setback	
Public R.O.W. or property line	50 feet
Minimum Side Yard Setback	30 feet
Minimum Rear Yard Setback	30 feet
Maximum Building Height	35 feet
Note: The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.	

- E. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

- F. **Special Regulations.** The following special regulations shall apply to each site in the Rural Residential District.

1. **Uses Building on Unplatted Land**
Prior to the issuance of a building permit for any use in the Rural Residential District, a plat or certificate of survey is required.
2. **On-site Sewage Disposal Systems**
All uses shall provide an individual, on-site sewage treatment and disposal system that complies with the requirements of the Sanitary Code.
3. **Dedication of Right-of-Way**
The owners of tracts abutting an existing public road that contains less right-of-way than required shall, by plat or warranty deed, dedicate or convey the additional right-of-way necessary to comply with the minimum right-of-way standard for that road. Where the tract adjoins only one side of the road, dedication or conveyance shall be made for one-half of the required right-of-way width, as measured from the centerline of the road. Where the tract adjoins both sides of the road, the entire right-of-way width shall be dedicated or conveyed. Building permits shall not be issued unless and until the City accepts the dedications or conveyances required by this section.
4. **Legally Established Property Development Regulations**
For "lots-of-record" established prior to adoption of this ordinance, the Zoning Administrator shall issue building permits to new uses

and structures determined to be consistent with the original building, yard, setback and lot size requirements. A minimum eight (8) foot side yard setback shall be maintained for all principal structures. Building permits for additions or accessory structures to existing structures or uses may be issued by the Zoning Administrator with due regard for density and sanitation requirements.

Section 10-2 **S-R (1-2-3) Suburban Residential District**

- A. **Purpose and Intent.** The purpose of this district is to allow platted, low-density single family residential neighborhoods to develop in harmony with municipal boundaries and established growth patterns. The Suburban Residential District is intended primarily for areas designated in the land use plan as suburban residential. The SR District is designed to accommodate varying lot sizes depending on the method of wastewater treatment and availability of water from the city or a rural water district. The following concerns must be evaluated by the Planning Commission during the rezoning hearing for the Suburban Residential District:
1. Long-term impacts on municipal infrastructure extension for roads, water and sanitary sewers.
 2. Proximity and access to the public road network system and surrounding areas.
 3. The adequacy of waste disposal methods and protection from pollution of surface or groundwater.
 4. The impact of stormwater runoff on adjacent landowners, and the maintenance of "natural state" of watercourses.
- B. **Uses Permitted.** The following uses shall be permitted within the Suburban Residential District.
1. Single family, non-farm, residential design dwelling units (one unit per lot or tract). Residential-design manufactured homes are subject to the provisions of Article 18, Supplementary Use Regulations.
 2. Commercial orchards and gardens with sale of produce grown on premises.
 3. Place of worship and customary accessory residential use.
 4. Congregate housing (limited to State pre-empted categories for disabled).
 5. Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
 6. Home occupations, subject to the provisions of Article 18, Supplementary Use Regulations.
 7. Public and private park and recreation facilities, including a golf course and ancillary uses such as club house, tennis courts, storage sheds, and driving range.
 8. Public utilities and facilities and governmental offices, including facilities for public water and sewer districts
 9. Public safety services.
 10. Public and private schools.
 11. Club or lodge.

12. Cemeteries.
13. Accessory uses subordinate in size and operation to the principal use.

C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.

1. Child care for six (6) persons or more, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-113, and K.A.R. 28-4-420).
2. Adult care homes, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of operations as defined by the State of Kansas (See K.S.A. 39-923): nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, boarding care home and adult day care facility.
3. E.C.H.O. (elderly cottage housing opportunity) accessory residential design dwelling unit for care of family elderly or disabled. The accessory residence may be a 22' or wider residential design manufactured dwelling unit, a site built accessory dwelling unit, or a slide-in manufactured ECHO unit, provided that such additional unit complies with the Sanitary Code.
4. Communication towers and antennas 60 feet or more in height, subject to the provisions of Article 18, Supplementary Use Regulations.
5. Bed and Breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
6. Nursery sales office, building, greenhouse or area operated as a retail business.
7. Riding academies and stables.
8. Reserved for future use.

D. **District Area Standards.** The following regulations shall apply to the Suburban Residential District.

1. **SR-1 District:** Public water supply and individual on-site wastewater treatment system.
2. **SR-2 District:** Public water supply and public sanitary sewer system.
3. **SR-3 District:** Municipal water supply and public sanitary sewer system.

- E. **Property Development Regulations.** The following regulations shall apply to each site in the Suburban Residential District.

<p align="center">Table 5 Property Development Regulations, S-R</p>							
Zoning District	Lot Dimension Requirements				Setback Requirements		
Zoning District Classification	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Lot Frontage (feet)	Minimum Lot Depth (feet)	Front Yard (feet)	Rear Yard (feet)	Side Yard (feet)
SR-1	3 acres	200	200	200	50	30	30
SR-2	21,500 sq. ft.	100	100	130	30	20	15
SR-3	10,500 sq. ft.	70	70	130	30	20	15
<p>Note: The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>							

- F. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

- G. **Special Regulations.** The following special regulations shall apply to each site in the Suburban Residential District.

1. **Uses Building on Unplatted Land**

A preliminary and final plat is required prior to the issuance of a building permit for any use in the Suburban Residential District.

2. **On-site Sewage Disposal Systems**

All uses shall provide an individual, on-site sewage treatment and disposal system that complies with the requirements of the Sanitary Code.

3. **Dedication of Right-of-Way**

The owners of tracts abutting an existing public road that contains less right-of-way than required shall, by plat or warranty deed, dedicate or convey the additional right-of-way necessary to comply with the minimum right-of-way standard for that road. Where the tract adjoins only one side of the road, dedication or conveyance shall be made for one-half of the required right-of-way width, as measured from the centerline of the road. Where the tract adjoins both sides of the road, the entire right-of-way width shall be dedicated or conveyed. Building permits shall not be issued unless and until the dedications or conveyances required by this section are accepted by the City.

4. **Legally Established Property Development Regulations**

For "lots-of-record" established prior to adoption of this ordinance, the Zoning Administrator shall issue building permits to new uses and structures determined to be consistent with the original building, yard, setback and lot size requirements. A minimum eight (8) foot

side yard setback shall be maintained for all principal structures. Building permits for additions to existing structures or accessory structures and uses may be issued by the Zoning Administrator with due regard for density and sanitation requirements.

Section 10-3 R-1, Residential Single Family District.

- A. **Purpose and Intent.** The intent of this district is to encourage single-family, detached residential dwellings together with school sites, churches, civic buildings and parks necessary to create stable neighborhoods.
- B. **Uses Permitted.** The following uses shall be permitted within the R-1, Residential District.
1. Single family dwellings, including residential-design manufactured homes. Residential-design manufactured homes are subject to the provisions of Article 18, Supplementary Use Regulations.
 2. Public and private schools.
 3. Places of worship and customary accessory residential use.
 4. Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
 5. Home occupations, subject to the provisions of Article 18, Supplementary Use Regulations.
 6. Golf courses, public or private, except illuminated driving ranges and miniature golf.
 7. Congregate housing (limited to State pre-empted categories for disabled).
 8. Hospitals; libraries; community centers.
 9. Public and private park and recreation facilities, including a golf course and ancillary uses such as club house, tennis courts, storage sheds, and driving range.
 10. Public utilities and facilities and governmental offices, including facilities for public water and sewer districts.
 11. Public safety services.
 12. Temporary buildings for uses incidental to construction work, provided the buildings are immediately adjacent to the construction work and shall be removed upon completion or abandonment of the construction work.
 13. Reserved for future use.
 14. Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.
- C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.
1. Duplex or two-family dwellings.
 2. Bed and Breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
 3. Child care for six (6) persons or more, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this

category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-113, and K.A.R. 28-4-420)

4. Adult care homes, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of operations as defined by the State of Kansas (See K.S.A. 39-923): nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, boarding care home and adult day care facility.
5. Club or lodge.
6. Communication towers and antennas 60 feet or more in height, subject to the provisions of Article 18, Supplementary Use Regulations.
7. E.C.H.O. (elderly cottage housing opportunity) accessory residential units for care of family elderly or disabled. The accessory residence may be a 16' or wider residential design manufactured dwelling unit, a site built accessory dwelling unit, or a slide-in manufactured ECHO unit, provided that such additional unit complies with all the Sanitary Code.

D. Required Lot Width and Area. Every lot shall have a frontage of not less than 65 feet and an area of not less than:

1. Single family dwelling, not served by sanitary sewer system: three (3) acres unless the Board of Health approves a lesser area, but in no case less than one (1) acre.
2. Single family dwelling served by sanitary sewer system or with approval of the Board of Health: 7,500 square feet.
3. All other uses: Area and system as approved by the Board of Health and Board of Zoning Appeals.

E. Percentage of Lot Coverage.

1. All buildings, including accessory buildings, shall not cover more than 30 percent of the area of the lot. For lots of record which are less than 6,600 square feet in area, buildings shall not exceed 50 percent of the area of the lot, and the side yard setbacks shall be reduced to an amount not less than 10 percent of the lot width, or three feet, whichever is greater.

- F. **Setback and Building Height Regulations.** Each lot shall have front, side and rear yards not less than the depth or width following:

Table 6	
Setback and Building Height Regulations, R-1	
Front Yard	Minimum of 25 feet
Side Yard	Minimum of six feet, but the sum of two side yards shall not be less than 16 feet, except for those provisions listed in Section 10-3 E(1).
Rear Yard	Minimum of 25 feet
Corner Lot Line	Minimum of 25 feet from each lot line, or the established setback of a principal structure on an adjacent lot, whichever is less.
Building Height	Maximum of 35 feet.
Note: The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.	

- G. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.
- H. **Accessory Building.** Accessory buildings shall be subject to the following requirements in addition to the provisions listed elsewhere.
1. They shall not be located nearer the front lot line than the main building.
 2. The minimum distance from side and rear property lines shall be five feet, except as otherwise noted.
 3. Height shall not exceed that of the principal structure.
 4. An accessory building attached in any structural manner to the principal structure must conform to the side and rear yard requirements for principal structures.
 5. There shall be a clearance of not less than 10 feet between any principal and accessory buildings.

Section 10-4 R-2, Residential Single Family with Limited Mixed Density District

- A. **Purpose and Intent.** The purpose of this district is to allow a limited interspersing of two-family and multi-family housing within the residential neighborhoods of Marysville and to permit development of previously undeveloped and unplatted land at higher densities.
- B. **Uses Permitted.** The following uses shall be permitted within the R-2, Residential Single Family with Limited Mixed Density District.
1. All uses permitted in R-1 Residential Single Family District, Section 10-3-B, Uses Permitted.
 2. Two family dwellings or duplex.
- C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.

1. All uses permitted in R-1, Residential Single Family District, Section 10-3-C, Uses Permitted Upon Review.
2. Multi-family dwellings subject to the provisions of Section 5-2, Site Plan Requirements.
3. Rooming or boarding house.
4. Bed and Breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
5. Manufactured home, subject to the following provisions.
 - a. The home must be placed on a permanent foundation that complies with the adopted building code.
 - b. The hitch, axles, and wheels must be removed.
 - c. Pitched roof.
 - d. Gutter and downspout.

D. Required Lot Area.

1. Each one-family dwelling shall be located on a lot of the same area and width as required in R-1 Residential Districts.
2. Each two-family dwelling shall be located on a lot having an area of at least 7,500 square feet and an average width of at least 75 feet.
3. Each multi-family dwelling shall be located on a lot having an area of not less than 2,500 square feet for each family housed therein and an average width of at least 75 feet.

E. Percentage of Lot Coverage.

1. Same as Section 10-3(E), except that all buildings, including accessory buildings, shall not cover more than 40 percent of the area of the lot. Lots of record which are less than 6,600 square feet in area, buildings shall not exceed 50 percent of the area of the lot and the side yard setbacks shall be reduced to an amount not less than 10 percent of the lot width, or three feet, whichever is greater.

F. Setback and Building Height Requirements.

Table 7	
Setback and Building Height Regulations, R-2	
Front Yard	Minimum of 25 feet
Side Yard	Minimum of six feet, but the sum of two side yards shall not be less than 16 feet, except for those provisions listed in Section 10-3 E(1).
Rear Yard	Minimum of 20 feet
Corner Lot Line	Minimum of 25 feet from each lot line or the established setback of a principal structure on an adjacent lot, whichever is less
Building Height	Maximum of 35 feet.
Note: The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.	

- G. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.
- H. **Accessory Building.** Accessory buildings shall be subject to the following requirements in addition to the provisions listed elsewhere.
1. They shall not be located nearer the front lot line than the main building.
 2. The minimum distance from side and rear property lines shall be five feet, except as otherwise noted.
 3. Height shall not exceed that of the principal structure.
 4. An accessory building attached in any structural manner to the principal structure must conform to the side and rear yard requirements for principal structures.
 5. There shall be a clearance of not less than 10 feet between any principal and accessory buildings.

Section 10-5 R-3, Residential Single Family with Restricted Light Industry.

- A. **Purpose and Intent.** This district is intended for the purpose of allowing the commingling of compatible single-family, two family dwellings, apartments, home occupations, community facilities and certain uses: such as manufactured homes on individual lots, as well as light industrial uses by special use permit.
- B. **Uses Permitted.** The following uses shall be permitted within the R-3, Multiple Family District.
1. All uses permitted in R-2, Residential Single Family with Limited Mixed Density District, Section 10-4-B, Uses Permitted.
- C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to the procedures listed in Article 3, Section 3-7.
1. All uses permitted in R-2, Residential Single Family with Limited Mixed Density District, Section 10-34-C, Uses Permitted Upon Review.
 2. Manufactured home, subject to the following provisions.
 - a. The home must be placed on a permanent foundation that complies with the adopted building code.
 - b. The hitch, axles, and wheels must be removed.
 - c. Pitched roof.
 - d. Gutter and downspout.
 3. All uses permitted in I-1, Restricted Light Industrial Section 12-1 C, Uses Permitted and Section 12-1(C), Uses Permitted by Review.
 4. Travel trailer camps, subject to the provisions in Article 18, Supplementary Use Regulations.
- D. **Required Lot Area.** Except as hereinafter provided, all dwellings erected, enlarged, relocated, or reconstructed shall be located upon lots containing the following area:

1. Each one-family dwelling unit shall be located on a lot of the same area and width as required in R-1, Residential District.
2. Each two-family dwelling shall be located on a lot having an area of at least 7,500 square feet and an average width of at least 75 feet.
3. Each multi-family dwelling shall be located on a lot having an area of not less than 2,500 square feet for each family housed therein and an average width of at least 75 feet.
4. Where a single lot of record has less area than herein required and was recorded prior to the effective date of this regulation, that lot may be used, provided no lot shall be less than 44 feet in width.

E. Percentage of Lot Coverage.

1. Same as Section 10-4(E).

F. Setback and Building Height Requirements.

Table 8 Setback and Building Height Regulations, R-3	
Front Yard	Minimum of 25 feet
Side Yard	Minimum of six feet, but the sum of two side yards shall not be less than 16 feet, except for those provisions listed in Section 10-3 E (1).
Rear Yard	Minimum of 20 feet
Corner Lot Line	Minimum of 25 feet from each lot line or the established setback of a principal structure on an adjacent lot, whichever is less
Building Height	Maximum of 35 feet.
Note: The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.	

G. Parking and Loading Regulations. Parking and loading requirements are contained in Article 6, Section 6-3.

H. Accessory Building. Accessory buildings shall be subject to the following requirements in addition to the provisions listed elsewhere.

1. They shall not be located nearer the front lot line than the main building.
2. The minimum distance from side and rear property lines shall be five feet, except as otherwise noted.
3. Height shall not exceed that of the principal structure.
4. An accessory building attached in any structural manner to the principal structure must conform to the side and rear yard requirements for principal structures.
5. There shall be a clearance of not less than 10 feet between any principal and accessory buildings.

Section 10-6 MHP, Manufactured Home Park District.

- A. **Purpose and Intent.** This district provides medium density manufactured home park development compatible with the character of the surrounding neighborhood. Manufactured home parks should be located in areas where services and amenities are available such as those found in conventional residential areas.

- B. **Uses Permitted.** The following uses shall be permitted in the Manufactured Home Park Residential District.
 - 1. Manufactured or mobile homes, either single or double wide, but this shall not be construed as motorized recreation vehicles, recreation trailers, or campers.
 - 2. Residential design manufactured homes.
 - 3. Single family residential units for management or other park purposes.
 - 4. Accessory units to the manufactured home such as storage buildings and expansion devices.
 - 5. Buildings and structures used for storm shelters, community buildings, storage areas, laundry, garages and similar uses.
 - 6. Child or adult day care homes for six (6) persons or less, subject to registration by the State of Kansas.
 - 7. Public utilities and facilities; governmental office(s) and storage facilities; public water and sewer service district facilities.

- C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.
 - 1. Retail and personal services for the convenience of park residents.
 - 2. Child care for six (6) persons or more, subject to the provisions of Article 18, Supplementary Use Regulations. Included in this category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-113, and K.A.R. 28-4-420).

- D. **Property Development Regulations.**

Table 9 Manufactured Homes Area Requirements				
	Side to Side	End to End	Front Yard From Curb	Side Yard from Curb
Single Wide				
14' x 60' or less	18 feet	13 feet	22 feet	10 feet
14' x 60' or more	18 feet	13 feet	22 feet	10 feet
Double Wide				
20' x 60' or less	18 feet	13 feet	22 feet	10 feet

20' x 60' or more	18 feet	13 feet	22 feet	10 feet
No structure may be placed closer than 8 feet to the park lot line; setbacks and separations may be modified by site plan review.				

E. **Use Limitations.** Each manufactured home park shall be designed in accordance with the following minimum standards:

1. **Minimum Design Standards:**

- a. The park shall be located on a well-drained site, properly graded to insure rapid storm drainage and freedom from stagnant pools of water.
- b. Manufactured home parks hereafter approved shall have a maximum density of eight (8) manufactured homes per gross acre, unless waived by the Planning Commission.
- c. Each manufactured home space shall be at least 50 feet wide and be clearly defined, unless waived by the Planning Commission.
- d. All manufactured home spaces shall front upon a private roadway of not less than 25 feet in width, including curbs on each side; provided, however, that no on-street parking is permitted. If parallel parking is permitted on one side of the street, the width shall be increased to 30 feet; and if parallel parking is permitted on both sides of the street, the width shall be increased to 36 feet. All roadways shall have unobstructed access to a public street.
- e. Each manufactured home space shall provide for two off-street parking spaces. Each space shall have a minimum dimension of 10' x 20'.
- f. All roadways, parking spaces, and sidewalks within the manufactured home park shall be of all-weather surfacing and shall be adequately lighted at night, unless waived by the Planning Commission. Parking spaces shall be located adjacent to the street frontage.
- g. A community building may be provided which may include recreation facilities, laundry facilities, and other similar uses.
- h. The perimeter of all manufactured homes shall be fully skirted.
- i. Storm shelters shall be required, large enough to accommodate all of the residents.
- j. Sidewalks shall be required on one side of all streets, unless waived by the Planning Commission.
- k. Landscaping shall be shown on the development plan.
- l. All roadways shall meet the design standards for city streets.
- m. A building permit for the park shall be obtained before moving a manufactured home into an MHP District.

2. **Water Supply Standards.**

- a. Water shall be supplied to the park by a public water system.
- b. The size, location and installation of water lines shall be in accordance with the requirements of the codes of the city.

- c. Individual water service connections shall be provided at each manufactured home space.

3. Sewage Disposal.

An adequate and environmentally safe sewer system shall be installed in each park. The system shall be a public facility capable of handling the projected park occupancy. The system shall be designed according to the regulations of the Kansas Department of Health and Environment and approved by the County Sanitarian.

4. Tie-Downs and Ground Anchors.

All manufactured homes shall be secured to the ground by tie-downs and ground anchors in accordance with the Manufactured Home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234, as amended.

5. Electrical.

Each manufactured home space shall be provided with an individual electrical outlet supply, a disconnecting device, and overcurrent protective equipment that shall be installed in accordance with the building codes of the city and the National Electric Code.

6. Natural Gas.

All parks using natural gas shall be equipped with an approved manual and breakaway connections with automatic shutoff valve installed upstream of the gas outlet.

All parks using liquefied gas systems shall be provided with safety devices to relieve excessive pressure; all storage bottles or tanks shall be fastened to prevent accidental overturning. No LNG vessel shall be stored underneath the manufactured home.

7. Refuse and Garbage Handling.

All refuse shall be stored in fly-tight, watertight, rodent-proof containers. Containers shall be provided in sufficient number and capacity to properly store all refuse.

8. Blocking.

All manufactured homes shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home in accordance with the manufactured home and recreational vehicle code, K.S.A. 75-1211 to 75-1234, as amended.

9. Pad Requirements.

Pads shall be a flexible surface with a minimum of five inch thick gravel, stone or compacted earth, treated to discourage plant growth, constructed to discharge water and edged to prohibit fraying or spreading of surfacing materials.

F. Application Requirements.

1. An applicant for MHP Manufactured Home Park District shall prepare a preliminary Manufactured Home Park plan, drawn to a scale of not less than 1" = 100', and 10 copies of said plan shall be submitted to the Planning Commission for its review and recommendations. Said plan shall be designed in accordance with the minimum design standards herein and shall have contours shown at two-foot intervals.
2. Upon approval of the preliminary Manufactured Home Park plan by the Planning Commission, the applicant shall prepare and submit a final plan that shall incorporate any changes or alterations requested. The final plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their review and final action.
3. Any substantial deviation from the approved plan, as determined by the Zoning Administrator, shall constitute a violation of these regulations. Changes in plans shall be resubmitted for reconsideration and approval by the Planning Commission and Governing Body prior to the occupancy of the Manufactured Home Park.

G. Responsibilities of Park Management

1. To notify all occupants of the park's rules and regulations.
2. To comply with all zoning regulations governing mobile home parks.
3. To provide for the required storm shelter and to maintain such structure in good condition, free from rodents and insects, and to assure that it is open and accessible to the residents.
4. The park manager shall maintain a register of all current residents identified by lot number; lot numbers and addresses shall be prominently displayed on each home.
5. The park manager shall notify the Zoning Administrator in writing of individual violations of these regulations.

H. Responsibilities of Occupants

1. To maintain lots in good order, free from debris, inoperative machines or vehicles.
2. To abide by park management rules.

I. Permits to Construct or Extend

1. It shall be unlawful for any person to construct, alter, or extend a manufactured home park unless the owner holds a valid permit and site plan approval.

J. License to Operate a Mobile Home Park

1. Hereafter, it shall be unlawful for any person or firm to operate a manufactured home park unless a valid permit has been issued annually by the Zoning Administrator. The fee for such permit is published in the Schedule of Fees in this ordinance.

2. The charge for a late application for a license (25 days or more after the annual license is due) shall be an additional twenty-five (\$25) dollars.
3. The Zoning Administrator shall refuse to issue a license to a park that is in violation of these regulations (except for previously legally conforming uses). The reason for the refusal shall be put in writing and sent to the park owner and operator.
4. The owner/operator shall have sixty (60) days to either appeal to the Board of Zoning Appeals or comply with an order of the Zoning Administrator. If the violations are not resolved after the sixty (60) day period, the Zoning Administrator shall seek a court order restraining the owner/operator from further operation of the park.
5. The Zoning Administrator is hereby empowered to make such inspections as necessary to enforce these regulations at reasonable hours without prior notice to the park owner/operator.
6. The Board of Zoning Appeals is hereby empowered to suspend and/or revoke the operating license of any manufactured homes park that fails to comply with a valid enforcement order. The Board shall hold a special hearing, following notification to the park owner, to consider suspension/revocation orders. The Board shall have 30 days to render a final decision and shall state in writing the reasons for its action(s).

K. Appeals to the Board of Zoning Appeals

1. The Board of Zoning Appeals is hereby empowered to hear appeals from and grant exceptions to owners of manufactured home parks that have been refused a license by the Zoning Administrator. The Board of Zoning Appeals may uphold, reverse, modify or grant exceptions to the ruling of the Zoning Administrator if:
 - a. The requested modification does not in any way endanger the health, safety or welfare of the park residents or neighbors;
 - b. The requested modification must arise from a physical necessity and must constitute a hardship greater than a mere inconvenience to the owner.
 - c. All applications to the Board of Zoning Appeals shall be made in writing and set forth the reasons why the requested modification or exception is necessary.

L. Conditions for Holding and Granting A License

1. All "MHP" Manufactured Homes Parks shall be platted as a single, distinct lot or tract and continue to be held as a single ownership: i.e., a corporation, partnership, sole proprietorship, or limited liability company.
2. All "MHP" Manufactured Homes Parks shall be constructed with, and continue to remain under, unified street systems, utilities, play areas, and common lands.

M. Space Reserved for Future Amendments

ARTICLE 11. COMMERCIAL ZONING DISTRICTS

Section 11-1	C-1, Central Commercial District
Section 11-2	C-2, General Commercial District
Section 11-3	C-3, Commercial Highway District

Section 11-1 C-1, Central Commercial District.

- A. **Purpose and Intent.** The C-1 commercial district is intended to accommodate the business, commercial, and personal/professional service needs in a concentrated area with limited parking facilities. The traditional purpose of the central business district is to provide "retail" sales of stock-in-trade merchandise, in limited quantities to the public.
- B. **Uses Permitted.** The following uses shall be permitted within the C-1, Central Commercial District. All new commercial development shall require a site plan, subject to the provisions of Article 5, Section 5-2.
1. Auto supplies stores.
 2. Banking services.
 3. Bar or Nightclubs.
 4. Bed and breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
 5. Business supply services.
 6. Church or place of worship.
 7. Club or lodges.
 8. Commercial printing and publishing.
 9. Consumer repair service.
 10. Drinking establishments.
 11. Entertainment, indoor.
 12. Farmers/produce markets.
 13. Funeral homes, subject to the provisions of Article 18, Supplementary Use Regulations.
 14. Hotel and motels.
 15. Laundry or dry cleaning, limited.
 16. Libraries or museums.
 17. Liquor store.
 18. Health care clinic or offices.
 19. Newspaper publishing.
 20. Offices.
 21. Outlet stores or shops.
 22. Parking for uses on the same or adjacent parcel as the principal use.
 23. Personal instruction.
 24. Personal services.
 25. Professional services.
 26. Public safety services.
 27. Public utilities and facilities, including governmental offices.
 28. Schools and other educational facilities.
 29. Residential uses in second story or above.

- 30. Restaurants.
- 31. Retail.
- 32. Taverns.
- 33. Technical schools and training facilities.
- 34. Accessory uses subordinate in size and operation to the principal permitted use.
- 35. Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration, or traffic than those enumerated above.

C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7.

- 1. Arcades, subject to the provisions of Article 18, Supplementary Use Regulations.
- 2. Auto service, limited.
- 3. Convenience stores.
- 4. Communication towers and antennas greater than 60 feet in height, subject to the provisions of Article 18, Supplementary Use Regulations.
- 5. Gasoline sales.
- 6. Warehousing for goods related to permitted use activities in the district.

D. **Property Development Regulations.** The following regulations shall apply to each site in the Central Commercial District.

Table 10 Property Development Regulations, C-1	
Development Description	District Requirements
Minimum Front Yard Setback	No front yard is required.
Minimum Side Yard Setback	No side yard is required, except that a 10-foot setback shall be established on all parcels adjacent to a residential zone or use.
Minimum Rear Yard Setback	No rear yard is required, except that a 20-foot setback shall be established for structures with their main access from an alley.
Maximum Building Height	80 feet or by review.
<p>Note: When a site plan is required, then all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot lines, topography, roads, utilities, buffering, and landscape plantings</p> <p>The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>	

- E. **Procedure.** All new buildings, structures or premises established or expanded after the effective date of this ordinance shall comply with the site plan approval procedures of Article 5, Section 5.2.
- F. **Appearance Codes.** All new commercial buildings established after the effective date of this ordinance shall comply with the following requirements.
1. Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, solid waste containers, construction materials or equipment, and used machinery parts must be stored within a defined area behind a screening fence. At a minimum, the screen must be a solid six-foot wood or slat filled metal fence in combination with shrubbery and trees, or earth-berms, or a combination of these methods. The Board of Zoning Appeals is authorized to grant waivers when unusual conditions prevent storage and screening.
 2. All parking, drives, and entrances shall be surfaced with asphalt, or concrete except that parking lots located in the rear yard of the principal building used exclusively for the storage of vehicles, or for remote, reserve parking may use recycled asphalt or gravel on compacted earth.
 3. Reserved for future change.
 4. All entrances to the public right-of-way shall maintain a clear vision triangle calculated 45° either direction measured twenty (20) feet from the point of intersection to the delineated stop line.
 5. All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
 6. Multiple businesses in one structure are permitted provided that adequate parking and circulation are maintained.
 7. Commercial uses shall comply with all applicable standards related to access and accommodation for the disabled. All facilities, except for those having no workforce [such as mini-storage] shall provide at least one unisex, handicapped toilet facility unless posted "no public restroom available."
- G. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

Section 11-2 C-2, General Commercial District.

- A. **Purpose and Intent.** The purpose of this district is allow a relatively broad range of commercial facilities, government services, and institutional uses, which are primarily intended to provide personal services, goods, and businesses to serve the community at-large and residential neighborhoods. The General Commercial District is intended to provide basic goods and services for daily living. Shops, stores and businesses rely on neighborhood or local traffic and are generally compatible with residential uses.

B. **Uses Permitted.** The following uses shall be permitted within the C-2, General Commercial District. All new commercial development shall require a site plan, subject to the provisions of Article 5, Section 5-2.

1. Arcades, subject to the provisions of Article 18, Supplementary Use Regulations.
2. Auto service, limited.
3. Auto supplies stores.
4. Banking services.
5. Bar or nightclubs.
6. Bed and breakfast enterprise, subject to the provisions of Article 18, Supplementary Use Regulations.
7. Broadcasting facilities.
8. Business supplies services.
9. Church or place of worship.
10. Club or lodges.
11. Commercial printing and publishing.
12. Consumer repair service.
13. Convenience store.
14. Drinking establishments.
15. Entertainment, indoor.
16. Funeral homes, subject to the provisions of Article 18, Supplementary Use Regulations.
17. Garden center.
18. Gasoline sales.
19. Greenhouse or nursery.
20. Health care clinic or offices.
21. Hospital.
22. Laundry or dry cleaning, limited.
23. Liquor stores.
24. Maintenance services.
25. Newspaper publishing.
26. Offices.
27. Parking lots.
28. Personal instruction.
29. Personal services.
30. Produce stands.
31. Professional services.
32. Public safety services.
33. Public utilities and facilities.
34. Reserved for future use.
35. Residential uses (single-family, two-family, or multi-family) are allowed in the second story of a structure.
36. Restaurants.
37. Retail.
38. Taverns.

39. Technical schools and training facilities.
40. Accessory uses subordinate in size and operation to the principal permitted use.
41. Any other store or shop for retail trade or for rendering personal, professional or business service which does not produce more noise, odor, dust, vibration, or traffic than those enumerated above.

C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to the procedures listed in Article 3, Section 3-7.

1. Auto and machinery repair, subject to the provisions of Article 18, Supplementary Use Regulations.
2. Bus or cab terminal.
3. Car washes.
4. Communication towers and antennas greater than 60 feet in height, subject to the provisions of Article 18, Supplementary Use Regulations.
5. Hotels and motels.
6. Outdoor storage, subject to screening conditions imposed by the Planning Commission.
7. Restaurants, fast food.
8. Rooming or boarding houses.
9. Self-service storage.
10. Theaters, indoor only.
11. Vehicle and equipment, sales and rental.
12. Vehicle and equipment repair, subject to the provisions of Article 18, Supplementary Use Regulations.
13. Veterinary and veterinary supplies.

D. **Procedure.** All new commercial buildings, structures, or premises established or expanded after the effective date of this ordinance shall comply with the site plan approval procedures of Article 5, Section 5.2.

E. **Property Development Regulations.** The following regulations shall apply to each site in the C-2, General Commercial District.

Table 11 Property Development Regulations, C-2	
Development Description	District Requirements
Minimum Front Yard Setback	25 feet, except when existing buildings have established a recognizable setback from the public right-of-way, then the Zoning Administrator can establish a setback that is consistent with nearby existing structures.
Minimum Side Yard Setback	No side is required, except that a 10-foot setback shall be established on all parcels adjacent to a residential zone

	or use, including a 6-foot screening fence.
Minimum Rear Yard Setback	5 feet, except that a 20-foot setback shall be established for structures with access or service from the rear.
Maximum Building Height	60 feet or by review.
<p>Note: When a site plan is required then all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot lines, topography, roads, utilities, buffering, and landscape plantings.</p> <p>The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>	

- F. **Appearance Codes.** All new commercial buildings, uses or modification of existing uses established after the effective date of this ordinance shall comply with the appearance codes in Section 11-1(F).
- G. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

Section 11-3 C-3, Commercial Highway District.

- A. **Purpose and Intent.** The purpose of this district is to provide land uses for those establishments offering accommodations, supplies, or services to motorists and for certain specialized retail outlets and repair facilities, storage facilities and trades which, because of the nature of their operation, commonly generate substantial traffic and activity not compatible with general retail or downtown commercial district activities. Typically, these types of uses are located near or along Highway 36 or other major transportation corridors.
- B. **Uses Permitted.** The following uses shall be permitted within the C-3, Commercial Highway District. All new commercial development shall require a site plan, subject to the provisions of Article 5, Section 5-2.
1. Uses permitted in Section 11-2 B in the C-2, General Commercial District.
 2. Auto and machinery repair shop, subject to the provisions of Article 18, Supplementary Use Regulations.
 3. Bus or cab terminal.
 4. Camper trailer sales and service.
 5. Campground.
 6. Car washes.
 7. Construction sales and service.
 8. Entertainment, outdoor.
 9. Farm implement equipment sales, service and repair and accessory sales, provided that all service activity shall be conducted completely within an enclosed building.

10. Hotel and motel.
11. Meat processing, but not slaughter.
12. Restaurants, fast food.
13. Self-service storage.
14. Theaters, indoor.
15. Vehicle and equipment sales or rental.
16. Vehicle equipment repair, subject to the provisions of Article 18, Supplementary Use Regulations.
17. Veterinary and veterinary supplies.
18. Any other store or shop for retail trade or for rendering personal professional or business service, which does not produce more noise, odor, dust, vibration, blast or traffic than those enumerated above.

C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to the procedures listed in Article 3, Section 3-7.

1. Flea market.
2. Communication towers and antennas greater than 60 feet in height, subject to the provisions of Article 18, Supplementary Use Regulations.
3. Consignment auction facilities.
4. Manufactured home sales and service.
5. Outdoor storage.
6. Recycling center, subject to the provisions of Article 18, Supplementary Use Regulations.
7. Travel trailer park and RV camp.
8. Truck stops.
9. Adult entertainment and/or sex-oriented businesses subject to the provisions in Article 18, Supplementary Use Regulations.

D. **Procedure.** All new commercial buildings, structures or premises established or expanded after the effective date of this ordinance shall comply with the site plan approval procedures of Article 5, Section 5.2.

- E. **Property Development Regulations.** The following regulations shall apply to each site in the Commercial Highway District.

Table 12 Property Development Regulations, C-3	
Development Description	District Requirements
Minimum Front Yard Setback	25 feet, except when existing buildings have established a recognizable setback from the public right-of-way, then the Zoning Administrator can establish a setback that is consistent with nearby existing structures.
Minimum Side Yard Setback	10 feet, except that a 15-foot setback shall be established on all parcels adjacent to a residential zone or use.
Minimum Rear Yard Setback	10 feet, except that a 30-foot setback shall be established for structures with access or service from the rear. Within this setback an alley, service court or drive is allowed.
Maximum Building Height	35 feet
Maximum Lot Coverage	40 percent
<p>Note: When a site plan is required then all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot lines, topography, roads, utilities, buffering, and landscape plantings.</p> <p>The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>	

F. **Required Lot Area.**

1. A lot served by a public sanitary system shall contain 7,500 square feet.
2. A lot not served by a public sanitary sewer system: Area shall be approved in writing by the Board of Health, which approval shall be filed with the appropriate authority before a building permit shall be issued.

- H. **Appearance Codes.** All new commercial buildings, uses or modification of existing uses established after the effective date of this ordinance shall comply with the appearance codes in Section 11-1(F).

- I. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

ARTICLE 12. INDUSTRIAL ZONING DISTRICTS

Section 12-1	I-1, Restricted Light Industrial District
Section 12-2	I-2, General Industrial District
Section 12-3	I-3, Heavy Industrial District

Section 12-1 I-1, Restricted Light Industrial District.

- A. **Purpose and Intent.** This industrial district is intended primarily for limited or restricted processing and assembly that is conducted so that noise, odor, dust, and glare are confined within an enclosed building. The size and volume of the materials and finished products involved should not produce the volume of freight generated by the uses of the general industrial district.

Buildings in this district should be architecturally attractive, surrounded by landscaped yards, and provide adequate buffering when located adjacent to non-industrial uses. The objective of this industrial district is to allow light industrial uses to develop in proximity to residential neighborhoods or commercial areas.

- B. **Uses Permitted.** The following uses shall be permitted within the I-1, Restricted Light Industrial District. All new industrial development shall require a site plan, subject to the provisions of Article 5, Section 5-2.

1. Broadcast facilities.
2. Building construction trades with screened storage yards.
3. Distribution center, limited.
4. Fabrication and assembly, limited.
5. Lumber and wood products.
6. Maintenance services.
7. Manufacturing, limited.
8. Offices.
9. Printing and publishing.
10. Public safety services.
11. Public utilities and facilities.
12. Research facility.
13. Self-service storage.
14. Technical schools and training facilities.
15. Vehicle and equipment repair, subject to the provisions of Article 18, Supplementary Use Regulations.
16. Warehouse and processing, limited.
17. Reserved for future use.
18. Other uses of the same general character as those listed above, which conform to restrictions on noise, odor, or other obnoxious uses deemed appropriate by Zoning Administrator.

- C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to the provisions of Article 3, Section 3-7.

1. Auto and machinery repair shop, subject to the provisions of Article 18, Supplementary Use Regulations

2. Child care for six (6) persons or more, subject to licensure by the State of Kansas. Included in this category are the following types of day care operations as defined by the State of Kansas: family day care homes, licensed; group day care homes; child care centers and preschools. (See K.S.A 65-517, K.A.R. 28-4-113, and K.A.R. 28-4-420)
3. Communication towers and antennas greater than 60 feet in height, subject to the provisions of Article 18, Supplementary Use Regulations.
4. Construction sales and service.
5. Laundry, cleaning and dyeing works.
6. Recycling centers, subject to the provisions of Article 18, Supplementary Use Regulations.

D. **Appearance Codes.** All new industrial uses established after the effective date of this ordinance shall comply with the following requirements.

1. Scrap materials, non-operative motor vehicles or machinery, disassembled machinery, debris, solid waste containers, construction materials or equipment, and used machinery parts must be stored within a defined area behind a screening fence. At a minimum, the screen must be a solid wooden or slat filled metal fence in combination with shrubbery and trees, or earth-berms, or a combination of these methods. The Board of Zoning Appeals is authorized to grant waivers when unusual conditions prevent storage and screening.
2. All parking, drives, and entrances shall be surfaced with asphalt, concrete, or crushed gravel, except that parking lots located in the rear yard of the principal building used exclusively for the storage of vehicles, or for remote, reserve parking may use recycled asphalt or gravel on compacted earth.
3. Reserved for future change.
4. All entrances to the public rights-of-way shall maintain a clear vision triangle calculated 45° either direction measured twenty (20) feet from the point of intersection to the delineated stop line.
5. All outdoor lighting must be shielded and focused to direct light onto the premises and away from adjoining residential properties.
6. Multiple businesses in one structure are permitted provided that adequate parking and circulation are maintained.

- E. **Property Development Regulations.** The following regulations shall apply to each site in the I-1, Restricted Light Industrial District.

Table 13 Property Development Regulations, I-1	
Development Description	District Requirements
Minimum Front Yard Setback	25 feet
Minimum Side Yard Setback	No side is required, except that a 30-foot setback shall be established on all parcels adjacent to a residential zone or use.
Minimum Rear Yard Setback	25 feet
Maximum Building Height	40 feet
Maximum Lot Coverage	70 percent
<p>Note: When a site plan is required then all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot lines, topography, roads, utilities, buffering, and landscape plantings.</p> <p>The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>	

- F. **Procedure.** All new industrial or manufacturing buildings, structures or premises established or expanded after the effective date of this ordinance shall comply with the site plan approval procedures of Article 5, Section 5-2, and provide the following additional information.
1. An estimate of the maximum number of employees contemplated for the proposed development and the number of shifts during which they would work.
- G. **Storage of Materials and Equipment.** All materials and materials used in connection with the use shall be enclosed within a building or by structural screen.
- H. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

Section 12-2 I-2, General Industrial District.

- A. **Purpose and Intent.** This district is intended primarily for basic industry; warehousing, distributing, processing, and assembly of goods and products that may not be compatible with residential neighborhoods. The activities found in this district typically are more intense than uses found in I-1, Restricted Light Industry. Outdoor storage and/or activities are also associated with uses found in I-2, General Industrial District. The size and volume of the materials, finished products and freight generated by the

uses of this district are greater than the I-1, Restricted Light Industrial District.

Buildings in this district should be architecturally attractive, surrounded by landscaped yards, and provide adequate buffering when located adjacent to non-industrial uses. The objective of this industrial district is to allow basic industrial uses to develop in the community where nearby properties will not be adversely impacted.

B. **Uses Permitted.** The following uses shall be permitted within I-2, Light Industrial District. All new industrial development shall require a site plan, subject to the provisions of Article 5, Section 5-2.

1. All uses permitted in the I-1, Restricted Light Industrial District.
2. Bulk storage.
3. Fabricated and assembly, general.
4. Distribution center, general.
5. Laundry, cleaning and dyeing works.
6. Manufacturing, general.
7. Vehicle and equipment assembly.
8. Warehouse and processing, general.

C. **Uses Permitted Upon Review.** The following uses may be permitted, subject to the procedures set forth in Article 3, Section 3-7.

1. Asphalt and concrete plants.
2. Communication towers and antennas greater than 60 feet in height, subject to the provisions of Article 18, Supplementary Use Regulations.
3. Construction equipment storage.
4. Equipment and machinery storage.
5. Heavy construction trades.
6. Pottery and porcelain products.
7. Recycling or salvage yards, subject to the provisions of Article 18, Supplementary Use Regulations.
8. Transfer station.
9. Transportation storage and trucking yards.

D. **Procedure.** All buildings, structures or premises established or expanded after the effective date of this ordinance shall comply with the site plan approval procedures of Article 5, Section 5-2, and provide the following additional information.

1. An estimate of the maximum number of employees contemplated for the proposed development and the number of shifts during which they would work.

E. **Appearance Codes.** All new industrial uses established after the effective date of this ordinance shall comply with the requirements of Section 12-1(D).

- F. **Property Development Regulations.** The following regulations shall apply to each site in the I-2, General industrial District.

Table 14 Property Development Regulations, I-2	
Development Description	District Requirements
Minimum Front Yard Setback	50 feet.
Minimum Side Yard Setback	20 feet, except that an additional 10-foot buffer strip shall be established on all parcels adjacent to a residential zone or use, and shall be landscaped subject to the provisions of Section 6-9.
Minimum Rear Yard Setback	20 feet, except that an additional 10-foot buffer strip shall be established on all parcels adjacent to a residential zone or use, and shall be landscaped subject to the provisions of Section 6-9.
Maximum Building Height	45 feet
Maximum Lot Coverage	70 percent
<p>Note: When a site plan is required then all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot lines, topography, roads, utilities, buffering, and landscape plantings.</p> <p>The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>	

- G. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

Section 12-3 I-3, Heavy Industrial District.

- A. **Purpose and Intent.** This district is designed to provide for heavy industrial uses not otherwise provided for in the districts established by this article. The intensity of uses permitted in this district makes it desirable that they be separated from residential and commercial uses whenever possible.
- B. **Uses Permitted.** The following uses shall be permitted in the I-3, Heavy Industrial District. All new industrial development shall require a site plan, subject to the provisions of Article 5, Section 5-2.
1. Asphalt, cement, lime, gypsum, or plaster of paris manufacture.
 2. Explosives manufacture or wholesale storage.
 3. Gas manufacture.

4. Heavy construction trades.
5. Manufacture and processing of chemicals.
6. Petroleum, or its products, refining of wholesale or bulk storage of gasoline, propane or butane, or other petroleum products.
7. Pottery and porcelain products.
8. Public or private refuse dumps; landfills.
9. Public safety services.
10. Public utilities or facilities.
11. Recycling and salvage yards, subject to the provisions of Article 18, Supplementary Use Regulations.
12. Scrap metal storage yard.
13. Stone products.
14. Transfer station, solid waste.
15. Wire rope and cable.
16. Any other use similar in character to the above as approved by the Planning Commission.

C. **Special Regulations.** The use of all property and buildings in the I-3 district shall be conducted in a manner that all operations, display or storage of material shall be screened by ornamental fences, walls and/or permanent tree plantings in accordance with Section 6-9.

D. **Procedure.** All new buildings, structures or premises established or expanded after the effective date of this ordinance shall comply with the site plan approval procedures of Article 5, Section 5.2.

E. **Property Development Regulations.** The following regulations shall apply to each site in the I-3, Heavy Industrial District.

Table 15	
Property Development Regulations, I-3	
Development Description	District Requirements
Minimum Front Yard Setback	25 feet
Minimum Side Yard Setback	No side yard is required, except that a 40-foot setback shall be established on all parcels adjacent to a residential zone or use.
Minimum Rear Yard Setback	No rear yard is required, except that a 25-foot setback shall be established for structures with access or service from the rear. Within this setback an alley, service court or drive is allowed.
Maximum Building Height	40 feet
<p>Note: When a site plan is required then all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot lines, topography, roads, utilities, buffering, and landscape plantings.</p> <p>The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.</p>	

- F. **Parking and Loading Regulations.** Parking and loading requirements are contained in Article 6, Section 6-3.

ARTICLE 13. SDOD, SPECIAL DEVELOPMENT OVERLAY DISTRICT

Section 13-1	General Provisions
Section 13-2	Application Requirements and Reviews
Section 13-3	Amendments
Section 13-4	Hearings and Public Notice

Section 13-1 General Provisions.

- A. **Purpose and Intent.** This district provides a restricted and limited use overlay device to allow flexible review procedures and mixed-use development in municipal and extraterritorial areas designated by the Planning Commission. Special and mixed use development is encouraged as an infill technique on underused tracts or lots, on properties that have remained unused because of physical conditions or constraints, and in areas of potential conflicts that require special planning and review procedures to protect nearby areas.
- B. **Operation.** The SDOD is an overlay device that requires specific application, review, and special conditions imposed by the Planning Commission. A case-by-case examination of site conditions, nearby uses, and potential conflicts is necessary before the overlay district can be used to permit new development. This district is not intended to grant special benefits to property owners who otherwise cannot achieve development permission because of detrimental impacts on the use, value, and enjoyment of nearby property. Rather, the proper use of this district recognizes the historic mixed character of neighborhood development in Marysville and the under use of certain areas where new development will be beneficial. Implementation of the SDOD does not change the underlying zoning district.
- C. **Where Allowed.** The following districts are eligible to receive the overlay district:
1. Any district designated 100 year floodplain on the Marysville F.I.R.M
 2. Any "C-2" or "CH" zoning district.
 3. Any "R-2" zoning district.
 4. Any "I-1" or "I-2" zoning district.
 5. Any multi-family, commercial or residential use classified as non-conforming as of the date of the adoption of this ordinance.
 6. New or expanded manufactured home parks.
- D. **Uses Permitted.** The following uses are permitted in the SDOD.
1. Residential uses that are not dissimilar in use, size, and intensity to the surrounding neighborhood.
 2. Commercial uses, either service or retail, that are similar in use, size, and intensity to the surrounding neighborhood and are capable of containing their day-to-day operations (noise, odor, light, and sound) within their lot lines.
 3. Transitional commercial/fabrication uses that contain either retail/service and light fabrication or product assembly in an enclosed

building. Such uses must be capable of providing suitable parking facilities on-site or in specially prepared areas so as not to create a nuisance in areas used for residential or retail commercial purposes.

4. Any use that employs storage as the principal activity.
5. Product component assembly or refurbishment uses that do not employ machinery line assembly, welding, metal stamping or forging.
6. Bottling and microbrewery.
7. The expansion or alteration, up to a maximum of 25 percent in building or use area, of an existing commercial, industrial, residential, institutional, or public uses that is unlikely to cause neighborhood disruption or impact property values.
8. In the "CH", Commercial Highway district, manufacturing, fabrication, assembly uses that are not detrimental to the normal operation of nearby businesses or disrupt traffic access and movement.
9. Any institutional use that is similar in size, scale, and operation to the surrounding neighborhood.

Section 13-2 Application Requirements and Reviews.

- A. **Requirements for Applicant.** All applicants for the SDOD shall be initiated by the submission of a site plan unless waived by the Planning Commission. In addition, all applications shall submit:
 1. A statement specifying the intended use of the property, the special needs of the facility, and the likelihood of future expansion on the site.
 2. Parking and traffic analysis, if required by the Planning Commission.
 3. Vicinity map or sketch identifying the use of property within 500 feet of the site.
 4. Any special conditions, restrictions, or covenants offered by the applicant to mitigate potential impacts with the surrounding neighborhood.
 5. Any other reasonable material, data, or documentation requested by the Planning Commission to provide for a comprehensive review of particular needs or conditions.
- B. **Review Criteria.** When considering a request for a SDOD the Planning Commission may incorporate flexible review criteria depending on neighborhood conditions, general location, and the nature of the use under consideration. As a minimum all reviews shall include the following considerations:
 1. The length of time the property has been zoned.
 2. Whether or not the property, in the opinion of the Planning Commission, is underused as compared to nearby properties.
 3. Any special conditions, physical or otherwise, that serves to prevent effective use of the property.
 4. The condition of nearby properties and the potential for area improvement to be gained by allowing the requested use.

5. The potential for adverse impacts on the use, value, and enjoyment of nearby property.
 6. The policies established by the Marysville Comprehensive Plan.
- C. **Development Requirements.** Requirements for lot size, yards, height, and bulk shall be the same as the underlying district unless modified by resolution of the Planning Commission or by site plan review.
- D. **Conditions of Operation.** The Planning Commission is hereby authorized to employ any reasonable conditions or restrictions on operations or facilities in the SDOD to ensure neighborhood safety, welfare, convenience, or the protection of property values as it deems necessary. Any violation of these conditions or restrictions shall constitute a violation of this ordinance.

Section 13-3 Amendments.

- A. **Authority to Amend.** The Planning Commission may alter, change, or amend any SDOD from time to time following an application from the property owner.
- B. **Substantial Changes.** Substantial changes to the use and operation of facilities in the SDOD are not permitted without a modification or change to the original overlay district. Substantial changes shall include, but are not limited to: an increase of more than 10 percent in the gross floor area of the principal building; a change in use that is not permitted in the underlying zoning district; an increase of 25 percent or more in the number of required parking spaces; or, an alteration of egress or ingress to the site.

Section 13-4 Hearings and Public Notice.

- A. **Review.** All applications for the SDOD shall be reviewed at a regular or special meeting of the Planning Commission.
- B. **Approval.** All permissions for final approval, change, or disapproval of a SDOD shall be by resolution of the Planning Commission. Any easements, covenants of record, or dedications shall require the approval of an appropriate Governing Body.
- C. **Notice.** In addition to the required notice for a review of a site plan, the City Clerk shall cause to be published a notice of a public hearing for the SDOD. The publication shall be placed in the official City newspaper at least twenty (20) days in advance of a scheduled hearing. The notice shall conform to the requirements of Section 3-3 (B), including the proper mailed notification to all owners of record of lands located within at least 200 feet of the area proposed to be altered.
- D. **Public Exhibition and Postings.** All SDOD applications shall be required to adhere to the following disclosure requirements:
1. A site plan and vicinity map shall be placed on public exhibition at a prominent location in the Marysville Municipal building continuously for seven (7) days before any scheduled hearing.

2. A public notice shall be posted and prominently displayed on the subject property indicating the proposed change in the overlay district, and the time and place of the public hearing.

ARTICLE 14. A-0, AIRPORT HAZARD OVERLAY DISTRICT

Section 14-1	Purpose and Intent
Section 14-2	Definitions
Section 14-3	Airport Zones
Section 14-4	Airport Zone Height Limitations
Section 14-5	Use Restriction
Section 14-6	Non-Conforming Uses
Section 14-7	Permits

Section 14-1 Purpose and Intent.

The AO, Airport Hazard Overlay District is adopted pursuant to the authority conferred by K.S.A. 3-705 et al, and is intended to protect the public safety and welfare from an obstruction that may affect the existing and future approach to the Marysville Municipal Airport. An obstruction may reduce the size of areas available for landing, take-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the Municipal Airport and associated public investment. This district was originally created and adopted pursuant to Ordinance No. 1392.

Section 14-2 Definitions.

AIRPORT. Means Marysville Municipal Airport.

AIRPORT ELEVATION. 1,283,feet above mean sea level.

APPROACH SURFACE. A surface longitudinally centered on the extended primary surface and at the same slope as the approach zone height limitation slope set forth in Section IV of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach zone.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES. These zones are set forth in Section III of this ordinance.

BOARD OF ADJUSTMENT. A board consisting of three (3) members appointed by the City Council as provided in the Laws of the State of Kansas.

CONICAL SURFACE. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

HAZARD TO AIR NAVIGATION. An obstruction determined to have a substantial adverse affect on the safe and efficient utilization of the navigable airspace.

HEIGHT. For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

LARGER THAN UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.

NONCONFORMING USE. Any preexisting structure, object of natural growth, or use of land that is inconsistent with the provisions of this Ordinance or an amendment thereto.

NONPRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

OBSTRUCTION. Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section D of this Ordinance.

PERSON. An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or an Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning documents.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of the runway. The width of the primary surface is set forth in Section III of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

RUNWAY. A defined area on an airport prepared for landing and take-off of aircraft along its length.

STRUCTURE. An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.

TRANSITIONAL SURFACES. These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

TREE. Any object of natural growth.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less, i.e., Airport Approach Categories A and B.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures.

Section 14-3 **Airport Zones.**

In order to carry out the provisions of the section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transition surfaces, horizontal surfaces, and conical

surfaces as they apply to the Marysville Municipal Airport. Such zones are shown on Marysville Municipal Airport Airspace Drawing, dated June 22, 1992, and which is attached to this section and made a part hereof. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Utility Runway Visual Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the center line of the runway.
2. **Utility Runway Nonprecision Instrument Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone - Precision Runway.** The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. **Precision Instrument Runway Approach Zone.** The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
6. **Transitional Zone.** The transitional zones are the areas beneath the transitional surfaces.
7. **Horizontal Zone.** The horizontal zone is established by swinging arcs of 5,000 feet radii for all runway designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
8. **Conical Zone.** The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

Section 14-4 Airport Zone Height Limitations.

Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this section to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Utility Runway Visual Approach Zone.** Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone.** Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone - Precision Runway.** Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
4. **Precision Instrument Runway Approach Zone.** Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
5. **Transitional Zones.** Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,283 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
6. **Horizontal Zone.** Established at 150 feet above the airport elevation or a height of 1,433 feet above mean sea level.
7. **Conical Zone.** Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
8. **Excepted Height Limitations.** Nothing in this section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

Section 14-5 Use Restriction.

Notwithstanding any other provisions of this section, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, take-off, or maneuvering of aircraft intending to use the airport.

Section 14-6 Non-Conforming Uses.

- A. **Regulations Not Retroactive.** The regulations prescribed in this section shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to regulations as of the effective date of this ordinance, or -otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any charge in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently prosecuted.
- B. **Marking and Lighting.** Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the City Council to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the City of Marysville.

Section 14-7 Permits.

- A. **Future Uses.** Except as specifically provided in a., b., and c. hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this ordinance shall be granted unless a variance has been approved in accordance with Section F, 4.
 - 1. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such " tree or structure would extend above the height limits prescribed for such zones.
 - 2. In areas lying within the limits of the approach zones but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than

seventy-five (75) feet of vertical height above the ground, except when such tree or structure would extend above the height limit prescribed for such approach zones.

3. In the area lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than seventy-five (75) feet of vertical height above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit -prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this ordinance, except as set forth in Section D, 8.

- B. **Existing Uses.** No permit shall be granted that would allow the establishment or creation of any obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this section or any amendments thereto or than it is when the application for a permit is made. Except as indicated all applications for such a permit shall be granted.
- C. **Nonconforming Uses Abandoned or Destroyed.** Whenever the City Administrator determines that a nonconforming tree or structure has been abandoned or more than 80 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
- D. **Variances.** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this ordinance, may apply to the Board of Zoning Appeals for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, will not be contrary to the public interest, will not create a hazard to air navigation, and will be in accordance with the spirit of this ordinance.
- E. **Obstruction Marking and Lighting.** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install operate, and maintain, at the owner's expense, such marking and lights as may be necessary. If deemed property by the Board of Appeals, this condition may be modified to require the owner to permit the City of Marysville, at its own expense, to install, operate, and maintain the necessary markings and lights.
- E. **Enforcement.** It shall be the duty of the City Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the City Clerk upon a form published for that

purpose. Applications required by this ordinance are to be submitted to the Board of Adjustment and shall be promptly considered and granted or denied. Application for action by the Board of Adjustment shall be forthwith transmitted by the City Clerk.

F. **Board of Adjustment.** There is hereby created a Board of Adjustment to have and exercise the following powers: (a) to hear and decide appeals from any order, requirement, decision, or determination made by the City Administrator in the enforcement of this ordinance; (b) to hear and decide special exceptions to the terms of this ordinance upon which such Board of Adjustment under such regulations may be required to pass; and (c) to hear and decide specific variances.

1. The Board of Adjustment shall consist of three (3) members appointed by the City Council and each shall serve for a term of three (3) years or until a successor is duly appointed and qualified. Of the members first appointed, one shall be appointed for a term of one year, one for a term of two years, and one for a term of three years. Members shall be removable by the appointing authority for cause, upon written charges, after a public hearing.
2. The Board of Adjustment shall adopt rules for its governance and in harmony with the provisions of this ordinance. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at such other times as the Board of Adjustment may determine. The Chairperson or, in the absence of the Chairperson, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All hearings of the Board of Adjustment shall be public. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question; or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the City Clerk and on due cause shown.
3. The Board of Adjustment shall make written findings of facts and conclusions Of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming, or modifying any order, requirement, decision, or determination which comes before it under the provisions of this ordinance.
4. The concurring vote of a majority of the members of the Board of Adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the City Administrator or decide in favor of the applicant on any matter upon which it is required to pass under this ordinance, or to effect variation of this ordinance.

G. **Appeals.**

1. Any person aggrieved or any taxpayer affected by any decision of the City Administrator, made in the administration of the ordinance, may appeal to the Board of Adjustment.
2. All appeals hereunder must be taken within a reasonable time as provided by the rules of the Board of Adjustment, by filing with the City Clerk a notice of appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

3. An appeal shall stay all proceedings in furtherance of the action appealed from unless the City Administrator certifies to the Board of Adjustment, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in the opinion of the City Administrator, cause imminent peril to life or property. In such case, proceedings shall not be stayed except by order of the Board of Adjustment or notice to the City Administrator and on due cause shown.
4. The Board of Adjustment shall fix a reasonable time for hearing appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney.
5. The Board of Adjustment may, in conformity with the provisions of this ordinance, reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as may be appropriate under the circumstances.

H. Judicial Review.

1. Any person aggrieved or taxpayer affected by any decision of the Board of Adjustment may file within thirty (30) days from the rendition of such decision in the office of the Clerk of the District Court of Marshall County a verified petition setting forth and specifying and the ground for review upon which the petitioner relies and designating the decision sought to be reviewed. The Clerk shall forthwith cause written notice of such appeal to be served upon the Board of Adjustment.
2. Upon presentation of such petition, the court shall set it down for hearing and the same shall be tried de novo as in a civil case, and enforcement of said regulations shall be stayed until said petition is finally determined by the court. Appeals may be taken to the Supreme Court from any order, ruling or decision as in other civil cases.

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ARTICLE 15. A-P, AIRPORT DISTRICT

Section 15-1	Purpose and Intent
Section 15-2	Uses Permitted
Section 15-3	Uses Permitted Upon Review
Section 15-4	Use Limitations
Section 15-5	Setback and Building Height Limitations
Section 15-6	Parking and Loading Regulations

Section 15-1 Purpose and Intent

The AP, Airport District is the underlying base zoning district for municipal owned airport land and is intended to ensure compatible commercial and industrial land uses without comprising the safety or operation of the airport. The AP, Airport District operates in conjunction with the AO, Airport Hazard Overlay District (See Article 14).

Section 15-2 Uses Permitted. The following uses shall be permitted within the AP, Airport District.

1. Municipal airport and related accessory buildings and uses.
2. Agricultural uses.

Section 15-3 Uses Permitted Upon Review. The following uses may be permitted, subject to procedures listed in Article 3, Section 3-7. The following uses may be located on land identified as suitable for development, based on the Airport Commercial Land Use Development map (dated 5/10/00 or as amended).

1. Mini-warehouse storage.
2. Outside storage yards.
3. Industrial or warehouse uses.

Section 15-4 Use Limitations

1. No residential uses shall be permitted.
2. Screening or buffering, in the form of six-foot fencing or six-foot coniferous trees on 10-foot centers, shall be installed when buildings or uses are located adjacent to a residential zoning district. The Planning Commission may waive or modify this requirement, based on site conditions.
3. All new industrial uses established after the effective date of this ordinance shall comply with the appearance codes set forth in Section 12-1D.

Section 15-5 Setback and Building Height Requirements

Table 16 Setback and Building Height Regulations, AP	
Front Yard	Minimum of 25 feet
Side Yard	No side yard is required, except that a 30-foot setback shall be established on all parcels adjacent to a residential zone or use.
Rear Yard	Minimum of 20 feet
Building Height	Maximum of 50 feet.
Note: When a site plan is required than all setbacks are subject to determination by the Planning Commission, based on the arrangement of existing and proposed buildings, lot line, topography, roads, utilities, buffering, and lands cape plantings. The Zoning Administrator may adjust setbacks for averaging with adjacent buildings.	

Section 15-6 Parking and Loading Regulations. Parking and loading requirements are contained in Article 6, Section 6-3.

ARTICLE 16. F-P, FLOODPLAIN DEVELOPMENT OVERLAY DISTRICT

Section 16-1	Statutory Authorization
Section 16-2	Findings of Fact
Section 16-3	Statement of Purpose
Section 16-4	Lands to which Article Applies
Section 16-5	The Enforcement Officer
Section 16-6	Boundaries for Interpretation of District Boundaries
Section 16-7	Compliance
Section 16-8	Abrogation and Greater Restrictions
Section 16-9	Interpretation
Section 16-10	Warning and Disclaimer of Liability
Section 16-11	Appeal to Board of Zoning Appeals
Section 16-12	Definitions
Section 16-13	Permit Required
Section 16-14	Administration
Section 16-15	Application for Permit
Section 16-16	Establishment of Zoning District
Section 16-17	Standards for the Floodway Overlay District and the Floodway Fringe Overlay District
Section 16-18	Requirements
Section 16-19	Storage of Material and Equipment
Section 16-20	New Development
Section 16-21	Floodway Overlay District
Section 16-22	Floodway Fringe Overlay District
Section 16-23	Specific Standards
Section 16-24	Manufactured Homes
Section 16-25	Recreational Vehicles
Section 16-26	Variance Procedures
Section 16-27	Considerations for Variances
Section 16-28	Conditions for Variances
Section 16-29	Non-Conforming Use
Section 16-30	Reconstruction
Section 16-31	Amendments
Section 16-32	Penalties for Violation

Section 16-1 Statutory Authorization.

The Legislature of the State of Kansas has in K.S.A. 12-766 delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the governing body of the City of Marysville, Kansas, ordains the following regulations.

Section 16-2 Findings of Fact.

- A. The special flood hazard areas of the City of Marysville, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by (1) cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

- C. The Flood Insurance Study (FIS) that is the basis of this article uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.
1. Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this article is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this article. It is the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated December 1, 1977, as amended, and any future revisions thereto;
 2. Calculation of water surface profiles are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood;
 3. Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
 4. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
 5. Delineation of the floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

Section 16-3 Statement of Purpose.

It is the purpose of this article to promote the public health, safety and general welfare and to minimize those losses described in Section 16-1 by provisions designed to:

- A. Restrict or prohibit uses, which are dangerous to health, safety or property in times of flood or cause undue increases in flood heights or velocities.
- B. Require that uses vulnerable to floods, including public facilities, which serve such uses, be provided with flood protection at the time of initial construction.
- C. Protect individuals from buying lands that are unsuited for intended purposes because of flood hazards.
- D. Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

Section 16-4 Lands to Which Article Applies.

This article shall apply to all lands within the Jurisdiction of the City of Marysville, Kansas, identified on the Flood Insurance Rate Map (FIRM) as Zone A16 and within the Zoning Districts FW and FF established in Section 16-16 of this article. In all areas covered by this article, no development shall be permitted except upon a development permit granted by the governing body or its duly designated representative under such safeguards and restrictions as the governing body or the designated representative may reasonably impose

for the promotion and maintenance of the general welfare, health of the inhabitants of the City and where specifically noted in Sections 16-18:30.

Section 16-5 Enforcement Officer.

The City Inspector and/or the Zoning Administrator are hereby designated as the governing body's duly designated enforcement officers under this article.

Section 16-6 Boundaries For Interpretation of District Boundaries.

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map or on the Flood Insurance Rate Map or Floodway Map. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement officer shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his/her case to the Board and to submit his/her own technical evidence, if he/she so desires.

Section 16-7 Compliance.

No development located within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.

Section 16-8 Abrogation and Greater Restrictions.

It is not intended by this article to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

Section 16-9 Interpretation.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

Section 16-10 Warning and Disclaimer of Liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes such as ice jams and height bridge openings restricted by debris. This article does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This article shall not create liability on the part of the City of Marysville or any officer or employee thereof for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.

Section 16-11 Appeal to Board of Zoning Appeals.

Where the enforcement officer denies a request for a permit to develop or a variance, the applicant may apply for such permit or variance directly to the Board of Zoning Appeals in the manner prescribed in Section 2-2 of the Marysville Unified Development Code.

Section 16-12 Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning they have in common usage and to give this article its most reasonable application.

100-YEAR FLOOD. See "Base Flood."

ACCESSORY STRUCTURIF. Means the same as "Appurtenant Structure."

ACTUARIAL RATES. See "Risk Premium Rates."

ADMINISTRATOR. Means the Federal Insurance Administrator.

AGENCY. Means the Federal Emergency Management Agency (FEMA).

APPEAL. Means a request for review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.

APPURTENANT STRUCTURE." Means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

AREA OF SPECIAL FLOOD HAZARD. Is the land in the floodplain within a community subject to a one- percent or greater chance of flooding in any given year.

BASE FLOOD. Means the flood having a one percent chance of being equaled or exceeded in any given years.

BASEMENT. Means any area of the structure having its floor subgrade (below ground level) on all sides.

BUILDING. See "Structure."

CHIEF EXECUTIVE OFFICER OR CHIEF ELECTED OFFICIAL. Means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

COMMUNITY. Means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

DEVELOPMENT. Means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

ELEVATED BUILDINGS. Means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ELIGIBLE COMMUNITY OR PARTICIPATING COMMUNITY. Means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

EXISTING CONSTRUCTION. Means for the purpose of determining rates, structures for which the "start of construction" commenced before the effective

date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "Existing Construction" may also be referred to as "Existing Structures."

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION. Means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.)

FLOOD OR FLOODING. Means a general and temporary condition of partial or complete inundation of normally dry land areas from (1) the overflow of inland and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFNI). Means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

FLOOD ELEVATION DETERMINATION. Means a determination by the Administrator of the water surface elevations of the base flood; that is, the flood level that has a one percent or greater chance of occurrence in any given year.

FLOOD ELEVATION STUDY. Means an examination, evaluation and determination of flood hazards.

FLOOD FRINGE. Means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

FLOOD HAZARD BOUNDARY MAP (FHBM). Means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

FLOOD INSURANCE RATE MAP (FIRM). Means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS). Means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODPLAIN OR FLOOD-PRONE AREA. Means any land area susceptible to being inundated by water from any source (see Flooding.)

FLOODPLAIN MANAGEMENT. Means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

FLOODPLAIN MANAGEMENT REGULATIONS. Means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any

combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING. Means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

FLOODWAY OR REGULATORY FLOODWAY. Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevations more than one foot.

FREEBOARD. Means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

FUNCTIONALLY DEPENDENT USE. Means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE. Means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE. Means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR. Means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this article.

MANUFACTURED HOME. Means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "Recreational Vehicle."

MANUFACTURED HOME PARK OR SUBDIVISION. Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP. Means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

MARKET VALUE OR FAIR MARKET VALUE. Means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

MEAN SEA LEVEL. Means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

NEW CONSTRUCTION. Means, for the purposes of determining insurance rates, structures for which the "Start of Construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "New Construction" means structures for which the "Start of Construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION. Means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

NFIP. Means the National Flood Insurance Program (NFIP).

PARTICIPATING COMMUNITY. Also known as an "Eligible Community," means a community in which the Administrator has authorized the sale of flood insurance.

PERSON. Includes any individual or group of individuals, corporation, partnership, association or any other entity, including Federal, State, and local governments and agencies.

PRINCIPALLY ABOVE GROUND. Means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

RECREATIONAL VEHICLE. Means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REMEDY A VIOLATION. Means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

RISK PREMIUM RATES. Means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk Premium Rates" include provisions for operating costs and principal allowances.

SPECIAL FLOOD HAZARD AREA. See "Area of Special Flood Hazard."

SPECIAL HAZARD AREA. Means an area having special flood hazards and shown on the FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, A-E, or AH.

START OF CONSTRUCTION. Includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STATE COORDINATING AGENCY. Means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

STRUCTURE. Means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

SUBSTANTIAL DAMAGE. Means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. This term includes structures, which have incurred "Substantial Damage" regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "historic structure," provided that the alteration will not include the structure's continued designation as a "historic structure."

VARIANCE. Means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

VIOLATION. Means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION. Means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

Section 16-13 Permit Required.

No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a separate permit for development for such building or structure.

Section 16-14 Administration.

The enforcement officer is hereby appointed to administer and implement the provisions of this article. Duties of the enforcement officer shall include, but not be limited to, the following:

- A. Review all development permits to assure that sites are reasonably safe from flooding and that the permit requirements of this article have been satisfied.
- B. Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- C. Notify adjacent communities and the State Board of Agriculture, Division of Water Resources, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- D. Assure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- E. Verify, record and maintain record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures.
- F. Verify, record and maintain record of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
- G. When floodproofing is utilized for a particular structure, the building officer shall be presented certification from a registered professional engineer or architect.

Section 16-15 Application for Permit.

To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every such application shall:

- A. Identify and describe the work to be covered by the permit;
- B. Describe the land on which the proposed work is to be done by lot, block, tract and house and street address or similar description that will readily identify and definitely locate the proposed building or work.

- C. Indicate the use or occupancy for which the proposed work is intended.
- D. Be accompanied by appropriate plans and specifications for proposed construction.

Section 16-16 Establishment of Zoning District.

The mapped floodplain areas within the jurisdiction of this article are hereby divided into the two following districts: a floodway overlay district (FW) and floodway fringe overlay district (FF) identified on the FIRM. The boundaries of these districts shall be shown on the official zoning map. Within these districts, all uses not meeting the standards of this article and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with Zone A16 as identified on the official FIRM and identified in the flood insurance study provided by the Federal Emergency Management Agency.

Section 16-17 Standards for the Floodway Overlay District and the Floodway Fringe Overlay District.

No permit for development shall be granted for new construction, substantial improvements and other improvement, including the placement of manufactured homes within Zone A16, unless the conditions of Sections 16-18:25 are satisfied.

Section 16-18 Same; Requirements.

New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:

- A. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- B. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
- C. Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- D. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

Section 16-19 Same; Storage of Material and Equipment.

- A. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.

- B. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

Section 16-20 Same; New Development.

Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be required to assure that:

- A. All such proposals are consistent with the need to minimize flood damages;
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage;
- C. Adequate drainage is provided so as to reduce exposure to flood hazards; and
- D. Proposals for development (including proposals for manufactured home parks and subdivisions) of five acres or 50 lots, whichever is less, include within such proposals the regulatory flood elevation.

Section 16-21 Floodway Overlay District.

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other ordinance. All encroachments, including fill, new construction, substantial improvements and other developments must be prohibited unless certification by a professional registered engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of Sections 16-17:20. The following are recommended uses for the floodway district:

- A. Agricultural uses, such as general farming, pasture, nurseries, forestry, etc.
- B. Residential uses such as lawns, garden, parking and play areas.
- C. Nonresidential areas such as loading areas, parking, airport landing strips.
- D. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

Section 16-22 Floodway Fringe Overlay District.

Any use permitted in Section 16-21 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Sections 16-17:20 are met.

Section 16-23 Same; Specific Standards.

In all areas identified as numbered and unnumbered A zones where base flood elevation data have been provided, the following provisions are required:

- A. **Residential Construction.** New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated to one foot above base flood elevation.

- B. **Non-Residential Construction.** New construction or substantial improvement of any commercial or industrial structures shall have the lowest floor, including basement, elevated to one foot above the base flood elevation; or, together with attendant utility and sanitary facilities, be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this section are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 16-5.
- C. **New Construction and Substantial Improvements.** Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided; and
 2. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- D. **Detached Garages and Other Accessory Buildings.** Detached garages, sheds, or structures which constitute a minimal or small investment and are used only for parking or limited storage may be constructed so that its floor is below the base flood elevation; provided, however, that the accessory structure is designed and constructed to meet the following requirements:
1. Use of the structure must be limited to parking or limited storage and not used for human habitation;
 2. The structure must be built using unfinished and flood damage resistant materials;
 3. The structure must be adequately anchored to prevent flotation, collapse, or lateral movement which may result in damage to other structures;
 4. Any mechanical and utility equipment in the structure must be elevated to or above the base flood elevation or flood proofed;
 5. The structure shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 6. The structure shall not exceed 700 square feet; and
 7. The structure must comply with this article's floodway provisions and floodplain encroachment provisions contained in 44 CFR, Section 60.3(c)(10) or (d)(3).

Section 16-24 Same; Manufactured Homes.

- A. All manufactured homes to be placed within all unnumbered and numbered A zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- B. Require manufactured homes that are placed or substantially improved with unnumbered or numbered A zones on the community's FIRM on sites:
 - 1. Outside of manufactured home parks or subdivisions;
 - 2. In a new manufactured home park or subdivision;
 - 3. In an expansion to and existing manufactured home park or subdivision; or
 - 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood; be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- C. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones on the community's FIRM, that are not subject to the provisions of Article 16-24(b) of this article, be elevated so that either:
 - 1. The lowest floor of the manufactured home is at least one foot above the base flood level; or
 - 2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

Section 16-25 Same; Recreational Vehicles.

All recreational vehicles placed on sites within all unnumbered and numbered A zones on the community's FIRM shall either:

- A. Be on the site for fewer than 180 consecutive days, and be fully licensed and ready for highway use *; or
- B. Meet the permitting, elevating, and the anchoring requirements for manufactured homes of this article.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

Section 16-26 Variance Procedures.

- A. The Board of Zoning Appeals, as established by the city council, shall hear and decide appeals and requests for variances from the requirements of this article.
- B. The Board of Zoning Appeals shall hear and decide appeals when it is alleged that there is an error in any requirement, decision or determination made by the building officer in the enforcement or administration of this article.
- C. Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal to the District Court of Marshall County as provided in K.S.A. 12-715.

Section 16-27 Considerations for Variance.

In passing upon such applications, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article, and:

- A. The danger that materials may be swept onto other lands to the injury of others;
- B. The danger to life and property due to flooding or erosion damages;
- C. The susceptibility of proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- D. The importance of the services provided by the proposed facility to the conformity;
- E. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- F. The compatibility of the proposed use with existing and anticipated development;
- G. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- H. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- I. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
- J. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

Section 16-28 Conditions for Variances.

Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the items listed below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.

- A. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief
- D. Variances shall only be issued upon (1) a showing of good and sufficient cause; (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- E. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.000 of insurance coverage; and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

Section 16-29 Non-Conforming Use.

A structure or the use of a structure or premises which was lawful before the passage or amendment of this article but which is not 'in conformity with the provisions of this article may be continued subject to the following conditions:

- A. If such use is discontinued for 12 consecutive months, any future use of the building premises shall conform to this article. The city shall notify the building official in writing of instances of nonconforming uses where utility services have been discontinued for a period of 12 months.
- B. Uses or adjuncts thereof, which are or become nuisances, shall not be entitled to continue as nonconforming uses.

Section 16-30 Reconstruction.

If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50 percent of the market value of the structure before the damage occurred, except that if it is reconstructed in conformity with the provisions of this article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Section 16-31 Amendments.

The regulations, restrictions and boundaries set forth in this article may from time to time be amended, supplemented, changed or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no action may be taken until after a public hearing in relation thereto, at which interested parties and citizens shall have an

opportunity to be heard. Notice of the time and place of such hearing shall be published in the official city newspaper. At least 20 days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Federal Emergency Management Agency. The regulations of this article are in compliance with the national Flood Insurance Program Regulations.

Section 16-32 Penalties for Violation.

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$499.00, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City of Marysville or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE 17. TABLE OF PERMITTED USES

Use Type	A-1, Agriculture	RR, Rural Residential	SR, Suburban Residential	R1, Residential Single Family	R-2, Limited Mixed Density	R-3, Restricted Industry	MHP, Manufactured Home	C-1, Central Commercial	C-2, General Commercial	C-3, Commercial Highway	I-1, Restricted Light Industrial	I-2, General Industrial	I-3, Heavy Industrial
P Permitted by right S Permitted by conditional review													
Residential Uses													
Family farm dwelling	P												
Extended family or farm employee dwelling	P												
Non-farm single family dwelling	P	P	P										
Detached, single-family dwelling		P	P	P	P	P							
E.C.H.O. (elderly cottage housing opportunity)	S	S	S	S	S	S							
Residential-design manufactured home	P	P	P	P	P	P	P						
Manufactured home		S			S	S	P						
Mobile home					S	S	P						
Mobile home park							P						
Two-Family or duplex dwelling unit				S	P	P							
Multi-Family dwelling unit					S	S							
Public or Civic Uses													
Airports and aviation field	S	S											
Cemetery	P	P	P										
Church or place of worship	P	P	P	P	P	P		P	P	P			
Club or lodge	P	P	P	S	S	S		P	P	P			
Correctional facility, public or private	S												
Day care, licensed	S	S	S	S	S		S				S		
Day care, registered	P	P	P	P	P	P	P						
Group day care home	S	S	S	S	S	S	S				S		
Child care center	S	S	S	S	S	S	S				S		
Preschool	S	S	S	S	S	S	S				S		
Congregate housing	P	P	P	P	P	P							
Nursing facility	S	S	S	S	S	S							
Mental health facility	S	S	S	S	S	S							
Public parks and recreation areas	P	P	P	P	P	P							
Public safety services	P	P	P	P	P	P	P	P	P	P	P	P	P
Public utilities and facilities	P	P	P	P	P	P	P	P	P	P	P	P	P
Schools, public or private	P	P	P	P	P	P		P					
Libraries or museums	P			P	P	P		P					
Agricultural Business & Support Uses													
Agricultural fuel and chemicals	P												
Agriculture and livestock research facilities	P												
Agricultural storage and processing facilities	P												
Commercial orchard	P	P	P										
Crop spraying facility	S												
Farm machinery repair	S												
Livestock sales facilities, rodeo or fairgrounds	S												
Grain elevator or storage and sales	P												
Saw mills	S												
Roadside stands	P	P											

Use Type													
	A-1, Agriculture	RR, Rural Residential	SR, Suburban Residential	R1, Residential Single Family	R-2, Limited Mixed Density	R-3, Restricted Light Industry	MHP, Manufactured Home	C-1, Central Commercial	C-2, General Commercial	C-3, Commercial Highway	I-1, Restricted Light Industrial	I-2, General Industrial	I-3, Heavy Industrial
P Permitted by right S Permitted by conditional review													
Commercial Uses													
Adult entertainment									S				
Arcades								S	P	P			
Auto and machinery repair shop						S			S	P	S		
Auto service, limited								S	P	P			
Auto supplies store								P	P	P			
Banking services								P	P	P			
Bar or nightclub								P	P	P			
Bed and breakfast enterprise	P	P	S	S	S	S		P	P	P			
Broadcasting facilities						S			P	P	P		
Bus or cab terminals									S	P			
Business supply services								P	P	P			
Camper trailer, sales and service										P			
Campground										P			
Car wash									S	P			
Commercial printing and publishing								P	P	P			
Consignment auction facilities	S									S			
Construction sales and service						S				P	S		
Consumer repair service								P	P	P			
Convenience store								S	P	P			
Drinking establishment								P	P	P			
Entertainment, indoor								P	P	P			
Entertainment, outdoor	S									P			
Farm implement equipment sales/service	S									P			
Farmers/produce markets								P					
Flea markets	S									S			
Funeral homes	S							P	P	P			
Garden center									P	P			
Gasoline sales								S	P	P			
Golf course	P	P	P	P									
Greenhouse or nursery	P	S	S						P	P			
Gun club or shooting range	S												
Health care clinics								P	P	P			
Hospitals				P					P	P			
Hotels and motels								P	S	P			
Kennels	S	S											
Laundry or dry cleaning, limited								P	P	P			
Liquor store								P	P	P			
Maintenance services						S			P	P	P		
Manufactured homes, sales and service										S			
Newspaper publishing								P	P				
Offices						S		P	P	P	P	P	
Outdoor storage									S	S			
Outlet stores or shops								P					
Parking lot								P	P	P			
Personal instruction								P	P	P			

Use Type													
	A-1, Agriculture	RR, Rural Residential	SR, Suburban Residential	R1, Residential Single Family	R-2, Limited Mixed Density	R-3, Restricted Light Industry	MHP, Manufactured Home Park	C-1, Central Commercial	C-2, General Commercial	C-3, Commercial Highway	I-1, Restricted Light Industrial	I-2, General Industrial	I-3, Heavy Industrial
P Permitted by right S Permitted by conditional review													
Personal services								P	P	P			
Produce stands	P	P							P	P			
Recycling center	S					S				S	S	S	
Restaurants								P	P	P			
Restaurants, fast food									S	P			
Retail								P	P	P			
Riding academies and stables	P	S	S										
Rooming and boarding house					S	S			S				
Self-service storage						S			S	P	P	P	
Tack shops	P	S											
Taverns								P	P	P			
Technical schools and training facilities						S		P	P	P	P	P	
Theaters, indoor									S	P			
Travel trailer and RV camp	S					S				S			
Truck stops										S			
Vehicle and equipment, sales and rental									S	P			
Veterinary and veterinary supplies	P	S							S	P			
Industrial Uses													
Building construction trades						S					P	P	
Bulk storage												P	
Cement, lime, gypsum products													P
Concrete and asphalt storage & mixing	S											S	P
Construction demolition landfill	S												P
Construction equipment distribution													
Distribution center, limited						S					P	P	
Distribution, general												P	
Construction equipment storage	S											S	P
Equipment and machinery storage	S											S	P
Explosives, manufacture or wholesale storage													P
Fabrication and assembly, general.													P
Fabrication and assembly, limited						S					P	P	
Gas manufacture													P
Heavy construction trades												S	P
Laundry, cleaning and dyeing works						S					S	P	P
Lumber and wood products						S					P	P	
Manufacturing, limited.						S					P	P	
Manufacturing, general												P	
Petroleum products													P
Pottery and porcelain products												S	P
Printing and publishing						S					P	P	
Research facilities						S					P	P	
Salvage facilities	S											S	P

Use Type													
	A-1, Agriculture	RR, Rural Residential	SR, Suburban Residential	R1, Residential Single Family	R-2, Limited Mixed Density	R-3, Restricted Light Industry	MHP, Manufactured Home Park	C-1, Central Commercial	C-2, General Commercial	C-3, Commercial Highway	I-1, Restricted Light Industrial	I-2, General Industrial	I-3, Heavy Industrial
P Permitted by right S Permitted by conditional review													
Stone products													P
Transfer station											S		P
Transportation storage and trucking yards											S		P
Vehicle and equipment assembly											P		
Warehouse and processing, general											P		
Warehouse and processing, limited						S				P	P		
Wire rope and cable													P
Extractive Uses													
Mining and Quarrying	S												
Oil and Gas Drilling	P												

ARTICLE 18. SUPPLEMENTARY USE REGULATIONS

Section 18-1 General Considerations.

- A. **Purpose and Intent.** The purpose of the supplementary use regulations is to provide additional regulations to specific uses. Compliance with all applicable supplementary use regulations shall be required for any use included in this Article prior to any development or use of land commences and continues.

Section 18-2 Supplementary Use Regulations.

- A. **Family Day Care Home, licensed; Group Day Care Home; Child Care Centers; Preschool, Adult Care homes or centers and similar uses:**
1. In addition to the parking spaces required for single or multi-family dwellings, one off-street parking space shall be provided for each non-resident or non-family member employee. The residential driveway shall be acceptable for the intended purpose.
 2. When located on an arterial or collector street an off-street drop-off/pick-up area shall be provided.
 3. A valid and continuing permit shall be obtained from the Marshall County Health Department.
- B. **Aviation fields or airports.** The Planning Commission may recommend restrictions on land, buildings or structures within an approach or transition plane or turning zone, to promote safety of navigation and prevent undue danger from confusing lights, electrical interference or other hazards.
- C. **Arcades, discotheques, dance halls, private clubs or cereal malt beverage establishments.** Where the selling of alcoholic beverages is the primary business and such business is not contained within a motel or restaurant, the following standards shall be met:
1. **Residential Zones.** An arcade, discotheque, dance hall, private club, or cereal malt beverage establishment may be granted when the distance between the walls of the facility within which the operation is located and the nearest residential property carrying the zoning classification of R-1 or R-2 is greater than two hundred (200) feet.
 2. **Private or Public School.** An arcade, discotheque, or dance hall, private club, or cereal malt beverage establishment may be granted when the distance between the walls of the facility within which the operation is located and the nearest private or public school property is over one thousand (1,000) feet.

D. Bed and Breakfast Enterprise.

1. In addition to the parking spaces required for single or multi-family dwellings, off-street parking spaces shall be provided for each guestroom or non-family member employee. The residential driveway shall be acceptable for the intended purpose.
2. The Planning Commission may require screening of parking areas.
3. All signage shall be approved by the Planning Commission.

E. Mining and Quarrying.

1. **Dust and Noise Abatement.** The Planning Commission may impose conditions to reduce or control dust and noise associated with unpaved interior roads, equipment and processing areas.
2. **Road Improvement and Maintenance.** The Planning Commission may impose conditions to ensure improvement and maintenance of City or County roads inadequate to handle the quantities of heavy traffic coming from the quarry site. An Improvement and Maintenance Agreement between the applicant City of Marysville and/or Marshall County shall be required to assure that the roads used by the operation will be appropriately improved and maintained.
3. **Environmental Conditions.** The Planning Commission may impose additional conditions on the site plan and operation to ensure on-site and off-site environmental protection and site reclamation.

F. Auto wrecking yards, junk yards, recycling centers, salvage yards, and scrap processing yard.

1. The operation shall be located at least 300 feet from a residential district.
2. The operation shall be conducted entirely within a noncombustible building or within an area completely enclosed by a fence or wall at least eight (8) feet high. The fence or wall shall be of uniform height, color and texture, and shall be maintained in good condition by the property owner. No scrap, junk or other salvaged materials shall be piled to exceed the height of this wall or fence.
3. No junk or salvaged material shall be loaded, unloaded or stored, either temporarily or permanently, outside the enclosing building, fence or wall.
4. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Chief, except when prohibited by the State Board of Health.

G. Funeral, mortuary or crematory services.

1. Shall be located on a collector or arterial street.

H. Travel trailer camps and RV parks.

1. The site selected for travel trailer or RV camp areas shall be well drained and primarily designed to provide space for short-term occupancy to the traveling public. Location of the site may not necessarily front on a major roadway or thoroughfare, but it shall be directly accessible to the major roadway by means of a private road or public road that it has frontage on. Short term occupancy shall not exceed thirty (30) days, except as approved by the Zoning Administrator.
2. The applicant for a travel trailer or RV camp shall submit a development plan to the Planning Commission for approval. Such plan shall contain the information as required below and any other information the Planning Commission shall deem necessary to fully evaluate the proposed development. The applicant shall submit the information on a sheet size not to exceed 24" x 36" dimensions as a proposed developed plan showing:
 - a General layout of development with dimensions, depths, number of spaces and related sanitation accommodations.
 - b Parking area location, sizes and capacity.
 - c Ingress and egress points for the project.
 - d Use of structures.
 - e General layout of typical travel trailer space showing size of space and proposed improvements.
 - f Layout of roadway within the camp.
 - g Net density of proposed project, expressed in terms of units per acre.
 - h General landscaping plan indicating all new and retained plant material to be incorporated within the new development and layout of outdoor lighting system.
 - i Plan and method of sewage disposal and water supply.
 - j Location plan and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries and utility areas.
 - k The development shall provide a general refuse storage area or areas that shall be provided with a paved concrete surface and shall be enclosed to screen it from view.

I. Livestock Sales Facilities.

1. **Operation.**
 - a No operation shall be located closer than 5,000 feet from an existing residence.
 - b Manure shall be removed or disposed of in one of the following manners: spraying or spreading on land followed by disking or plowing; grinding or dehydrating in properly designated dehydrators; or stockpiling in a compost plant in an isolated area in such a manner as to not create a water pollution problem.
 - c Insect and rodent control shall be performed through the use of chemical sprays and positioned in accordance with

procedures and recommendations of a biologist experienced in insect and rodent control.

2. Drainage.

- a All ground surfaces within pens shall be so graded and compacted to insure positive drainage.
- b Surface runoff shall be so controlled that no appreciable amount of soil or manure is carried into any roadway ditch or drainage area where it will deposit and form sludge banks where flies and mosquitoes can breed or create water pollution.

J. Kennels (five or more dogs) for breeding, boarding and or sale.

1. The minimum lot size shall not be less than two acres.
2. No kennel buildings or runs shall be located nearer than 75 feet to any property line.
3. Screening shall be required on all kennel runs or open areas. Such screening may be mature, dense deciduous foliage (double row), solid masonry, brick, or stone wall, louvered wood, stockade, or chain link fence with wooden strip intertwined or other equivalent fencing, providing a sight barrier to the dogs.

K. Residential Design Manufactured Homes. The following standards shall be met for a residential design manufactured home.

1. A pitched roof with customary residential roofing material.
2. Customary residential siding materials.
3. No less than 22 feet in width.
4. A permanent (poured in place or filled/reinforced concrete block) perimeter foundation.

L. Automobile Body Shop/ Auto and Machinery Repair Shop

1. All repair work shall be in an enclosed building.
2. Outdoor storage of automobile body parts shall be prohibited, unless located inside a storage area enclosed with a six-foot fence or other screening techniques so as to prevent visibility.
3. Inoperable vehicles shall be stored indoors or inside a storage area enclosed with a six-foot fence or other screening technique so as to prevent visibility.

M. Home Occupations.

1. No home occupation shall generate vehicular traffic, noise, parking, sewage or water use that is in excess of what is normal in a residential district.
2. Deliveries to and from the home occupation shall not require the use of vehicles other than parcel post or similarly service vehicles.
3. Commercial vehicles greater than one ton capacity shall not be parked at the location of the home occupation operator, including the public right-of-way or private driveway.

4. There shall not be alteration of the principal residential structure shall be made which changes its residential character or appearance.
5. No mechanical or electrical equipment shall be used, nor any business activity permitted, which creates a nuisance from noise, smell, dust or other disturbance uncharacteristic of a normal residential district.
6. No outdoor storage of equipment or materials used in the home occupation shall be permitted.
7. The home occupation shall be conducted by and involve the employment of only the residents of the dwelling unit and not more than one non-resident.
8. The home occupation may display a sign not exceeding two (2) square feet.
9. A permit to establish a home occupation is required.
10. The following uses shall be prohibited from being classified as a home occupation.
 - a Automobile repair service.
 - b Funeral homes.
 - c Restaurants.
 - d Commercial stables, kennels or animal hospitals.
 - e Retail or wholesale sales.
 - f Manufacturing of goods.
 - g Professional offices for health care services.

N. Communication Towers (Greater than 60 feet in height).

1. Exemptions.

- a The requirements of these regulations shall not govern any short wave radio tower that is owned and operated by a federally licensed amateur radio station or is used exclusively for receive only purposes.

2. Data required.

- a General development plan that identifies the site location boundary, tower(s), wires, anchors, existing and proposed structures, parking and access, with the names of owners and the use of parcels within 200 feet of the tower.
- b Written authorization from the property owner(s) acknowledging the application.
- c Identification of the owners of all antennae and equipment to be located on the site.
- d Documentation that a valid application for a FCC license has been filed.
- e Report from a structural engineer that the tower capacity and design is sufficient to withstand winds in accordance with ANSI/EIA/TIA 222 or latest revision.
- f Copy of the proposed lease agreement with the property owner and a signed statement from the applicant indicating

their intentions to share space on the tower with other providers.

3. Findings.

- a Setback. All towers shall be setback 200 feet from any surrounding property, which is zoned R-1, R-2, R-3, or from any habitable structure, park, historic structure or monument, or cemetery. The Planning Commission or Governing Body may reduce, waive or require greater setbacks.
- b Submission of an acceptable agreement to remove the tower and or antenna within 180 days after cessation of use together with a sufficient performance bond, letter of credit, or other financial assurances, if required by the Planning Commission.
- c Applicant shall show that the new tower is designed to accommodate additional antennae equal in number to the applicant's present and future need, and will accommodate two (2) co-located antennae requested by public and private concerns.
- d The applicant shall demonstrate that a tower proposed to be located in a residential area, or an area planned for residences, cannot reasonably be located in a non-residential area, because of valid technical reasons.

O. Adult Entertainment or Adult Uses. (See K.S.A. 12-758 Section 10)

- 1. **Where Permitted.** An adult entertainment or adult use shall only be permitted in the C-3, Highway Commercial District, subject to the location restrictions below.
- 2. **Location Requirements.** An adult entertainment or adult use must be located 1,000 feet from the following:
 - a Public or private school.
 - b Place of worship.
 - c Park.
 - d Licensed day care center.
 - e Another adult entertainment or adult use.
- 3. **Definitions.** The definition of adult uses shall include the following types of establishments:
 - a **Arcade, Adult.** Means any place to which the public is permitted or invited in which coin-operated, slug operated or for any form of consideration, electronically, electrically or mechanically controlled still or motion pictures, projectors, video or laser disc players or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

- b **Bookstore, Adult; Adult Novelty Store or Adult Video Store.** Means a commercial establishment which, as one of its principal purposes, offers for sale, for any form of consideration, any one or more of the following: 1) books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes, slides or other visual representations that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; or, 2) instruments, devices or paraphernalia that are designed for use in conjunction with specified sexual activities.
- c **Cabaret, Adult.** A nightclub, bar, restaurant, or similar establishment which regularly features live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities or photographs, films, motions pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentations time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- d **Motel, Adult.** Means a hotel, motel or other similar commercial establishment which offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible for the public right-of-way which advertises the availability of this adult type of photographic reproductions; or 1) offers a sleeping room for rent for a period of time that is less than 10 hours; or 2) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- e **Motion Picture Theater, Adult.** Means an establishment where, for any form of consideration, films, motion pictures, slide, computer clips, virtual reality simulations, or similar photographic reproductions are generally shown, and in which a substantial portion of the presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
- f **Facility, Adult.** A theater, concert hall, auditorium, building, car wash, or similar establishment regularly characterized by (activities featuring) the exposure of specified anatomical areas or specified sexual activities.
- g **Massage Parlor, Adult Use.** An establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment is by a medial practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of Kansas. This definition does not

include an athletic club, school, gymnasium, reducing salon, spa, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

- h **Sexual Encounter Club or Establishment, Adult Use.** An establishment other than a hotel, motel, or similar establishment offering public accommodations, which, for any form of consideration, provides a place where two or more persons may congregate, associated, or consort in connection with specified sexual activity or the exposure of specified anatomical areas. This definition does not include any establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the State of Kansas engages in sexual therapy.
- i **Escort.** Means a person who, for consideration, agrees to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
- j **Escort Agency.** Means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
- k **Nude Model Studio.** Means any place where a person appears semi-nude, in a state of nudity, or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted or by other persons who pay money or nay form of consideration. Nude model studio shall not include a college, community college or university supported entirely or in part by public money, or in a structure or private studio that 1) has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing, 2) where, in order to participate in a class, a student must enroll at least three working days in advance of a class, and 3) where no more than one nude or semi-nude model is on the premises at any one time.
- l **Specifications.**
 - a **Specified Anatomical Areas.** As used herein, specified anatomical areas means and includes any of the following: 1) less than completely and opaquely covered human genitals, pubic region, anus, or female breasts below a point immediately above the top of the areolas; 2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - b **Specified Sexual Activities.** As used herein, specified sexual activities means and includes any of the following; 1) the fondling or other erotic touching of human genitals, pubic regions, buttocks, anus, or female breasts; 2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; 3) masturbation, actual or simulated; or 4) excretory functions as part of or in conjunction with any of the activities set forth above in this section.

ARTICLE 19. TABLE OF PERMITTED DOWNZONINGS

Section 19-1 General Considerations.

A. **Purpose and Intent.** The intent of this section is to establish the zoning classifications that can be considered a lesser change than that set forth in the public notice, as prescribed in K.S.A. 12-757.

B. Permitted Zoning Classification Considered to be a Lesser Change

		Table 17 Zoning Classification Considered to be a Lesser Change											
Published Zoning Districts	A-1	R-R	S-R	R-1	R-2	R-3	MHP	C-1	C-2	C-3	I-1	I-2	I-3
A-1													
R-R	☑												
S-R	☑	☑											
R-1	☑	☑	☑										
R-2	☑	☑	☑	☑									
R-3	☑	☑	☑	☑	☑								
MHP	☑	☑	☑	☑	☑	☑							
C-1				☑	☑	☑							
C-2	☑	☑	☑	☑	☑	☑		☑					
C-3	☑	☑	☑	☑	☑	☑		☑	☑				
I-1	☑	☑	☑	☑	☑	☑		☑	☑	☑			
I-2	☑	☑	☑	☑	☑	☑		☑	☑	☑	☑		
I-3	☑	☑	☑	☑	☑	☑		☑	☑	☑	☑	☑	

ARTICLE 20. DEFINITIONS

Section 20-1	Definition of General Terms
Section 20-2	Public or Civic Use Definitions
Section 20-3	Residential Use Definitions
Section 20-4	Industrial Use Definitions
Section 20-5	Commercial Use Definitions

Section 20-1 Definition of General Terms

Accessory Building: A building customarily incidental and subordinate to the main building and located on the same lot with the main building.

Accessory Use: A use incidental to the principal use of a building. In buildings restricted for residential use, an office used for family occupations and workshops not conducted for compensation shall be deemed accessory uses.

Adjacent: Being contiguous to the adjoining lot or parcel.

Agricultural Use: The use of the land for agricultural purposes, including farming, dairying, pasturage, apiaries, horticulture, floriculture, viticulture, and animal (including fur bearing) and bird or poultry husbandry, and the necessary accessory uses and structures for packing, processing, treating or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. Agricultural land shall consist of at least 40 acres unless farm records, past activity, or unique circumstances related to small farms indicate differently. Land used for agricultural purposes shall not include the following:

1. Riding academies and stables.
2. Kennels, breeding and Boarding.
3. Commercial stockyard or feedlot as defined by state statutes.
4. Retail greenhouses or nurseries.
5. Land used for suburban or rural residential home sites where "hobby farming" or some of the plants and animals listed above are grown or raised

Agricultural Uses, Accessory: Those structures or equipment that are normally required in the operation of agricultural uses.

Alley: A public thoroughfare that affords only secondary means of access to abutting property.

Alterations: As applied to a building or structure, means a change or rearrangement in the structural parts or in the exit facilities or an enlargement, whether by extending on a side or by increasing in height or the moving from one location or position to another.

Animal Sanctuary: A building(s) or use of the land dedicated primarily to the care of abandoned, unwanted, sick or discarded domesticated animals.

Apartment House: A building arranged, intended or designed to be occupied by three or more families living independently of each other.

Applicant: Legal owner or duly designated representative of land proposed to be rezoned, planned or subdivided.

Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps.

Area, Net Side: The total area within the property lines excluding external streets.

Base Flood: A flood having a 1% chance of being equaled or exceeded in any one year.

Basement: A story partly or wholly underground. For purposes of height measurement, a basement shall be counted as a story where more than one-half of its height is above the average level of the adjoining ground.

Block: A piece or parcel of land bounded by public highways, streets, streams, railroad right-of-way, parks, etc., or a combination thereof.

Bond: A form of security, including a cash deposit, surety bond, cashier's check or other like security, in an amount approved by the city council whenever a bond is required.

Building, Front Line: The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or non-enclosed, but does not include steps.

Building, Principal: A building in which is conducted the main or principal use of the lot on which the building is situated.

Buffer Area: A strip of land, identified in a site plan or as required in this ordinance, established to protect one type of land use from another land use that is incompatible. Normally, the area is landscaped or kept in open space, or is screened by landscaping materials or a fence.

Camping Trailer: A vehicle or residence on wheels, skids or rollers with motive power designed to be used for human habitation or for carrying persons or property, including a park trailer, travel trailer or recreational vehicle.

Comprehensive Plan: A long-range master plan for area development, including studies of land use, traffic volume and flow, schools, parks, public buildings and other public facilities.

Condominium: A part of a building, with a direct exit to a public street, highway or common area leading to a street or highway, intended for any industry or business or other use, including one or more rooms or enclosed spaces located on one or more floors (or part or parts thereof), meeting the other requirements of the Apartment Ownership Act (K.S.A. 583101 et. seq.).

Correction Plat: A plat which corrects errors, which have been discovered after recording the final plat, which has no relation to the conformity to the subdivision regulation.

Cul-de-sac: The turnaround at the end of a dead-end street.

Court: An area enclosed or partially enclosed on not more than three sides -by exterior walls, buildings, or groups of buildings and lot lines on which walls are allowable, with one side or end open to a street, driveway, alley, or yard.

Coverage: That percentage of the plot or lot area covered by the building area.

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

Dwelling: A structure or portion thereof designed or used exclusively for human habitation, but not including hotels or motels.

Dwelling, Single-Family Detached: A house keeping unit that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Dwelling, Two-Family: A building designed exclusively for occupancy by two house keeping units living independently of each other, including a duplex or a semi-detached dwelling.

Dwelling, Multi-Family: The use of a site for three or more dwelling units within a single building. Typical uses include triplexes, four-plexes, apartments, and townhomes.

Double Frontage Lots: A lot, two opposite lot lines of which abut public streets which are more or less parallel.

Drainage Course (WaterCourse): Any natural or man made depression, draw or ravine that directs and facilitates the flow of water.

Dog Kennel: The keeping of more than five dogs that are more than six months old.

Dump: A lot of land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

Easement: A grant by the property owner to the public, a corporation, or persons, of the use of the strip of land for specific purposes, such as access of persons, utilities or services.

ECHO Housing: A small, removable modular cottage on a concrete foundation or slab in the rear or side yard of a dwelling.

Family Day Care Home: A place maintained for the purpose of providing children with food or lodging, or both, away from such children's home or homes, for less than 24 hours, provided not more than six of the children cared for at such place are less than 16 years of age and not more than three of the children cared for at such place are less than 18 months of age.

Family: A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

Feed Lot: An enclosure designed or used for the purpose of concentrated feeding or fattening of livestock for marketing.

Floodway Fringe: That portion of the flood hazard area outside of the floodway based on the total area inundated during the regulatory base flood plus 25% of the regulatory base flood discharge.

Floodplain: The channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater.

Floodway: The channel of a natural stream or river and portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

Frontage: All the property fronting one side of a street between the two nearest intersecting streets or natural barriers.

Frontage, Double: Where platted lots and tracts have a double frontage or are located at the intersection of two streets, the shortest measurement of the lot or tract will be considered as the frontage for front yard set-backs.

Frontage Road: A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

Garage, Public: A structure, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

Group Home: Any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability, who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, and which is licensed by the state.

Governing Body: The Mayor and Marysville City Council.

Government Agency: Any department, commission, independent agency, or instrumentality of the United States, of a state, county, incorporated or unincorporated municipality, township, authority, district, or other governmental unit.

Improvement: Any permanent structure that becomes part of, placed upon, or is affixed to real estate.

Inoperable Vehicle or Equipment: A motor passenger vehicle, truck, bus, aircraft, or other motorized equipment or machine which is not in condition to be operated in a normal or customary manner, or any major parts thereof such as body, chassis, engine, frame, or the trailer portion of a tractor trailer rig.

Loading Space: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials and which abuts upon a street or other appropriate means of access.

Lot: Land occupied or to be occupied by a building or unit group of buildings and accessory buildings, together with such yards and lot area as are required by this article and having its principal frontage upon a street or a place approved by the Governing Body. A lot may include one or more platted lots or metes and bounds described tract, but must be under single ownership and, when more than one parcel, contiguous.

Lot, Corner: A lot or portion thereof, not greater than 100 feet in width and situated at the intersection of two or more streets having an angle of intersection of not more than 135 degrees.

Lot, Depth: The horizontal distance between the front and rear lot lines, measured along the median between the two sidelines.

Lot, Width: The horizontal distance between the side lot lines, measured at right angles to the lot depth at the front building setback line.

Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded at the office of the Register of Deeds for Marshall County, or a parcel of land, the deed to which was recorded prior to the adoption of this ordinance.

Lot Split: The division of a lot or tract into two separate and distinct lots that does not involve the use of new easements.

Major Street: A street, highway or roadway designated as such on the official major street and/or County road plan, ordinance or resolution.

Marginal Access Street or Frontage Roads: A minor street that is generally parallel to or adjacent to a major thoroughfare, highway or railroad right-of-way and provides access to abutting property.

Manufactured Home: A structure which bears the HUD "seal of approval" and is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C 5403, and constructed on or after June 15, 1976.

Residential-Design Manufactured Home: A manufactured home that satisfies the following additional criteria:

1. The manufactured home has minimum dimensions of 22 feet in width and 40 feet in length.
2. The pitch of the roof of the manufactured home has a minimum vertical rise of three feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction in the city.

3. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.
4. The exterior siding consists of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the city.
5. The manufactured home set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations, 198711 (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall not pierced except for required ventilation and access, is installed under the perimeter of the manufactured home; and
6. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground; and it is the purpose of these criteria to ensure that a Residential Design-Manufactured Home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

Mobile Home: A transportable (not RV) dwelling unit built prior to June 15, 1976, that is 600 square feet or larger in floor area, designed to be used as a year-round residential dwelling. A mobile home is only permitted on an operating farm of 40 acres or more for the owner, relative, or employee, in a manufactured home park.

Mobile Home Park or Subdivision: A site containing spaces with required improvements and utilities leased for the long-term placement of manufactured houses or mobile homes and that may include services and facilities for the residents.

Modular Home: A manufactured residential structure built to a nationally recognized and accepted construction standard published by the Building Officials Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard. A modular home shall have exterior building materials and appearance similar to the customary single-family structures in the neighborhood and shall be permanently situated on a concrete foundation.

Municipal Water Supply: Water lines extended and water supplied by the City of Marysville, Kansas.

Non-Conforming Use: A building, structure or use of land existing at the time of enactment of this article and which does not conform to the regulations of the district or zone in which it is situated.

Overlay Zone: A zoning district that encompasses one or more underlying zones and that imposes additional requirements above that required by the underlying zone.

Parking Space, Off-Street: An off-street parking space shall comprise not less than 180 square feet of parking stall plus necessary maneuvering space.

Pedestrian Way: A right-of-way dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Planning Commission: The City of Marysville Planning Commission.

Plat, Final: A plan or map prepared in accordance with the provisions of these regulations and those of any other applicable local regulations, which plat is prepared to

be placed on record in the office of the register of deeds of the county in which part of the subdivision is located.

Plat, Preliminary: A map made for the purpose of showing the design of a proposed subdivision and the existing conditions in and around it, that map need not be based on accurate or detailed final survey of the property.

Plat, Sketch: A concept, informal map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

Plat: (1) A map representing a tract of land showing the boundaries and location of individual properties and streets; (2) a map of a subdivision or site plan.

Public Sanitary Sewer System: A system, other than an individual septic tank or tile field, operated by a municipality or other governmental agency or a public utility for the disposal of wastes.

Public Water Supply: A system, other than a private well, operated by a municipality or other governmental agency, individual contractor or a public utility for the provision of water.

Rooming House: A building in which board or room or both are offered to the traveling public for compensation and open to transient guests in contradistinction to a hotel or motel.

Secretary: Secretary of the Marysville Planning Commission (City Clerk).

Setback Line or Building Line: A line on a plat generally parallel to the street right-of-way, indicating the limit beyond which buildings or structures may be erected or altered, except as otherwise provided in the Zoning Regulations of the City.

Sight Triangle: A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection.

Sidewalk: A sidewalk for foot passengers on the side of a road or street.

Subdivider: A person, firm, corporation, partnership or association who causes land to be divided into a subdivision.

Subdivision: The division of a lot, tract or parcel of land, into two or more parts for the purpose of sale or building development, whether immediate or future, including the resubdivision or replatting of land or lots. The term "resubdivision" 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.

Sign: Any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to designate an individual, firm, profession, business or commodity, and which are visible from any public street or air.

Story: That portion of a building included between the surface of any floor and the surface of the next floor above it or, if there is no floor above it, then the space between such floor and ceiling next above it.

Street: A right-of-way, dedicated to the public use or private right-of way serving more than one ownership, which provides principal vehicular and pedestrian access to adjacent properties.

Street Line: The legal line between street right-of-way and abutting property.

Structure: Anything constructed or erected that requires location on the ground or attached to something having a location on the ground.

Use: The purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

Yard: An open space other than a court on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward.

Yard, Rear: A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of a main building toward the nearest point of the rear lot lines.

Yard, Side: A yard between a main building and the side lot line, extending from the front yard or front lot lines where no front yard is required to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and a line parallel thereto on the lot.

Zoning Administrator: The person appointed by the Governing Body to administer these regulations.

Zoning Regulations: The lawfully adopted zoning ordinances of the City of Marysville.

Section 18-2 Public or Civic Use Definitions

Adult Care Home: Any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, boarding care home and adult care facility.

Aviation Field or Airport: A place where aircraft can land and take off, usually equipped with hangars, facilities for refueling and repair, and various accommodations for passengers.

Cemetery: Property used for the interring of dead human bodies.

Church or Place of Worship: A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

Club or Lodge: An establishment providing meeting, recreational or social facilities for a private or non-profit association, primarily for use by members and guests. Typical uses include lodges, meeting halls, and recreation centers and areas operated by private clubs and fraternal organizations.

Day Care, Licensed: A facility giving regular care for less than 24 hours per day to a maximum of six (6) children under Kindergarten age (includes the family's own children in this age group and four additional children kindergarten age and over, with a maximum of ten (10) children including the provider's children.

Day Care, Registered: A facility/dwelling in which care is provided for a maximum of ten children under fourteen years of age, not more than six of whom are under kindergarten age and which is licensed and regulated through the Kansas Department of Health and Environment.

Group Day Care Home: A facility licensed and regulated through the Kansas Department of Health and Environment which is located in a single family dwelling unit in which care is provided for a maximum of 12 children under fourteen years of age, which

care is provided by two providers, one of whom shall be a bona-fide resident of the dwelling unit.

Group Home: A facility in a residential design building for the care and supervision of developmentally disabled and/or elderly persons according to the guidelines provided by current Kansas Law.

Health Care Facility: A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions. Typical uses include public health centers, rehabilitation clinics, extended care facilities, outpatient clinics.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, and medical offices.

Open Space: Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment of owners, occupants, and their guests of land adjoining such open space. Open space may include active recreational facilities, however, the improved recreational facilities are a small part of the overall open space.

Preschool: A nonresidential facility which provides learning experiences for children who have not attained the age of eligibility to enter kindergarten and who are 30 months of age or older; conducts sessions not exceeding three hours per session; which does not enroll any child more than one session per day, and which does not serve a meal, and is licensed by the state.

Public Park: A publicly-owned park, playground or other area or open space providing opportunities for active recreational activities.

Public Safety Services: A facility for the conduct of public safety and emergency services, including fire and police protection services and emergency medical and ambulance services.

Public Utility and Facilities: A facility under public franchise or ownership that provides the general public with electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar service. The term "facilities" includes buildings or structures, including generating and switching stations, poles, lines, pipes, pumping stations, repeaters, antennas, transmitters and receivers, valves, and all buildings and structures relating to the furnishing of utility service, such as described above.

School, Elementary or Secondary: Any school licensed by the State and that meets the State requirements for elementary or secondary education.

Section 18-3 Industrial Use Definitions

Building Construction Trades: An establishment engaged primarily in the construction of residential, commercial, industrial, farm or other buildings. Typical uses include offices, storage yards and facilities for general contractors, plumbing, electrical, HVAC, and other special trade contractors involved in painting, carpentry, masonry, stonework, roofing, siding and communications. Contractors engaged in activities that are clearly of a type specialized in heavy construction, such as grading for highways and airport runways are not allowed.

Bulk Storage: An establishment engaged primarily in the storage of chemicals, petroleum products, grains and other materials in structures for subsequent resale to distributors or retail dealers or outlets.

Chemical Products. An establishment engaged primarily in and production of basic chemicals and the manufacturing of products predominately by chemical processes. Typical uses include ink manufacturing, insecticides, fungicides, disinfectants, and related industrial and household chemical compounds, perfumes, soaps, paints and allied products, and pharmaceutical products.

Distribution Center, General: An establishment engaged in the receipt, storage, and distribution of goods, products, cargo, and materials, including transshipment by rail, area, or motor vehicle.

Distribution Center, Limited: An establishment engaged in the small scale receipt, storage and distribution of goods, products, cargo and materials, including transshipment by rail, air or motor vehicle.

Fabrication and Assembly, Limited: An establishment primarily engaged in the limited fabrication of electrical equipment, appliances, instruments and devices; apparel and fabric, plastic or metal products that does not generate noise, odor, vibration or other impacts discernible external to the buildings.

Fabrication Metal Products, General: An establishment primarily engaged in the fabrication of ferrous and nonferrous metal products. Typical uses include metal cans, tinware, hand tools, cutlery, general hardware, non-electric heating apparatus, fabricated structural metal products, metal stampings, and other metal and wire products.

Heavy Construction Trades: An establishment primarily engaged in the heavy construction of highways, streets, bridges, sewers, railroads, irrigation projects, or flood control projects; and including specialty contractors primarily engaged in trenching, grading, rock removal, and pavement with asphalt or cement materials.

Junk Yard: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste papers rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

Laundry Services: An establishment primarily engaged in the large-scale cleaning, or laundry, or dry-cleaning operation other than those classified as low hazard in applicable codes. The term excludes the limited laundry activities permitted under the definition of "laundry or dry cleaning, limited".

Lumber and Wood Products: An establishment engaged in the wholesaling and warehousing of dimensioned lumber cut, milled and planed elsewhere; or including the cutting, milling, planing and assembly of cabinets for permanent installation, shutters, windows, doors and door jamb frames, and ornamental woodwork for trim, wainscots, railings and other architectural elements.

Manufacturing, General: An establishment engaged in the basic fabrication, processing and manufacturing of materials or products using mechanical or chemical transformations of materials or substances into new products, including the assembling of component parts, the creation of products, and the blending of materials such as petroleum products, plastics, resins, or liquors.

Manufacturing, Limited: An establishment primarily engaged in the manufacturing of food and beverage products; furniture and fixtures, motor vehicle equipment; medical instruments and supplies; musical instruments; and, toys and sporting goods that does not generate noise, odor, vibration or other impacts discernible external to the lot lines. The slaughtering of animals and milling of grain products is not permitted.

Printing and Publishing: An establishment primarily engaged in the retail or wholesale printing and publishing business. Typical activities include one or more common processes, such as letterpress, lithography, gravure, or screen, used in periodicals, books, commercial printing, greeting cards, and including services for the printing trade—bookbinding and platemaking.

Research Facility: Laboratories, offices and other facilities for research (basic and applied) and development, conducted by or for any individual, organization, or concern, whether public or private.

Salvage Facility: A lot, plot or parcel of land where three or more motor vehicles, not in operating condition, are collected and/or stored for the purpose of processing parts for sale.

Transfer Station: An establishment engaged in an intermediate destination for solid waste, including solid waste storage, separation, and compacting.

Warehouse and Distribution, Limited: An establishment engaged in the small scale storage and sale of goods to other businesses for resale, excluding distribution centers, motor freight terminals, moving and storage firms and similar high volume, high turnover facilities.

Warehouse and Processing, General: An establishment primarily engaged in the storage and sales of goods to other firms for resale, as well as activities involved in transporting, moving, and storing of products or equipment. Uses include trucking yards or motor freight transportation terminals and maintenance facilities, courier services, public warehousing, and food distribution and storage plants.

Section 18-4 Commercial Use Definitions

Adult Entertainment: See Article 18 Supplementary Use Regulations, Section 15-2 (O) Adult Entertainment or Adult Uses.

Arcade: An establishment where 12 or more amusement devices, including but not limited to pool tables, foosball tables, air hockey tables, mechanical rides for children or adults, electronic games, and shooting gallery type games, are accessible to the general public.

Auto Machinery and Repair Shop: An establishment primarily engaged in the major repair or painting of motor vehicles or heavy equipment, including auto body repairs, installations of major accessories and transmission and engine rebuilding services. Typical uses include major automobile repair garages, paint and body shops.

Auto Service, Limited: An establishment primarily engaged in providing minor auto maintenance and repair services, such as lubrication and oil changes, cleaning and detailing, tire and battery sales and installation, brake and muffler repairs, glass repair and installation, and engine diagnosis and tune-up. Gasoline sales are permitted.

Banking Services: An establishment engaged in deposit banking or consumer lending. Typical uses include commercial banks, savings institutions and credit unions. Drive-through window service and ATM's are allowed.

Bar or Nightclub: An establishment used primarily for the sale or dispensing of liquor by the drink for on-site consumption and where music, entertainment, and food may be available for consumption on the premises as accessory to the principal use.

Bed and Breakfast: A dwelling or structure where short-term lodging and meals are provided. The operator or agent of the operator shall live on the premises.

Business Supplies Service: An establishment primarily engaged in the sale, rental or repair of equipment and supplies used by office, professional and service establishments to businesses rather than to individuals, but excludes automotive, construction and farm equipment. Typical uses include office equipment and supply firms and small business machine repair shops.

Campground: A plot of ground upon which two or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

Construction Sales and Service: An establishment engaged in the retail or wholesale sale of materials used in the construction of buildings or other structures, as well as the outdoor storage of construction equipment or materials at the place of business. Typical uses include lumberyards, home improvement centers, lawn and garden supply stores, construction equipment sales and rental, electrical, plumbing, air conditioning and heating supply stores, swimming pool sales, construction and trade contractors' storage yards.

Consumer Repair Service: An establishment primarily engaged in the provision of repair services to individuals and households rather than firms, but excluding automotive and equipment repair uses. Typical uses include appliance repair shops, furniture repair and upholstery shops, watch or jewelry repair shops and musical instrument repair shops.

Drinking Establishments: A place of business offering alcoholic beverages by the individual drink to the public and deriving 30 percent or more of its gross receipts from the sale of food for consumption on the licensed premises.

Entertainment, Indoor: An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge. Typical uses include bowling lanes, bingo parlors, pool halls, and banquet facilities. Arcades as defined above are not included in this definition and follow under a separate category.

Entertainment, Outdoor: An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open. Typical uses include archery ranges, batting cages, golf driving ranges, miniature golf courses and drive-in theaters.

Hotel and Motel: An establishment used, maintained, or advertised as a place where sleeping accommodations are supplied for short-term rent to tenants, in which rooms are furnished for the accommodation of such guests, which may have as an accessory uses one or more dining rooms, and may include individual, convenience kitchen facilities.

Laundry or Dry Cleaning, Limited: An establishment primarily engaged in providing self-service household laundry (washing, drying, and/or ironing and dry cleaning services, classified as low hazard in applicable codes, with consumer drop-off and pick-up. The term excludes the large-scale dry cleaning activities permitted under the definition of "laundry services".

Liquor Store: An establishment engaged in the sale of alcoholic beverages for off-site consumption.

Maintenance Services: An establishment primarily engaged in the provision of off-site maintenance and custodial services. Typical uses include carpet cleaning, janitorial, landscape maintenance, pest control, septic tank cleaning, and window cleaning services.

Medical or Dental Clinic: An establishment where patients, who are not lodged overnight except for observation or emergency treatment, are admitted for examination and treatment by a person or group of persons practicing any form of healing or health-building services, whether such persons be medical doctors, chiropractors, osteopaths,

naturopaths, optometrists, dentists or any other such profession, the practice of which is lawful in the state, and also includes establishments which provide massage therapy by a licensed professional.

Mobile Home Sales and Service: An establishment primarily engaged in the display and sale of manufactured homes; mobile homes or modular homes.

Newspaper Publishing: An establishment engaged in the production and publishing of newspapers.

Offices: An establishment providing executive, management, administrative or professional services, except medical services and excluding the sale of merchandise, except as incidental to a principal use. Typical uses include real estate brokers, insurance agencies, credit reporting agencies, property management firms, investment firms, employment agencies, travel agencies, advertising agencies, secretarial services, data processing, telephone answering, express mail offices (excluding major mail processing and distribution), professional or consulting services in the fields of law, architecture, design, engineering, accounting and similar professions, interior decorating services; and businesses of private companies, utility companies, public agencies, trade associations, unions and non-profit organizations.

Outdoor Storage: The keeping of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

Parking Lot: An off-street, ground-level open area, usually improved, for the temporary storage of motor vehicles.

Personal Instruction: An establishment primarily engaged in training or personal development instruction. Typical uses include, art and music schools, gymnastics and dance studios, hobby and craft instruction, martial arts training, driving, and computer instruction.

Personal Services: An establishment primarily engaged in the provision of services of a personal nature. Typical uses include, beauty and barber shops, tanning and nail salons, weight loss centers, health spas, fitness centers, shoe shines, portrait studios, custom tailoring and seamstress.

Private Clubs: An establishment used for social, recreational, dining, or philanthropic purposes. Normal use is limited to specific members, patrons or otherwise listed persons.

Recycling Center: A lot or parcel of land, with or without buildings, upon which used materials are separated and processed for shipment for eventual reuse in new products.

Restaurant, Fast Food: An establishment where the principal business is the sale of food and beverages to the customer in a ready-to-consume state and where the design or principal method of operations is a drive-in or drive-thru service

Restaurant: An establishment engaged primarily in the preparation of food and beverage for consumption on the premises. (Does include drive-through lanes for pick-up)

Retail: An establishment providing general value added sales or rental of goods, but excluding those uses specifically classified in another use category. Typical uses include antique stores, apparel shops, appliance stores, bicycle shop, book store, card shop, camera and photographic sales and supply, carpet store, computer store, decorating shop, department store, drug store, dry goods, florist shop, food store, including grocery, bakery, meat and delicatessen, furniture and home furnishings, furrier, gift shop, hardware store, hobby shop, jewelry, leather, music supplies and instruments, newspapers and magazines, optical sales, paint and wallpaper, radio or television sales or repair, sporting good, toy store, video rental or sales.

Rooming or Boarding House: A dwelling unit or part thereof in which, for compensation, lodging and meals are provided.

Self-Service Storage: An establishment where independent, fully enclosed bays are leased or rented to persons exclusively for storage of household or personal property.

Tavern: An establishment primarily engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises and which may also provide entertainment, dancing, or serve food.

Theater, Indoor: An establishment for showing motion pictures or live performances in an enclosed building.

Travel Trailer Park: A tract of land containing sites for the overnight or short term parking of two or more camping trailers or tents. Camping trailers or tents may be parked in a campground or camper park provided such camp area is in conformance with the codes and ordinances of the City of Marysville.

Truck Stop: Any building or premises, where a business, service, or industry involving maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into motor vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities primarily for the use of truck crews.

Vehicle and Equipment Sales or Rental: An establishment engaged in the retail, or wholesale, or rental, from the premises, of motorized vehicles or equipment, along with incidental service or maintenance. Typical uses include new and used automobile and truck sales, automobile rental, boat sales, motorcycle sales, moving truck or trailer rental, and machinery sales and rental. The term does not include farm implement sales and service, or RV/camper trailer sales and service.

Veterinary Clinic: An establishment providing medical care and treatment for animals, which may include accessory grooming or boarding services.

Vocational School: A secondary or higher education facility primarily teaching useable skills that prepare students for jobs in a trade and meeting the state requirements as a vocational facility.

APPENDIX-1

ORGANIZATION & BYLAWS OF THE PLANNING COMMISSION AND BOARD OF APPEALS

Section 1-1 **Creation of The Planning Commission.**

- A. **Authorization.** A Planning Commission is hereby created and appointed by the Governing Body. There shall be 9 (nine) regular voting members of the Planning Commission: no less than five (5) members shall be residents of the City of Marysville, two (2) members shall be appointed who reside in the extraterritorial zone district; two (2) members who are residents of Marshall County shall be appointed at-large. Three additional Planning Commissioners may be appointed by the Governing Body as alternates, with voting privileges when regular Planning Commissioners are not present.

Section 1-2 **Terms of Members.**

- A. **Appointment.** All regular Commissioners shall be appointed for terms of three years, and each may serve for three (3) consecutive full terms {a temporary, alternate, or replacement term shall not be considered to be a full term}. Commissioners may be appointed again following a one-year waiting period following three regular terms of service.
- B. **Alternate Members.** Alternate Planning Commissioners may be appointed for terms of one (1), two (2) or three (3) years.
- C. **Age Requirement.** Regular and alternate Planning Commissioners shall be at least 18 years of age and residents of Marshall County.
- D. **Removal.** Planning Commissioners may be removed for cause, including, but not limited to, failure to attend meetings, abuse of office, conflict of interest and abusive conduct, by a vote of the Governing Body.
- E. **Vacancy.** Appointments to fill vacancies of unexpired terms shall be made by the Governing Body.
- F. **Compensation.** All members of the Planning Commission shall serve without pay or other compensation, except that all members shall be reimbursed for traveling or phone expenses.

Section 1-3 **Duties of the Planning Commission.**

- A. **Comprehensive Plan.** To make or cause to be made, or to update and annually, a Comprehensive Plan for the Marysville Planning Area; to propose and recommend all revisions and amendments to the Comprehensive Plan to the Governing Body.
- B. **Public Hearings.** To give notice of and conduct all public hearings pertaining to matters of zoning, planning, and subdivision.

- C. **Zoning.** To recommend all actions, after hearing, concerning zoning text and map amendments, conditional or special uses, and final plats for consideration to the Governing Body.
- D. **Plats.** To review for final approval or disapproval all required site plans.
- E. **Conditions.** To add conditions to subdivision plats and zoning map amendments when, in the opinion of a majority of Planning Commissioners, such conditions are essential to the preservation of property values, the public health, safety and welfare, and the peaceful and quiet enjoyment of property.
- F. **Variances.** To grant area and bulk variances on preliminary subdivision plats when, in the opinion of a majority of the Planning Commissioners, such variations are essential to preserve natural resources, overcome practical difficulty, and serve the public interest.
- G. **Annual Meeting.** To hold an annual meeting each year for the purpose of electing a Planning Commission Chair, a Vice Chair, and a Secretary. The Chair and other officers shall be elected by a simple majority of the Planning Commissioners. All officers shall serve for one year, or until their successors are elected, and may succeed themselves for each year during their terms.

Section 1-4 Meetings and Conduct.

A. Meetings.

- 1. All meetings shall be conducted by the Chair of the Planning Commission, or in his/her absence, by the Vice Chair or Secretary, or then by the most senior member. The Chair shall have the power to rule on objections and other points of order raised by a member of the Planning Commission, an applicant/agent, or member of the public hearing.
- 2. All meetings of the Planning Commission, other than special meetings or work sessions, shall be held on the second Thursday of each month at 7:00 PM at the City Hall. When there is no official agenda, a meeting may be canceled at the discretion of the Chair. The Chair, or the Vice Chair in his/her absence, shall have the power to call any special meetings, or to change a meeting time or place.
- 3. Meetings shall generally be conducted in accord with Roberts Rules of Order.
- 4. The Chair shall have the authority to eject or cause to be ejected any person(s) whose behavior disturbs or unreasonable interrupts the proceedings of Planning Commission hearings.

B. Rules of Voting.

- 1. The Chair may vote in all official motions or elections. The Chair shall lead all discussions, and call for all votes.
- 2. All official votes shall be by simple majority of a quorum. A quorum shall be five members present.

Space reserved for future amendments.

3. All votes shall be "yes" or "no" by "voice" of the members; written votes are not allowed. The Chair may require reasons for the vote from each Commissioner when the magnitude of the change requested for the plan or zone change is extensive. Abstentions from voting, as distinguished from disqualifications, shall not be allowed. Official votes shall also be written by the secretary or designee in the form of minutes; minutes shall be approved at each meeting.
4. Any Commissioner, including the Chair may disqualify him or herself, without stating reasons, by announcing the disqualification for the record, and leaving the table at the beginning of a public hearing. In the case of a challenge by an applicant or member of the public, the Chair shall rule on disqualifications. Reasons for disqualification shall be, but are not limited to, the following:
 - a. To avoid the appearance of an impropriety.
 - b. If the planning commissioner is a property owner within the statutory distance for notification of hearing.
 - c. If the planning commissioner is a relative, employer or employee or business partner of an applicant.
 - d. If the planning commissioner is an agent for an applicant {in a business or legal capacity}.
 - e. If the planning commissioner serves on another elected or appointed board with an applicant.
 - f. If a planning commissioner is a constant, long term, and close social acquaintance of an applicant.
 - g. If the planning commissioner feels that he/she cannot render a fair and impartial judgement due to past association, hearsay, or actions of an applicant or member of a public hearing.
 - h. If the planning commissioner is a party to ex parte contact on a particular item of business that is subject to a public hearing.

C. Conduct of Hearings.

1. An Applicant, or an Agent for the Applicant, must be present to introduce a proposal for change, except that this rule may be waived by a 2/3-majority vote of the Planning Commission. If an applicant or agent is not present, and the rule is not waived, then the Applicant shall automatically be granted an extension until the next regularly scheduled meeting of the Planning Commission. If the Applicant fails to appear at the following meeting without notice, the matter shall be deemed void and the Applicant must reapply. If the Applicant fails to attend the first regularly scheduled hearing, they shall be assessed the full cost of public notification, including postage, abstractor search {if necessary} and a \$20.00 Zoning Administrator surcharge for reprocessing.
2. All members {or their agents} attending a public hearing shall have the right to speak to the business on the agenda. The Planning Commission shall not hold a "closed meeting" or executive session unless it pertains to pending litigation, a matter of personnel, or debate and discussion on the rezoning of a specific parcel of land. The Chair

may set reasonable time limits for the duration of all discussions. At a public hearing, parties shall speak in the following order:

- a. A member of the Planning Commission or the Zoning Administrator opens the hearing by explaining the nature of the request, its location, and the action or votes required of the Planning Commission. Next, the Applicant or Agent introduces the proposal.
 - b. The Planning Commission may ask questions to clarify any points made by the Applicant. Following this, any member of the public hearing may request points of clarification. Before proceeding, the Chair shall poll the members of the Planning Commission and the staff to determine if the application is sufficient to conduct an informed public hearing. Sufficiency shall be based upon the completeness of the application, quality of data, ordinance requirements {including sanitation reports}, and the timeliness of submission of materials to the staff for review. Until a vote for approval is given, the statutory requirements for subdivision review shall not take effect.
 - c. The members of the public hearing who received statutory notification may speak to support the proposal.
 - d. The members of the public hearing who received statutory notification may speak to voice disapproval of the proposal.
 - e. A period of rebuttal shall be allowed for the applicant and those in favor or opposition.
 - f. Any member of the public hearing may speak.
 - g. Final rebuttal for the applicant shall be allowed.
 - h. The Chair shall officially close the public hearing phase of the particular business at hand.
 - i. The Planning Commission, after placing a formal motion on the table, shall debate the facts presented at the hearing.
3. Following debate, the Planning Commission shall vote on the motion. Decisions of the Commission shall be based upon facts entered into the record at the public hearing phase of the meeting, the recommendations of the staff, the adopted plan, and the preservation of health, public safety, and the general welfare.
 4. Appropriate considerations for voting on an issue may also include the need for the proposed change; the magnitude of the change; whether or not the change will bring harm to established property rights, and the effective use of land.

Section 1-5 Effect of Voting.

- A. Votes shall be cast either as "yes" or "no" on an issue. A majority vote "yes" shall be deemed to mean a positive recommendation to the Governing Body. A majority vote "no" shall mean a negative recommendation; a tie vote presented to the Governing Body shall have the same meaning as "no recommendation."

- B. In the case of a final plat, the vote of endorsement by the Planning Commission is not advisory, and does not require approval by the Governing Body, however, the final plat shall be sent to the Governing Body for approval of all dedications of land for public purposes. If the Governing Body does not accept the dedications within 60 days after plat endorsement, the Register of Deeds shall not file the plat instrument, and all action shall be void.
- C. In the case of a proposed zoning amendment to the land use map or the ordinance text, the vote of the Planning Commission is advisory. Upon receiving an advisory vote, the Governing Body may: (1) approve by resolution such recommendation, (2) override the recommendation by a 2/3 majority vote, (3) return the recommendation for study and/or a new hearing, together with a statement which specifies the Governing Body's reasons for refusal to approve or disapprove. If the Governing Body returns a recommendation, the Planning Commission may resubmit the original recommendation or submit new or amended recommendations without reconvening the Public Hearing. Upon receiving the returned recommendations from the Planning Commission, the Governing Body may, by a simple majority vote, adopt, revise or amend such recommendations. Failure to return a recommendation on the part of the Planning Commission shall be considered a re-submission of the original recommendation.

Section 1-6 Board of Zoning Appeals.

A Board of Zoning Appeal (Hereinafter BZA) is hereby created to administer all zoning and floodplain appeals, variances, exceptions, and other matters of land regulation as enumerated in the Marysville Unified Development Ordinance.

- A. **Membership Requirements.** All members of the BZA must be age 18 years or older at the time of their initial appointment and a resident of Marshall County.
- B. **Composition of the Board.** The BZA shall be composed of five members.
 - a. One member of the BZA shall be a current or former member of the Marysville Planning Commission.
 - b. Two members of the BZA shall be residents of the City of Marysville.
 - c. One member of the BZA shall reside in the extraterritorial area.
 - d. Three alternatives may be appointed to serve in the absence of regular members. At least one alternate must be a current or past member of the Marysville Planning Commission
- C. **Appointment of the Board.** The Governing Body shall appoint all members of the BZA. The Chair of the Planning Commission shall nominate one current or former commission member to serve on the Board of Appeals. All members of the BZA shall serve for three years. Each member may serve for 3 successive terms.
- D. **Service of Members.**
 - 1. All members of the BZA shall serve without pay or other compensation, except that all members shall be reimbursed for traveling or phone expenses.

2. The Governing Body for just cause, including conflict of interest, bias, and failure to attend scheduled meetings may remove members.

E. Duty of Chair.

1. The Governing Body shall appoint and designate one member to serve as Chair of the BZA.
2. The Chair of the BZA shall call all meetings (and designate the location of the hearing) on request of the Zoning Administrator or Governing Body. The Chair shall conduct all meetings according to (Rev.) Robert's Rule of Order. The Chair shall insure that all final orders or decisions of the BZA are rendered within 60 days of the original hearing date: all such orders or decisions must be in writing.

Section 1-7 Meeting and Votes of the Board.

A. Procedures.

1. The Chair shall conduct all meetings and take all votes. Meetings shall be held at a time and place designated by the Chair of the BZA.
2. All votes shall be "yes" or "no" by voice, with a taped record and written minutes kept of each session. Abstentions shall not be allowed, but Members, may disqualify themselves, for cause, in accordance with the Guidelines for Conflict of Interest listed above in Section 1-3 of this Article.
3. A quorum shall be 3 members or alternates present.
4. All hearings before the BZA shall be open to the public. The Board may, however, adjourn a hearing from time to time, and may meet in closed session to debate the record created at the public hearing. The Board shall issue its findings to applicants in writing within 60 days after the first hearing, unless the applicant requests an extension of time.
5. All persons wishing to give testimony before the Board shall be administered an oath or affirmation by the Chair. The hearing procedure thereafter shall be the same as for the Planning Commission.
6. The Chair of the BZA may establish, from time to time, reasonable limitations on testimony, and shall have the power to rule on objections and other points of order raised by a Commissioner, an applicant, or member of the public hearing. The Chair shall have the authority to *Rule Out Of Order* testimony that is not factual, based upon supposition or hearsay.
7. The Chair shall have the authority to eject or cause to be ejected any person(s) whose behavior disturbs or unreasonable interrupts the proceedings of the BZA.

Section 1-8 Duties of the Board of Zoning Appeals.

- A. **Appeals.** The BZA is hereby authorized to hear appeals from any person or official affected by any decision of the Zoning Administrator. In exercising the power of appeals, the BZA may reverse, amend, modify or affirm any discretionary act, requirement, decision or determination of the Zoning Administrator. To this end, the BZA shall have all of the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

B. Procedure for Appeals.

1. The appeal must be brought within 60 days of the final decision or action of the zoning administrator.
2. The appellant must file the proper forms provided by the zoning administrator, and pay the posted appeals fee.
3. Notice of the appeal must be published once in the official city newspaper, at least 20 days prior to the hearing.
4. The appellant or agent must appear before the BZA on the appointed time and day for the hearing. Failure to appear, unless waived by the BZA for cause, shall result in a dismissal of the appeal, and shall require re-application.
5. When an appeal is filed the action of the zoning administrator or the director of planning shall be stayed pending a final decision of the BZA.
6. Actions of the BZA are final orders and are not sent to the governing body for review or approval.

C. **Variances.** When deemed necessary by the BZA, the Board may grant variances from the specific terms of these regulations in the following manner:

1. To authorize in specific cases a variance from the specific terms of the regulations which would not be contrary to the public interest, and where, due to special conditions, a literal enforcement of the provisions of the regulations, in an individual case, results in an unnecessary hardship, and provided that:
 - a. The spirit of the regulations is observed.
 - b. The public safety and welfare is secured.
 - c. Substantial justice is done in contrast to a mere favor or special benefit.
2. In order for the BZA to grant a variance the board must specifically find for the record that:
 - a. The variance arises from a condition unique to the property in question, and is not a general condition found in the neighborhood.
 - b. That granting the variance will not adversely affect the rights of adjacent property owners or residents.
 - c. That strict adherence to the regulations in the specific case will constitute unnecessary hardship upon the property owner requesting the variance. The board must determine that the hardship is greater than economic disadvantage, and in fact extends to a means of livelihood, a matter of protecting title to property, or if left uncorrected, would result in a severe and irrevocable change in the applicant's ability to transfer property. A hardship may also be construed to be "honest error" imposed upon a property owner by a ministerial official, or licensed professional, or through eminent domain or zoning resulting in a substantial {a near taking} loss of property rights.
 - d. The variance desired will not adversely affect the public health, safety, morals or welfare, convenience, prosperity or general order.

D. **Exceptions.** The BZA may grant exceptions to the provisions of this Unified Development Ordinance in those instances where the Board is specifically

authorized to act, and only under such terms and conditions that are enumerated in the regulations.

Section 1-9 Representatives and Agents.

- A. **Right of Representative or Attorney.** Nothing contained in this ordinance shall be construed as prohibiting the right of any applicant or a member of a public hearing to retain an agent to represent them before the Planning Commission or BZA. Likewise, legal counsel may be used to represent any person having business pertaining to this ordinance. All persons, and their agents or counsels, have a right to speak at the designated time, submit written comments for the record, make objections, note exceptions, or request points of clarification {for the record} during public hearings.