CITY OF PEABODY

ZONING REGULATIONS

Adopted September 26, 2011

INDEX

CHAPTER NO. PAGE NO.

1. ESTABLISHMENT OF DISTRICTS - - - - - - - - - - - - - - - -- - - 3 - 6

2. DEFINITIONS - 6 – 13

3. TABULATION OF PERMITTED USES - - - - - - - - - - - - - - -13 – 20

4. CONDITIONAL USES -- 20 – 28

5. ACCESSORY USES -28 - 31

6. NON-CONFORMING USES -31 - 33

7. HEIGHT, AREA, BULK AND DIMENSIONAL REQUIREMENTS 33 - 40

8. RESERVED---------- - - - - - - - - - - 40

9. OFF-STREET PARKING AND LOADING REGULATIONS - - - -40 – 47

10. SIGNS -47 – 49

11. BOARD OF ZONING APPEALS - - - - - - - - - - - - - - - - - - -49 – 56

12. ADMINISTRATION AND ENFORCEMENT - - - - - - - - - - - - -56 - 60

ZONING REGULATIONS

FOR THE

CITY OF PEABODY, KANSAS

ORDINANCE NO. 07-2011

AN ORDINANCE TO REGULATE AND RESTRICT IN THE INCORPORATED AREA OF THE CITY OF PEABODY , KANSAS, THE USE OF LAND AND THE LOCATION OF IMPROVEMENTS THEREON, THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS, THE SIZE OF YARDS, COURTS, AND OTHER OPEN SPACES, THE DENSITY OF POPULATION, THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES, INCLUDING AREAS FOR AGRICULTURE AND RECREATION; AND, TO DIVIDE INTO DISTRICTS THE INCORPORATED AREA OF THE CITY OF PEABODY , KANSAS, TO CARRY OUT THE AFORESAID PURPOSES, SAID DISTRICTS BEING A PART OF THE PLAN AND INCORPORATED IN SAID PLAN BY REFERENCE TO MAPS AND TO REGULATE AND RESTRICT WITHIN SUCH DISTRICTS, THE ERECTION, CONSTRUCTION, RECONSTRUCTION, ALTERATION, REPAIR OR USE OF BUILDINGS, STRUCTURES OR LAND AND TO PROVIDE FOR A ZONING COMMISSION AND DEFINING ITS POWERS AND DUTIES; AND TO PROVIDE FOR A BOARD OF ZONING ADJUSTMENT AND DEFINING ITS POWERS AND DUTIES; TO PROVIDE FOR AMENDMENTS TO THIS ORDINANCE, METHOD OF INTERPRETATION AND CONSTRUCTION, ENFORCEMENT AND PERMITS, AND STATING PENALTIES; TO REPEAL ALL PORTIONS OF ANY ORDINANCE PASSED IN CONFLICT HEREWITH.

WHEREAS, by the provisions of Chapter 15, Article 1 of the Code of the City of Peabody, Kansas, authority is conferred on the Planning Commission to recommend districts or zones within its incorporated areas for the purpose of promoting health, safety, morals, comfort, or the general welfare and to conserve and protect property and building values; to secure the most economical use of land, and to facilitate the adequate provision of public improvements in accordance with a comprehensive plan; and

WHEREAS, the Planning Commission, created under the provisions of aforesaid Ordinance, and by order of this Commission, pursuant to the authority vested in said Commission under said Ordinance, has held public hearing on March 21, 2011 at the cafeteria of the Peabody/Burns Jr./Sr. High School in Peabody, Kansas, and recommended the boundaries of the various districts and appropriate regulations to be enforced therein to the Governing Body in the City of Peabody, Kansas, in the area affected by the terms of such recommended order; and

WHEREAS, the passage, adoption, and enforcement of the provisions hereinafter contained are deemed to be necessary for the purpose of promotion of health, safety, morals, comfort, or the general welfare of the incorporated area of the City of Peabody, Kansas, to conserve property and building values, to secure the most economical use of land and facilitate the adequate provision of public improvements, all in accordance with a comprehensive plan, therefore:

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PEABODY, KANSAS, AS FOLLOWS:

SECTION 1: This Ordinance shall be known and may be cited as the Zoning Regulations of the City of Peabody, Kansas.

SECTION 1.00 TITLE:

THE ZONING REGULATIONS OF THE CITY OF PEABODY, KANSAS

Chapter 1

ESTABLISHMENT OF DISTRICTS

SECTION 1.10 - PURPOSE

The districts established in these Zoning Regulations are designed to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of moral and general welfare, thus encouraging the highest and best use of land and resources in accordance with a Master Plan as provided by the laws of the State of Kansas. These general goals include among others, the specific purpose of:

I. Providing sufficient space in appropriate locations for all types of land use in a manner that is harmonious and compatible.

II Protecting and encouraging freedom from undue exposure to fire, explosions, toxic and noxious matter, radiation, noise, vibration, smoke, heat, glare, and other objectionable matter and influences.

III. Providing appropriate locations where necessary, objectionable or dangerous uses may operate without undue restrictions.

IV. Protecting against congestion by regulating density of population, bulk of buildings and by encouraging the use of land in a manner which will provide for light, air, and open space.

V. Protecting all zoning districts, but especially residential districts against heavy and undue vehicular traffic.

VI. Providing freedom of architectural design in order to encourage the development of more attractive and economic building forms.

VII. Promoting and developing a strong economic base by protecting the character of individual districts thereby conserving the value of land, buildings and tax revenues.

SECTION 1.20. - DISTRICTS

1. The City is hereby divided into the following districts:

   a. I-2 Heavy Industrial District

b. 1-1 Light Industrial District
c. B-3 Central Business District
d. B-2 General Business District
e. B-1 Local Business District
f. S&O Public Service and Office District
g. R-3 Multi-Family Dwelling District
h. R-2 Two-Family Dwelling District
i. R-1 Single Family Dwelling District
j. R-A Agriculture District.

SECTION 1.30 - ZONING DISTRICT MAP ADOPTED

I. Boundaries of the districts, as enumerated in Section 1.20 of this Article are hereby established as shown on the maps hereby designated as the "Zoning District Maps," and said maps and all the notations, references and information shown thereon are hereby made as much a part of this Ordinance as if the same were set forth in full herein. It shall be the duty of the City Clerk to keep on file in his office an authentic copy of said map, all changes, amendments or additions there to and the duplicate copies thereof shall be kept on file in the office of the City Planning Commission.

II. When definite distances in feet are not shown on the Zoning District Maps, the district boundaries are intended to be along centerlines of the existing street, alley or platted lot lines or extensions of the same, and if the exact location of such line is not clear it shall be determined by the Zoning Administrator, due consideration being given as indicated by the scale of the Zoning District Map.

III. When the streets or alleys on the ground differ from the streets or alleys as shown on the Zoning District Maps, Zoning Administrator may apply the district designations on the map to the streets or alleys on the ground in such manner as to conform to the intent and purpose of this Ordinance.

IV. Whenever any street or alley is vacated, the particular district in which the adjacent property lies shall automatically be extended to the center line of any such alley or street.

V. All territory hereafter annexed shall be given the district classification of R-A Agricultural District unless otherwise specified on the Zoning District Map or as may be amended as provided by law.

SECTION 1.40 - DISTRICT DESCRIPTIONS

I. I-2 Heavy Industrial District

Purpose - District 1-2 is intended primarily for major basic manufacturing industries and related industrial activities. Many of these industries characteristically store bulk quantities of raw or scrap material for processing to semi-finished products. Commercial uses in this district are generally those which serve the convenience of industrial establishments and their employees. Residential uses are not compatible with this environment and are not included in order that the district may be reserved for its intended heavy industrial purpose.

II. I-1 Light Industrial District

Purpose - District 1-1 is intended primarily for those manufacturing industries and related industrial activities in which the production performance of the manufacturing industries characteristically produces a finished product from semi-finished materials, but requires little or no outside material storage. The effect of the production process upon surrounding areas is normally that of the traffic generated by the receipt and delivery of goods and materials. Commercial uses in this district are generally those which serve the convenience of industrial establishments and their employees, Residential uses are not compatible with this environment and are not included in order that the district may be reserved for its intended light industrial purpose.

III. B-3 Central Business District

Purpose - District B-3 is intended primarily for major business services and retail business activity related to the core of the Central Business District serving the metropolitan trade area. Because this district is the major employment and shopping area within the community, relatively large building volumes and high residential density on the second floor of such buildings is permitted for transient and apartment accommodation. The high volume of pedestrian movement generated within this district will be facilitated as much as possible by the separation of pedestrian and vehicular traffic. This will normally be a single, continuous district.

IV. B-2 General Business District

Purpose - District B-2 is intended primarily for general trades and commercial services located at specific points on major thoroughfares outside of central or local business districts. This district is particularly appropriate adjoining a major highway. Such an area draws highway uses such as restaurants, service stations, and motels, which are not totally compatible with shopping center developments but which may be grouped together quite advantageously as highway service centers. Multi-family residential uses are permitted.

V. B-1 Local Business District

Purpose - District B-1 is intended primarily for retail trades and convenience services related to a limited trade area providing neighborhood shopping accommodations. Businesses which generate traffic in volumes beyond local traffic requirements are generally not included in this district. Parking accommodations are a premium requirement since the private automobile is the dominant mode of transportation. The district is generally located at intersecting streets, at least one of which is a major street. Residential uses are not generally included in this district.

VI. S&O Service and Office District

Purpose - District S &0 is intended to provide areas for public, semi-public, institutional, professional and office types of uses. Density or intensity of use may be considered similar to the R- 3 district. The primary difference between this and the R-3 district is that this zone is primarily used to allow for uses which provide a direct service to the total community without being in conflict with its residential neighbors.

VII. R-3 Multi-Family Dwelling District

Purpose - District R-3 is intended primarily to accommodate non-elevator or walkup type apartment buildings located generally in or adjacent to central areas of the city in proximity to principal areas of development and commercial activity or in convenient relation to outlying major thoroughfares and outlying business centers.

VIII. R-2 Two-Family Dwelling District

Purpose - District R-2 is intended primarily to accommodate one or two-families, located generally in more central areas of the city peripheral to higher density multi-family apartment or business districts or in limited outlying areas of the city peripheral to apartment districts or business centers. The district is intended to accommodate a moderately high population density for these types of dwelling units.

IX. R-1 Single Family Dwelling District

Purpose - District R-1 is intended primarily for one-family detached dwelling units and related residential activities which are in general peripherally related to higher density and more centrally located residential areas or may be peripherally related to more limited outlying higher density districts or business centers. The district is intended to accommodate a moderate population density for this type of dwelling unit on medium size lot areas.

X. R-A Agricultural District

Purpose - District R-A is intended primarily for use in areas of the City on the outer edge of the urbanized development. More intense urban usage is usually premature in this district due to lack of adequate utility services or transportation systems. It is likely that this district will be changed to more intense urban zoning districts as utility services can be feasibly extended and the undeveloped areas within existing service limits are used up or become in short supply. Uses within this district are mostly related to farming or semi-urban functions and are not necessarily compatible with higher density residential development.

Chapter 2

DEFINITIONS

SECTION 2.10 - GENERAL

For the purpose of this Ordinance, the following words and terms used herein are defined to mean the following:

Words used in the present tense include the future; words in the singular number include the plural; and words in the plural number include the singular; the word "building" includes the word "structure;" the word "shall" and the word "must" are mandatory and not directory; the term "used for" includes the meaning "designed for" or "intended for."

ACCESSORY BUILDING OR USE: A subordinate building, a portion of the main building, or a use customarily incident to and located on the lot occupied by the main building or use of the property.

ALLEY: A public way which affords only a secondary means of access to abutting property.

APARTMENT: A room or suite of rooms within an building arranged, intended or designed for, or used as the place of residence of a single family or group of individuals living together as a single housekeeping unit.

APARTMENT HOUSE: A building arranged, intended, or designed for, or occupied by more than two families.

APARTMENT HOTEL: An apartment house, which furnishes for the use of its tenants services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

BASEMENT: A story below the first story as hereafter defined.

BED AND BREAKFAST FACILITY: A building having not more than six guestrooms where travelers for compensation are lodged for sleeping purposes with at least a morning meal provided.

BLOCK: A piece or parcel of land entirely surrounded by public highways or streets. In cases where the platting is incomplete or disconnected, the Zoning Administrator shall determine the outline of a block.

BOARDING HOUSE OR LODGING HOUSE: A building other than a hotel where lodging *and* or meals are provided for compensation, pursuant to previous arrangements.

BUILDINGS: Anything, other than a fence or boundary wall, constructed or erected, which requires location on the ground, or attached to something having a location on the grounds, including but not limited to advertising signs or billboards.

DEPENDENT MOBILE HOME: A mobile home which does not have a flush toilet and a bath or shower.

INDEPENDENT MOBILE HOME: A mobile home which has a flush toilet and a bath or shower.

INCUBATOR FACILITY: A facility used to promote and provide a limited startup location (four (4) years) for retail businesses, repair shops or light manufacturing.

BUILDABLE WIDTH: The width of that part of a lot not included within the open spaces herein required.

CHILD NURSERY: A building where five or more children, other than members of the family occupying such building, are served and taken care of for compensation.

CLINIC: An office building or group of offices for one or more physicians, surgeons or dentists, engaged in treating the sick or injured, but not including rooms for the overnight care of patients.

CLUB, PRIVATE: A building or premises used for social, recreational dining or

philanthropic purposes, the normal use of which is limited to specific members, patrons, or otherwise listed persons.

CONDITIONAL USE: those types of uses which due to their nature are dissimilar to the normal uses permitted within a given zoning district or where product, process, mode of operation, or nature of business may prove detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs.

CONVALESCENT HOME: A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.

COURT: An open space, bounded on three or more sides by exterior buildings, walls, or by exterior walls of a building and lot lines upon which walls or fences are allowable.

CURB LEVEL: The mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.

DWELLING: A building arranged, intended or designed for, or occupied by one or two families.

DENSITY OF SCREEN OR FENCE: shall refer to the percent of vision obstruction caused by the arrangement or dispersion of, the physical properties of a fence wall or planted living screen as viewed from a point perpendicular to the vertical surface.

DWELLING, MULTIPLE: A building or portion thereof designed for or occupied as a home of three or more families or households living independently of each other, including apartment houses, row houses, tenements, apartment hotels, cooperative apartments or condominiums.

EXCEPTION: An exception shall mean the allowance of an otherwise prohibited use within a given district, such use and the conditions by which it may be permitted being clearly and specifically stated within these regulations, and the allowance being by express permission of the Board of Zoning Appeals.

FAMILY: Any number of individuals living together as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel as defined herein.

FILLING STATION: Any building or land used for the sale or retail of automobile fuels, oils and accessories, including lubrication of automobile and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

FLOOR AREA:

a. Commercial business and industrial building or buildings containing mixed uses, the sum of the gross horizontal areas of the several floors or the building measured from the exterior faces of the exterior walls, but not including (1) attic space providing headroom of less than seven feet; (2) basement space not used for retailing; (3) accessory water and cooling towers.

b. Residential buildings; the gross horizontal areas of the several floors of a dwelling exclusive of garages, basements and open porches measured from the external faces of

the exterior walls.

FRONT YARD: An open space unoccupied by buildings or structures (except as hereinafter provided) across the full width of the lot extending from the front line of the building to the front street line of the lot.

FRONT YARD DEPTH: The minimum horizontal distance from the front line of building to the front street line of the lot.

GARAGE, COMMUNITY: Any building or premises, other than a public, private, or storage garage providing storage for motor vehicles with facilities for washing, but no other services, such garage to be in lieu of private garages within a block or portion of block.

GARAGE, PRIVATE: An accessory building or portion of building for storage only of automobiles owned and used by the occupants of the building to which it is accessory.

GARAGE, PUBLIC: Any building or premises, used for the storage, care or repair of motor vehicles, which is operated for commercial purposes.

GUEST HOUSE: Living quarters within a detached accessory building located on the same lot with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities and not rented or otherwise used as a separate dwelling.
HEIGHT OF BUILDINGS: The vertical distance measured from the highest of the following three levels:

From the street curb level.

From the established or mean street grade in case the curb has not been constructed.

From the average finished ground level adjoining the building where it sets back from the street line; to the level of the highest point of the roof beams of flat roofs or roofs inclining not more than one inch to the foot, and to the mean height level between the eaves and the highest ridge for other roofs.

HEIGHT OF YARD OR COURT: The vertical distance from the lowest level of such yard or court to the highest point of any boundary wall.

HOME OCCUPATION: Any occupation, profession or activity that is a customary, incidental and secondary use of a residential unit carried on by a member of the immediate family residing on the premises, in connection with which there is used no sign other than a nameplate not more than two (2) square foot in area or no display that will indicate from the exterior that the building is being utilized in whole or in part for any purpose other than that of a dwelling and which does not alter the exterior of the property or affect the residential character of the neighborhood; no person is employed other than a member of the immediate family residing on the premises; no unusual traffic is generated; and no mechanical equipment is used except such as is permissible for purely domestic purposes. No use requiring a Conditional Use Permit in any district may be utilized as a home occupation.

HOTEL: A building occupied or used as a temporary abiding place of individuals or groups of individuals who are lodged, with or without meals, and in which there are more than twelve sleeping rooms and no provision for cooking in individual rooms.

LOADING SPACE: A space within the main building or on the same lot, providing for the loading or unloading of trucks, with a minimum of 14 by 50 feet and a vertical clearance of 18 feet and area turn around so designed to avoid the blocking of street traffic.

LOT: A parcel of land occupied or to be occupied by a building and its accessory buildings, and including such open spaces as are required under this ordinance, and having its principal frontage upon a public street or place.

LOT, CORNER: A lot abutting upon two or more streets at their intersections. A corner lot shall be deemed to front on that street on which it has its least dimension, unless otherwise specified by the Zoning Ordinance.

LOT, INTERIOR: A lot whose side lines do not abut upon any street.

LOT, KEY: A lot having its side lots lines coincident on one or both sides with the rear lot line of adjacent lots.

LOT, THROUGH: An interior lot having frontage on two streets.

LOT DEPTH: The mean horizontal distance from the front lot line to the rear line.

LOT LINES: The lines bounding a lot as defined herein.

LOT OF RECORD: A lot which is a part of a subdivision, the map of which has been recorded in the office of the Register of Deeds, or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds.

LOT WIDTH: The mean horizontal distance between side lines measured at right angles to the depth.

MINI-STORAGE WAREHOUSE: a storage facility that is characterized by individual separate spaces which are accessible by customers for the storing and retrieval of personal effects and household goods. In no case shall storage spaces be used for manufacturing, retail or wholesale selling, office or other business services, or human habitation.

MOBILE HOMES: A Mobile Home shall mean any vehicle or structure not meeting local building codes, so designed and constructed in such manner as will permit permanent occupancy thereof as living and sleeping quarters for one (1) or more persons, or the conduct of any business or profession, occupation or trade, or use as a selling or advertising device, and so designed that it is or may be mounted on wheels and conveyed on highways or streets, propelled or drawn by its own or other motive power, excepting a device used exclusively upon stationary rails or tracks. This definition shall include modular homes where such construction does not meet local building codes. Any movable unit which conforms to local building codes, is not less than twenty-four (24) feet in width, has non-metallic siding and composition or wood roof and is placed on a permanent foundation, shall not be considered a mobile home.

> **Note:** A camper or travel trailer is defined as a vehicle or structure designed and constructed in such manner as will permit temporary occupancy as living and sleeping quarters as is primarily required during camping or vacation travels. Such facility has

characteristics similar to a Mobile Home in that it can be conveyed on the streets, however, in no way is it intended to become a residence.

MOBILE HOME PARK: Any plot of ground upon which a mobile home occupied for dwelling or sleeping purposes is located regardless of whether or not a charge is made for such accommodation.

MOBILE HOME SUBDIVISION: Any subdivision of land intended primarily to provide "space" or "sites" for mobile homes or modular homes. While the lots are normally intended for sale, they may be leased.

CAMPGROUND OR TRAILER PARK: Any plot of ground upon which a camper or travel trailer is located regardless of whether or not a charge is made for such accommodation. However, such definition shall not include storage of one personal camper or travel trailer upon the property of the owner.

MOBILE HOME SPACE: A plot of ground within a mobile home park designed for the accommodation of one mobile home.

NON-CONFORMING USES: A building or yard that does not, by reason of design or use, conform to the regulations of the district in which it is situated.

NURSING HOME: An establishment or agency licensed by the State for the board and care or treatment of three or more individuals.

PARKING SPACE - OFF-STREET: A permanent space enclosed or unenclosed, to store one automobile, having the minimum dimension of 81/2 feet by 20 feet, to which an automobile has direct access from a permanently drive.

PLACE: An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereon.

PUBLIC UTILITY: Any firm or organization duly authorized to furnish to the public under state or municipal regulations, electricity, gas, steam, communications, transportation or water.

REAR YARD: An open space, unoccupied (except as hereinafter provided) between the rear lot line and rear line of the principal building and the side lot lines.

REAR YARD DEPTH: The minimum horizontal distance from the rear line of the principal building to the rear lot line.

REAR LINE: The boundary line which is opposite and most distant from the front street line; except that in a case of uncertainty the Governing Body shall determine the rear line.

RESTAURANT: A building wherein food is prepared and served to the public in ready to eat form. The term shall include cafe, cafeteria, grills, pizza parlor, diner, snack shop, hamburger shop and steak house.

ROOMING HOUSE: A rooming house is a building other than a hotel where lodging is provided for three or more persons for compensation pursuant to previous arrangements but

not open to the public or transients.

SIDE LINE: Any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley, place or a side street line.

SIDE YARD: An open, unoccupied space on the same lot with the building between the main building and the adjacent side line of the lot, and extending from the front yard to the rear yard.

SIGN: A sign is any structure or part thereof, or any device attached to, printed on, or represented on a building, fence, or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation, used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device. A sign shall not include a similar structure or device located within a building except illuminated signs within show windows. A· sign includes any billboard, but does not include the flag or pennant, or insignia of any nation or association of nations, or of any state, city, or other political unit, or of any political, charitable, educational, philanthropic, civic, or like campaign, drive, movement or event.

SIGN AREA: That area within a line including the outer extremities of all letters, figures, characters and delineations or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area.

SIGN, ILLUMINATED: Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected to provide light for the sign.

STABLE, PRIVATE: An accessory building with capacity for not more than two horses, provided, however, that the capacity of a private stable may be increased if the premises whereon such stable is located contains an area of not less than 3,000 square feet for each horse accommodated.

STABLE, PUBLIC: A stable other than a private stable as defined herein.

STABLE - RIDING: A structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving are housed or kept for remuneration hire or sale.

STORY: That part of a building included between the surface of one floor and the surface of the floor next above, or if there be no floor above, that part of the building which is above the surface of the highest floor thereof. A top story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is the highest story having its interior floor surface not more than four feet above the curb level, established or mean street grade, or average ground level, as mentioned in paragraph 27 of this section.

STREET: A public thoroughfare or place which affords principal means of access to property abutting thereon.

STREET LINE: The dividing line between the street and the abutting property.

STRUCTURAL ALTERATIONS: Any change in the supporting member of building, such as

bearing walls, columns, beams or girders.

TRAILER: Same as Mobile Homes.

TRAILER PARK OR MOBILE HOME PARK: That area of land which two or more trailers or Mobile Homes being used for living purposes, are parked.

TRANSITIONAL USE: A use intended to permit a more gradual change of the character of uses at the boundaries of districts which have different use regulations and which may be permitted by the Board of Zoning Adjustment.

VARIANCE: The granting of permission of the Board of Zoning Adjustment to allow the development of a lot or tract for uses allowed within the zoning district in a manner which exceeds maximum limits or is less than minimum limits established by these regulations and where such limits prohibit use of the land in a manner equivalent to the abutting similarly zoned properties.

WAREHOUSE / STORAGE: A structure, part thereof, or area used principally for the storage of goods and merchandise. A warehouse will not be allowed in any building hereafter erected or purchased in the B-3 Central Business District unless related to inventory for the principle use of the premise as long as there is an existing walk-in retail business located on the premises.

Chapter 3

TABULATION OF PERMITTED USES

SECTION 3.10 - GENERAL

I. Within the various zoning districts, no use shall be permitted unless indicated by the symbol "X" in the appropriate column.

II. If permitted as a conditional use, the symbol "C" shall be indicated.

A use designated as a conditional use is followed by the symbol (GP I); (GP II); (GP III); or (GP IV) establishing under which group the use is listed and the conditions which must be met, as set forth in Sections 4.70 thru 4.100 of these regulations. Where the use also has the designation (T .L.), the planning commission shall establish a time limit as called for in Section 4.50.

III. If permitted as an Accessory Use, the symbol "A" shall be indicated. The symbol "A / C" shall indicate the use is permitted as an accessory use with conditions.

IV. If permitted as a use within a Planned Group Development the symbol "P" shall be indicated.

SECTION 3.20 – PERMITED USES	**I-2**	**I- 1**	**B-3**	**B-2**	**B-1**	**R-3**	**R-2**	**R-1**	**R-A**	**S-O**
AGRICULTURE										
Crop and fruit farming	**X**	**X**							**X**	
Dairy, livestock or poultry farming									**X**	
Other agricultural (farming) activities	**X**	**X**							**X**	
Farm Product Processing (See under Manufacturing and Industry)										
COMMUNICATION										
Communications transmission towers GPII	**X**	**X**	**X**	**C**		**C**	**C**	**C**	**C**	**C**
Printing, publishing and allied industry	**X**	**X**	**X**							
Radio, television and television stations	**X**	**X**	**X**	**X**						
Telephone exchange stations (GP II)	**X**	**X**	**X**	**X**	**X**	**X**	**C**	**C**	**C**	**X**
Telephone relay towers (GP II)	**X**	**X**	**X**	**C**	**X**	**C**			**C**	**C**
CULTURAL, ENTERTAINMENT AND RECREATIONAL										
Amusement parks, fairgrounds, miniature Golf, golf driving ranges,	**X**	**C**	**X**	**C**		**C**	**C**	**C**	**C**	**C**
etc. (GP III)										
Country Club, Lodge Hall or Club House for private social or cultural or fraternal organizations (GPI)	**X**	**X**	**X**	**X**		**A/C**	**A/C**	**A/C**	**A/C**	**A/C**
Cultural activities – libraries, art galleries, museums, etc.	**X**	**X**	**X**	**X**		**X**				
Marinas	**X**	**X**		**X**	**X**	**A**	**A**	**A**	**A**	**A**
Parks	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
Public assembly-entertainment										

	I-2	I- 1	B-3	B-2	B-1	R-3	R-2	R-1	R-A	S-O
Outdoor theatres, drive-in movies etc. (GP III) T. L.			X	C		C			C	C
Legitimate and motion picture theatres.			X	X						
Sports activities or amusements within building										
Billiards, pool, etc			X	X						X
Bowling, roller and ice skating,			X	X						X
Sports activities outdoor										
Golf, tennis, skiing, swimming, etc. (GP I)	X	X	X	C	C	C	C	C	C	C
Sports assembly										
Stadiums, race tracks, etc. T.L. (Not to limit school athletic facilities	X	X	X	X					C	
MANUFACTURING AND INDUSTRY										
Abbatoirs (slaughter houses) (GP IV)	C									
Acid and derivative manufacture or storage (GP IV)	C									
Acetylene generation and storage (GP IV)	C									
Aluminum power and paint manufacture (GP IV)	C									
Ammonia, bleaching powder or chlorine manufacturing or storage, including anhydrous ammonia (GP IV)	C									
Apparel and other finished products made from fabrics, leather, etc.	X	X								
Blast furnaces, cupolas, blooming or rolling mills (GP IV)	C									
Caustic soda mfg. or storage (GP IV)	C									

	I-2	I- 1	B-3	B-2	B-1	R-3	R-2	R-1	R-A	S-O
Cement, lime, plaster, mfg.(GP IV)	**C**									
Chemicals and allied products (not otherwise mentioned)mfg or storage	**X**	**X**								
Coke oven products mfg or storage (GP IV)	**C**									
Creosote mfg or storage (GP IV)	**C**									
Distillation of coal, tar, petroleum, refuse, grain, or wood (GP IV)	**C**									
Dumps (with time limitations) (GP IV)	**C**									
Explosives, ammunition, fireworks, pyroxylin, or gunpowder mfg or storage (GP IV)	**C**									
Fabrication or assemblage of preformed, standardized metal parts (GP III)	**X**	**C**								
Fat rendering (GP IV)	**C**									
Feed mill (commercial) (GP IV)	**X**	**C**								
Feed yard (commercial) (GP IV)	**C**									
Fertilizer mfg or processing (GP IV)	**C**								C	
Flammable liquid – mfg refining or bulk storage, not including filling stations with underground storage (GP IV)	**C**									
Food and kindred product mfg or processing (GP III)	**X**	**C**								
Furniture mfg and storage (GP III)	**X**	**C**								
Garbage, offal, or dead animal reduction or processing (GP IV)	**C**									
Garbage and waste incineration (GP IV)	**C**									
Glue or size mfg (GP IV)	**C**									
Grain elevators (GP IV)	**X**	**C**								
Grease or tallow mfg (GP IV)	**C**									

	I-2	I- 1	B-3	B-2	B-1	R-3	R-2	R-1	R-A	S-O
Hair, hides or raw fur – curing, tanning, dressing, dyeing or storage (GP IV)	C									
Hydrogen or oxygen mfg or storage (GP IV)	C									
Junk yards and auto salvage or wrecking (GP IV)	C									
Kennels (GP III)	X	X								
Linseed oil, shellac or turpentine mfg refining or storage (GP IV)	C									
Livestock sales and shipping (GP IV)	C									
Livestock yards (GP IV)	C									
Match mfg or storage (GP IV)	C									
Metals – reduction, refining, smelting alloying or plating (GP IV)	C									
Mineral extraction (GP IV)	C									
Mineral processing (GP IV)	C									
Mixing plants (bulk) for cement, mortar, plaster or paving products (GP III)	X	C								
Oilcloth or linoleum mfg (GP VI)	C									
Paper and allied products	X	X								
Petroleum products refining and bulk storage; does not include service stations with underground storage (GP IV)	C									
Plastics or rubber processing or product mfg. (GP III)	X	C								
Potash mfg (GP IV)	C									
Professional scientific and controlling instruments including photographic, optical, watch or clock mfg	X	X	X							
Riding academy or stable (GP IV)	X	X							C	

	I-2	I- 1	B-3	B-2	B-1	R-3	R-2	R-1	R-A	S-O
Sanitary land fill (excluding open burning) (GP IV)	C									
Scrap paper or rag storage sorting or bailing (GP IV)	C									
Starch mfg (GP IV)	C									
Stockyards (GP IV)	C									
Stone, clay or glass products requiring pulverizing, grinding or firing (GP IV)	C									
Textile mill products	X	X								
Toxic material mfg processing or bulk storage (GP IV)	C									
RESIDENTIAL										
Duplex				X	X	X	X			X
Dwellings –single family				X	X	X	X	X	X	X
Group quarters including rooming and boarding houses, dormitories, nursing home, retirement homes, religious quarters			X	X	X	X				X
Mobile home parks and courts (GP V)				C	C	X			C	
Mobile home subdivision (T.L.) (GP V)						C			C	C
Mobile home – single unit (GP V)						C			C	
Multiple dwellings:										
Apartment, row house and condominium			X	X	X	X				
Residential hotels			X	X						
Transient Lodgings:										
Hotels, motels and tourist courts			X	X						
Bed & Breakfast Facility			X	X			C	C		C
SERVICES										

		I-2	I- 1	B-3	B-2	B-1	R-3	R-2	R-1	R-A	S-O

Warehousing and storage (not mentioned elsewhere	**X**	**X**	**C**							
Mini Storage	X	X	X	X						
Business: Advertising agencies, dwelling maintenance, stenographic, etc, offices (general having no mfg product processing, storage or warehousing)	**X**	**X**	**X**	**X**	**X**					**X**
Contract Construction Offices: General contracting and specific trades, plumbing, painting, roofing, concrete construction offices	**X**	**X**	**X**							
Educational: Public and parochial schools				**X**	**X**	**X**	**X**	**X**	**X**	**X**
Colleges and universities										**X**
Business and professional schools			**X**	**X**						**X**
Governmental Services: Post Offices, police stations, city hall, court house, etc.		**X**	**X**	**X**						**X**
Fire Stations	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
MISCELLANEOUS SERVICES:										
Churches, synagogues			**X**	**X**	**X**	**X**	**X**	**X**	**X**	**X**
Welfare offices, professional labor and fraternal orders, etc.		**X**	**X**	**X**						**X**
Community service organizations (GP II)		**X**	**X**	**X**	**C**	**C**	**C**		**C**	**X**
PERSONAL SERVICES:										
Ambulance service		**X**	**X**	**X**						
Laundry, dry cleaning		**X**	**X**							
Laundering, dry cleaning–self		**X**	**X**	**X**						
Laundering, dry cleaning pick-up station	**X**	**X**	**X**	**X**	**X**					
Beauty and Barber Services			**X**	**X**	**X**					**A**
Finance, insurance and real estate			**X**	**X**						**X**

office										
Funeral Home (mortuary)			X	X	X					X
Funeral and crematory services (GP I)			X	C	A/C				A/C	
Home occupation (see definition)				X	X	X	X	X	X	X
Cemeteries (GP I)	X	X	X	C	C	C	C	C	C	C
Repair – clothing and shoe				X	X		C			C
PROFESSIONAL SERVICES:										
Animal Clinic (with inside cages or animal runs)		X	X	X						
Professional offices		X	X	X	X					X
Dental laboratory services		X	X	X	X					X
Hospitals (GP I)	X	X	C	C	C				C	X
REPAIR SERVICES:										
Automobile repair		X	X	X						
Electrical and radio repair			X	X						
TRADE - RETAIL										
Apparel and Accessories			X	X	X					
Aircraft, automotive, marina and farm equipment	X	X								
Building materials, sales and storage (GP III)	X	C								
Food			X	X	X					
Filling or automotive service station	X		X	X						
Filling or automotive service station providing no major repair services	X	X	X	X	X					
Furniture, home furnishing and equipment			X	X	X					
General merchandise			X	X						
Eating and drinking		X	X	X	C					C

Chapter 4

CONDITIONAL USES

SECTION 4.10 - GENERAL

Conditional uses are those types of uses which due to their nature are dissimilar to the normal uses permitted within a given zoning district or where product, process, mode of operation, or nature of business may prove detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs. Within the various zoning districts specific uses may be permitted only after additional requirements are complied with as established within this Article.

SECTION 4.20 - FILING FOR CONDITIONAL USE PERMIT

An application (an original and four copies) for a conditional use permit shall be filed with the Zoning Administrator. The application shall include the following:

I. Plan showing existing and proposed building locations, parking areas, location and type of outdoor lighting, interior drives, and landscaped buffer strips.
II. Topography and existing utilities, abutting the streets, alleys or easements, and the square footage of land within the plot.
III. Name of owner of land to be utilized.
IV. Description of architecture and exterior materials to be utilized.

Within five (5) days of filing of such application the applicant shall place a sign on the lot or street in a conspicuous location. Said sign shall be of a type which will withstand the elements, not less than two and one-half (2!) feet by three (3) feet in size, with the following wordage clearly lettered not less than two (2) inches in height.

This property is being considered for a conditional use permit by the Planning Commission for (Type or Use) use. Written objections must be filed with the above commission by (Date)

Said sign shall remain on the property until final disposition of the application.

SECTION 4.30 - ADDITIONAL REQUIREMENTS

The Planning Commission shall approve or disapprove a conditional use in accordance with the requirements established in this Article but may impose additional requirements deemed reasonable and necessary.

SECTION 4.40 - PROCESSING OF APPLICATIONS

On receipt of an application for a conditional use, the Zoning Administrator shall forward copies of the application and accompanying information to affected public or governmental agencies and the Planning Commission. The Planning Commission shall request and consider reports from such public or governmental agencies before determination. Within sixty (60) days after the receipt of the application, the Planning

Commission shall submit a report and determination to the Zoning Administrator, which shall include a finding that the use will or will not:

I. Serve the convenience and general welfare of the public.
II. Serve the neighborhood in some degree.
III. Protect the neighborhood interest.
IV. Alter the character or nature of development of the neighborhood.
V. Be in basic harmony with the various elements and objectives of the Master Plan.
VI. Comply with the requirements established for that conditional use.

SECTION 4.50 - DETERMINATION

The Planning Commission shall forward the report and determination to the Zoning Administrator.

The Planning Commission shall establish a time limitation on the conditional uses permit specified in Chapter 2. Said conditional use permit shall be renewable at the discretion of the Planning Commission.

A conditional use is allowed by right subject to the express limitations and requirements established in these Zoning Regulations. Any lessening or subverting of those limitations and requirements constitutes a variance and must be treated accordingly.

SECTION 4.60 - MOBILE HOME PARKS

Mobile Home Parks when permitted as a conditional use must comply with the requirements established in this Article. Such requirements do not replace other laws or ordinances concerning mobile home parks but supplement them.

1. Minimum tract area for a mobile home park shall be five (5) acres. However, applications for conditional use permits for mobile home parks of less than five (5) acres may be accepted by the Zoning Administrator, only after express approval by the Planning Commission.
2. Minimum frontage shall be one hundred (100) feet and located on a major thoroughfare. Principal ingress and egress shall be from said frontage.
3. Minimum land area devoted to individual mobile home site shall be 4,000 square feet.
4. Parking requirements: shall be in accordance with Chapter 9.
5. Fence or Screen: When abutting any residential district there shall be a fence or living screen not less than five (5) feet in height, having a density of not less than seventy (70) percent.

6. Setbacks: District setback requirements shall be maintained at all times on all public street frontages for mobile homes as well as buildings.

When abutting any single family residential district, no mobile home or building shall

be permitted within thirty (30) feet of said abutting district.

SECTION 4.61 MANUFACTURED OR MOBILE HOMES

1. **LOCATION OF MANUFACTURED HOMES.** It is unlawful for any person to occupy a manufactured home in the city unless such manufactured home is located in a manufactured home park or subdivision in conformance with all regulations for the same.

2. **APPLICATION TO EXISTING HOMES.** All mobile homes which on the date of the adoption of this ordinance are otherwise lawfully located within the city and occupied as a residence shall be exempt from the requirements of this ordinance for such period of time as they shall be continuously occupied as a residence. All other mobile homes which are located within the city on the date of the adoption of this ordinance shall within thirty (30) days thereafter either be removed from the city or brought into conformance with the requirements of this ordinance. All mobile homes initially exempt due to their being occupied but which subsequently become and remain unoccupied for a period of thirty (30) days thereafter shall then either be removed from the city or brought into conformance with the requirements of this ordinance within thirty (30) days following such thirty (30) day period of vacancy. The governing body may extend such deadline upon request and if satisfied that a good faith effort is being made by the applicant to conform to the requirements of this ordinance.

SECTION 4.70 - CONDITIONS FOR GROUP I USES

Group I conditional uses must comply with the requirements established in this Section.

Yard: No building or use of land shall be permitted within one hundred (100) feet of a lot line (in case of crematorium such distance shall not be less than three hundred (300) feet).

Height: Shall be in accordance with district requirements.

Lot Coverage: Shall never exceed five (5) percent.

Signs: There shall be no more than two non-animated accessory signs of not more than ten (10) square feet each.

Off-Street Parking: Shall be in accordance with Chapter 9.

Off-Street Loading: Shall be in accordance with Chapter 9.

SECTION 4.80 - CONDITIONS FOR GROUP II USES

Group II conditional uses must comply with the requirements established in this Section.

Yard:

Front: shall be in accordance with district requirements.

Rear: shall be in accordance with district requirements.

Side: shall never be less than twenty-five (25) feet on each side.

Height: Shall be in accordance with district requirements, however, in no case shall any building exceed a height equal to the dimension of its least yard dimension.

Lot Coverage: Shall never exceed twenty-five (25) percent.

Fence or Screen: When in or abutting a residential district, all buildings or structures non-residential in use or nature shall be screened with a screen or fence with a density of not less than eighty (80) .percent and at least five (5) feet in height.

Signs: There shall be no more than one (1) illuminated, non-animated, accessory sign of not more than ten (10) square feet.
Off-Street Parking: Shall be in accordance with Chapter 9.
Ingress and Egress: Shall be approved by the Planning Commission based on a report from the City's Engineer.
Off-Street Loading: Shall be in accordance with Chapter 9.

SECTION 4.90 - CONDITIONS FOR GROUP III USES

Group III conditional uses must comply with the requirements established in this Section.
Yard: Where abutting any residential zone no building or use of land shall be permitted within two hundred (200) feet of a lot line, except automobile parking areas may be permitted within ten (10) feet of such lot line.
Height: Shall be in accordance with district requirements. However, in no case shall any building exceed a height equal to the dimension of its least yard dimension.
Plot Coverage: Shall never exceed thirty (30) percent. (Manufacturing and industry use shall be permitted coverage but not to exceeding fifty (50) percent.)
Fence or Screen: When in or abutting a residential district all buildings or structures non-residential in use or nature shall be screened with a screen or fence with a density of not less than eighty (80) percent and at least five (5) feet in height.
Signs: There shall be no more than one (1) illuminated, non-animated accessory sign of not more than twelve (12) square feet.
Off-Street Parking: Shall be in accordance with Chapter 9.
Off-Street Loading: Shall be in accordance with Chapter 9.
Smoke, Noise or Odor: Shall not be permitted beyond the boundaries of the subject property.
Ingress and Egress: Shall be approved by the Planning Commission based on a report from the City Engineer and shall never be located on a local residential street.

SECTION 4.100 - CONDITIONS FOR GROUP IV USES

Group IV conditional uses must comply with requirements established in this Section.
Yard:

1. Setback shall not be less than 300 feet from any R-1, R-2, R-3 or R-A zone.
2. Minimum yard restrictions as set out in Section 40 shall be maintained unless in conflict with item 1 above and in no instances less than twenty-five (25) feet.
3. No setback is required when building is next to a railroad or railroad spur as long as total distances from other zones is not exceeded as per items 1 and 2 above.

Height: Shall be in accordance with district requirements. However, in no case shall any building exceed a height equal to the dimension of its least yard dimension.
Lot Coverage: Shall never exceed seventy-five (75) percent. While outside storage is permitted in this group only, such area shall not exceed the permitted lot coverage.
Fence or Screen: Any storage or accumulation of waste, scrap, junk, trash or similar materials shall not be permitted on open ground unless in an area enclosed by a fence

or screen of one hundred (100) percent density and at least six (6) feet in height.
Signs: Shall be in accordance with Chapter 11.
Off-Street Parking: Shall be in accordance with Chapter 9.
Off-Street Loading: Shall be in accordance with Chapter 9.
Ingress and Egress: Shall be approved by the Planning Commission based on a report from the City Engineer and shall never be located on a local residential street.
Additional location requirements:
Any of the enumerated uses which have as a major portion of their processes the utilization, production, or storage of bulk quantities of either explosive, flammable liquids, or toxic gases or materials, shall be located in the following manner:
Explosives: The production or storage of explosives, except for study and research purposes, shall not be permitted within one thousand five hundred (1,500) feet of adjoining property and not within two thousand six hundred and forty (2,640) feet of any residential district.
Flammable Liquids: All production, handling, or storage in bulk shall be subject to all requirements of city, county, and state and in addition shall never be located within one thousand (1,000) feet of any residential district.
Toxic Gases: Shall be located, dependent on their weights relative to the normal at-atmosphere of the immediate vicinity. Gases lighter than air shall be located in topographical areas having an elevation greater than that of the surrounding area. However, in no case shall toxic gases be produced, handled, or stored within two thousand six hundred and forty (2,640) feet of any residential district. In addition, such uses shall be located in such manner that prevailing winds shall carry such gases away from the areas of the greatest concentration of persons.
Smoke, Dust, and Odor: Whenever possible uses emitting smoke, dust, or obnoxious odors shall be prohibited but under any circumstances shall not be located within six hundred (600) feet of any residential district. In addition, such uses shall be located in such a manner that prevailing winds shall carry such smoke, dust, or odor away from areas of the greatest concentration of persons.

SECTION 4.110 - PORTABLE BUILDINGS

1. All portable buildings erected on property within the scope of these regulations shall comply with the following specifications:
2. The structure shall be no more than twelve (12) feet wide and have an overall square footage of no more than one hundred ninety-two (192) feet;
3. Wall heights shall not exceed eight (8) feet;
4. The structure shall be anchored to the ground (or a concrete pad thereon) with non-permanent anchors;
5. The structure shall have a rigid frame around the base to facilitate movement;
6. The structure must otherwise conform to current zoning regulations, including without limitation, Chapter 3 – Accessory Uses.

Prior to installation of a portable building, the owner of the building and the owner of the property on which it shall be situated (if different) must apply for a building permit. All fees associated with the building permit, must be, approved and paid for prior to installation. In the event a portable building has electricity or plumbing,

inspections by the City's Building Inspector shall be required.

SECTION 4.120 – RESIDENTIAL STORM SHELTERS

Prior to installation of a storm shelter, the owner of the storm shelter and the owner of the property on which it shall be situated (if different) must apply for a building permit. All fees associated with the building permit, must be approved and paid for prior to installation. Storm shelters must conform to all setback requirements associated with the applicable zoning district. Prior to any excavation in furtherance of installation, Kansas One-Call shall be notified and be permitted to identify any and all potential underground obstructions. Below ground storm shelters shall not be permitted in areas prone to flooding.

SECTION 4.130 – BED AND BREAKFAST FACILITY

4.131 GENERAL REQUIREMENTS AND PROCEDURES

The structure shall be maintained as a residential structure i.e. the kitchen shall not be remodeled into a commercial kitchen.

No more than three guestrooms shall be served by one bathroom and if owner or manager occupied, a separate bathroom must be maintained for said owner or proprietor.

An applicant for a bed and breakfast establishment shall follow the procedures for a conditional use permit as specified in Chapter 4 of the Zoning Ordinance.

The Planning Commission may deem and impose any conditions that are essential and desirable on such use.

The use is subject to review at any time and may be revoked after a hearing by the Planning Commission and a finding by the Planning Commission that the use has become detrimental to the surrounding neighborhood.

The use must comply with all other provisions of the zone in which it is located and must comply with all other ordinance of the City.

Any permit for a Bed and Breakfast Facility issued is nontransferable.

4.132 PARKING REQUIREMENTS

The creation of overnight lodging facilities shall not be deemed an over-intensification to surrounding properties by way of traffic congestion.

(1) Two (2) parking spaces, plus one additional space per room to be rented must be provided.
(2) Tandem parking is allowed; however, not more than two (2) cars per tandem space shall be allowed.
(3) All parking spaces shall meet the requirements of Section 9.3 of the zoning

regulations.

If the applicant is unable to meet the criteria of subsections 1 or 2 above, the applicant may request special consideration from the Planning Commission. The City's intent is not to encourage yards to be destroyed, landscaping removed or the integrity of the neighborhood altered in order to provide parking. In such a case the applicant shall submit an analysis of parking required and parking provided within a three hundred foot (300') radius of the subject parcel. After analyzing this study, the Planning Commission may lower the number of the required parking spaces based on a finding that sufficient parking exists in the neighborhood.

4.133 SIGNS

One non-illuminated sign may be erected on the property, not to exceed eight (8) square feet in size. No single dimension of the sign shall exceed four feet (4 ft). The sign shall compliment the nature of use: i.e. historic structures should have an historic style sign.

Section 4.140 – INCUBATOR FACILITY

4.141 GENERAL REQUIREMENTS AND PROCEDURES

The purpose of the incubator facility is to promote and provide a limited startup location for retail businesses, repair shops or light manufacturing. There shall be a time limit of four (4) years of the operation of the Incubator Facility at a permitted site. An annual permit of shall be required and issued by the Planning Commission.

The cost of such permit shall be $50.00 annually.

The proprietor or owner shall be required to occupy the property. The structure shall be maintained as an accessory use to the principle building or structure on the lot.

An applicant for an incubator facility shall follow the procedures for a conditional use permit as specified in Section 4 of the Zoning Ordinance.

The Planning Commission may deem and impose any conditions that are essential and desirable on such use.

The use is subject to review at any time an may be revoked after a hearing by the Planning Commission and a finding by the Planning Commission that the use has become detrimental to the surrounding neighborhood.

The use must comply with all other provisions of the zone in which it is located and must comply with all other ordinance of the City.

Any permit issued for an incubator facility is nontransferable.

4.142 SIGNS
One non-illuminated sign may be erected on the property, not to exceed eight (8) square feet in size. No single dimension of the sign shall exceed four feet (4 ft.). The sign shall compliment the nature of use: i.e. historic structures should have an historic style sign.

Chapter 5

ACCESSORY USES

SECTION 5.10 - GENERAL
The Table of Permitted Uses enumerates certain uses of land or buildings which are permitted only as accessory uses in certain districts. Other accessory uses and buildings, as generally defined by this Article, are also permitted in any district subject to the conditions and limitations in Section 20 to and including Section 90 100, except as otherwise specified.

SECTION 5.20 - GENERAL LIMITATIONS UPON ACCESSORY USES (SEE ALSO DEFINITIONS)

1. An accessory use shall be located upon the same lot with a principal use, unless otherwise set forth.
2. An accessory use shall be subordinate to the principal use and shall be a use or activity which is customarily incidental to the principal use.
3. An accessory use shall not materially or substantially change or alter the character or activity of the principal use it serves.

SECTION 5.30 - ACCESSORY STORAGE FOR MANUFACTURING OR WHOLESALE USE
Any manufacturing or, wholesale use may also include storage as an accessory use but such uses shall be subject to the following requirements: Open storage yards and sales lots for raw materials, scrap, junk, semi-finished and new or used finished products, machinery, equipment, vehicles or any other goods or material permitted to be stored, manufactured, sold or serviced in any district shall be permitted only in the I-I, 1-2, and B-2 districts and only under the conditions as set forth below:

1. Any open storage, other than retail sales lots, shall be bordered by a solid fence or wall at least six (6) feet in height and such fence or wall shall set back from any property line a distance which is not less than the minimum distance required for any building in the district where located. Open retail sales lots shall be bordered by a solid fence or wall not less than six (6) feet in height along any property line adjacent to any R-3, R-2 or R-l districts and such fence or wall shall set back from any such property line a distance which is not less than the minimum distance required for any building in the district where located. Any illumination of an open storage or sales lot shall be by hooded lighting to conceal the direct lighting source whenever the direct lighting source is visible from any adjoining property in an R- 3, R-2 or R-l district and in no

case shall any lighting arrangement be directed toward or create glare upon any adjoining property located in the aforesaid districts.

2. Open storage of raw materials, scrap, junk, salvage or other substance used as a source of raw material for manufacture or processing to other products shall be permitted only in the 1-2 district.

3. Open storage of automobiles or other material to be wrecked, scrapped, salvaged or junked where permitted in the 1-2 district shall not be stored, stacked or piled to a greater height than the bordering fence or wall.

4. Open storage of any other material permitted to be stored in the I-l or B-2 district shall not be stored, stacked, or piled to a greater height than the bordering fence or wall except that this provision shall not apply to partly enclosed sheds for lumber or other material or to booms or other appendages to the principal body of construction vehicles and equipment where permitted to be stored in any district. However, where adjacent to property in any R-3, R-2 or R-l district, the bordering fence or wall shall set back from such property lines a distance which is not less than its total height if in excess of ten (10) feet.

5. Open storage or sales lots permitted in the B-2 district shall be limited only to storage or sales and no other permitted activity shall be carried on unless within an enclosed building.

SECTION 5.40 - ACCESSORY SERVICE ACTIVITY FOR RETAIL OR WHOLESALE USE

Any wholesale or retail sales activity may also include accessory service or repair activity for goods which are sold on the premises.

SECTION 5.50 - ACCESSORY RETAIL USE FOR SERVICE ACTIVITY

Any service activity may include retail sale of those goods which are related to and necessary in the performance of the service or to items serviced on the premises, subject to any other limitations of these regulations.

SECTION 5.60 - ACCESSORY USES SPECIFICALLY ENUMERATED IN THE TABLE OF PERMITTED USES - GENERAL LIMITATIONS

All uses which are enumerated as permitted accessory uses in the Table of Permitted Uses shall be permitted only when accessory to a principal use to which they are customarily related and in accordance with all provisions for accessory uses in this Article.

SECTION 5.70 - ACCESSORY USES IN RESIDENTIAL DISTRICTS - GENERAL

1. Accessory buildings for residential uses in the R - 3, R - 2 or R -1 districts shall be limited to buildings for domestic or household use or for the parking of motor vehicles unless otherwise provided in these regulations.

2. Accessory uses for any residential use in the R-3, R-2 and R-1 districts shall include no use which is unrelated to a residential use unless otherwise defined by these regulations as a home occupation.

SECTION 5.71 – HOME OCCUPATIONS.

A. ***Purpose and Intent.*** It is the intent of this Section to recognize and permit home occupations as limited non-residential business activities in the "R" Residential Districts and to regulate such activities. In this regard, home occupations shall be regulated in order to ensure compatibility with other uses permitted in the "R" Residential Districts and to protect residential neighborhoods from potential adverse impacts (e.g. excessive noise, traffic, nuisances, etc.) associated with home occupations.

B. ***Permitted Uses.*** Examples of permitted home occupations include, but are not necessarily limited to, the following: : Bookkeeping, accounting, architecture, engineering, legal counsel, medical, financial, counseling, artist, photography, instruction in the arts, crafts, tutoring, child or adult care of 4 or less persons, secretarial services, beauty or barber shop, telephone answering, drafting, and millinery.

C. ***Prohibited Uses.*** Uses specifically prohibited include, but are not necessarily limited to, the following: auto and truck repair; auto sales; vehicle painting; storage of construction materials or equipment; retail and wholesale sales; eating or drinking establishments.

D. ***Standards.*** Home occupations shall be permitted as an accessory use to a residential use in any "R" Residential District subject to the following requirements.

1. An annual home occupation permit is required by the City. The applicant(s) shall complete and submit an application, as provided by the City, for a home occupation permit with the Code Enforcement Officer. The fee for said permit shall be $10.00 annually.

2. A home occupation permit shall be issued only to the individual occupying the dwelling as his/her residence and conducted only by persons residing within the residential dwelling.

3. A home occupation shall be conducted either within a dwelling (residence) and/or in the garage associated with the dwelling and shall be clearly incidental and subordinate to the principal use as a residential dwelling.

4. Home occupations shall not occupy more than twenty-five percent (25%) of the total floor area of the dwelling and/or garage used for the home occupation.

5. Home occupations shall comply with all local, County, State or Federal regulations pertaining to the activity pursued.

6. No alteration of the exterior of the dwelling in which the home occupation is being conducted shall be made which changes the character thereof as a dwelling.

7. There shall be no visible evidence of the home occupation except for the provision of one (1) home occupation sign which is in conformance with the sign regulations of the City of Peabody. No other advertising or business signs are permitted in conjunction with the home occupation.

8. No outdoor storage, display or sale of materials, commodities, stock in trade or equipment used in the home occupation shall be permitted.

9. No equipment or process shall be used in a home occupation which creates excessive noise, odor, vibration or glare or electrical disturbances detrimental to the health, safety, peace, comfort and welfare of the persons residing in the neighborhood.

10. The home occupation shall not require additional off-street parking spaces for clients or customers.

11. Traffic generation associated with home occupations shall not exceed that normally generated by a residential dwelling without a home occupation.

SECTION 5.80 - ACCESSORY USES IN THE R-A DISTRICTS - GENERAL

Accessory uses for any agriculturally oriented activity, which is subordinate and incidental to the principal permitted agricultural activity shall be permitted in the R-A district.

SECTION 5.90 - CONDITIONS FOR GROUP IV USES

Group IV conditional uses must comply with requirements established in this Section.

SECTION 5.100 - CONDITIONS FOR GROUP V USES

Group V conditional uses must comply with requirements established in this section.

1. Mobile home must be skirted.
2. Mobile home must be tied down.
3. Mobile home must be hooked to all public utilities if available, or must meet county health codes if public utilities are not available.
4. At the time of the move in, the mobile home must meet current standards under National Mobil Home Construction Codes.

Chapter 6
NON-CONFORMING USES

SECTION 6.10 - GENERAL

1. Any lawful use of land or a building existing at the date of passage of these regulations and located in a district in which it is not permitted under these regulations, is hereby declared a non-conforming use, and not in violation of these regulations provided, however, such non-conforming use shall be subject to the regulations in this article.

SECTION 6.20 - CERTIFICATE OF OCCUPANCY

1. The Owner of a non-conforming building or use shall certify by affidavit to the Zoning Administrator that his building or use was made non-conforming by the passage of these regulations.
   On acceptance of the affidavit the Zoning Administrator shall issue a Certificate of Occupancy for the non-conforming use or building. Such certificate shall designate the location, nature and extent of such non-conformance and any additional data necessary for issuance of said certificate.

2. If, upon review of the affidavit, any violation of previous or existing ordinances or codes is found the Zoning Administrator shall not issue said certificate of occupancy and shall declare such use to be in violation of these regulations and shall act accordingly.
3. Any use not in conformance with these regulations and on which no Certificate of Occupancy has been issued shall be presumed in violation to these zoning regulations and shall be treated accordingly.

SECTION 6.30 - CONTINUATION OF NON-CONFORMING USE OF LAND

1. Any use of land in legal existence prior to passage of these regulations may continue as to its specific use at the time of passage. (Note: This shall not limit any other authority of the City in controlling or abating nuisances, hazards, or infringement on public well being.)

SECTION 6.40 - CHANGE OF NON-CONFORMING USE

1. A non-conforming use may be changed to another similar non-conforming use where in the opinion of the Board of Zoning Appeals such new use will:

   a. not extend the life of a non-conforming use.
   b. reduce traffic, sound, odor, smoke, or number of employees.
   c. not include structural alteration or expansion.
   d. improve the character and value of surrounding property (without probable rezoning).

Such change in use may be permitted only following formal application for change with the Board of Zoning Appeals. Where proper findings are made, the Board of Zoning Appeals may direct the Zoning Administrator to issue the necessary permits.

2. Whenever a non-conforming use has been changed to a conforming use, it shall not revert to a non-conforming use.

SECTION 6.50 - RESTORATION OF NON-CONFORMING BUILDING

1. Non-conforming buildings may be restored only if destruction by fire, explosion, act of God, or public enemy is fifty (50) percent or less of its structural valuation prior to such destruction. (The determination of such reduced structural valuation shall be made by an appraiser appointed by the City.)

2. However, any building whose destruction exceeds ten, (1O) percent but less than fifty (50) percent of its prior structural valuation, must apply for a building permit for reconstruction with six (6) months and commence reconstruction within twelve (12) months of destruction.
3. In lieu of such reconstruction a non-conforming use shall be considered abandoned and such building shall be permitted to be reconstructed as a permitted use only.

SECTION 6.60 - DISCONTINUANCE OF ABANDONMENT OF NON-CONFORMING USE

1. Any non-conforming use of land or building which has ceased by discontinuance or abandonment for a period of (1) year shall thereafter conform to the provisions of these regulations.

Chapter 7

HEIGHT, AREA, BULK AND DIMENSIONAL REQUIREMENTS

SECTION 7.10 - GENERAL

I. No building in any zoning district shall be erected, converted, enlarged, reconstructed or structurally altered except as permitted by this Article regarding the maximum height, minimum yard dimension, minimum lot area, minimum lot width, minimum lot depth, maximum lot coverage or any other specific dimensional limitation or requirement.

II. It should be understood that these requirements are based on absolute minimums or maximums for normal development and do not necessarily represent ideals.

SECTION 7.20 – INTERPRETATION

I. Maximum lot coverage shall include the total area of all principal and accessory buildings as measured along the outside wall at ground level or above as viewed from above and includes all projections other than open porches, fire escapes, canopies or the first three feet of a roof over-hang, as well as interior streets, access or service roads, driveways and parking lots or areas.

II. Where the depth of yard is controlled by the height of the building, said height shall be computed for each building side abutting the yard to be controlled. The height shall be the mean height along said controlling building side. In the case of an irregular building wall, the Zoning Administrator shall use the height of building as defined in Chapter 2.

TABLE OF HEIGHT, AREA, BULK AND DEMENSIONAL REQUIREMENTS	I-2	I-1	B-3
SECTION 7.30 - MAXIMUM HEIGHT			
I. In feet - - - - - - - - - - - - - - - - -	No Limit	No Limit	No Limit
II. In stories - - - - - - - - - - - - - - - -	No Limit	No Limit	No Limit
SECTION 7.40 - MINIMUM SIDE YARD			
I. Width in feet or proportionate to height of building (whichever is greater) for each side	0	0	0
II. Exceptions:			
a. Where abutting R-A; R-1; R-3 Zones	150 ft or 100% of height	150 ft or 100% of height	150 ft or 100% of height
b. Where abutting B-1; S&O; R-3 Zones	75 ft or 75% of height	75 ft or 75% of height	75 ft or 75% of height
c. Where abutting a side street - - - - - -	0	15 ft	0
Note: Where ever c. above backs onto a facing such side street the side yard shall be equal to the front yard required for the use on such side street			
Note: Where the right-of-way of a street in an R-1, R-2, or R-3 zone exceeds 60 feet, the side yard of a corner lot will not be required to exceed 12 ft.			
SECTION 7.50 - MINIMUM FRONT YARD			
I. In feet -	0	15 ft	0
II. Exceptions:			
a. If within the same block, fronting a common street and abutting any zone requiring a deeper front yard (excluding the R-A zone) all uses shall have a front yard not less than 80% of that required in said abutting zone			
b. Where fronting on R-A; R-1; R-2 Zones	150 ft of 100% of height	150 ft or 100% of height	30 ft or 30% of height
c. Where fronting on B-1; S&O; R-3 Zones	75 ft or 75% of height	25 ft or 50% of height	0
SECTION 7.60 – MINIMUM REAR YARD			
I. In feet -	10 ft	10 ft	10 ft
II. Exceptions: (In feet or proportionate to building height, whichever is greater)			
a. Where abutting R-A; R-1; R-2 Zones	150 ft or 100% of	100 ft or 75% of	50 ft or 50% of

	height	height	height
b. Where abutting B-1; S&O; R-3 Zones	75 ft or 75% of height	20 ft or 50% of height	15 ft or 25% of height
SECTION 7.70 – MINIMUM LOT AREA			
I. In square feet - - - - - - - - - - - - - - - - - - -	8,400	8,400	3,000
II. Exceptions: a. For residential purposes per dwelling units.			
One dwelling unit - - - - - - - - - - - - - - - -			
Two dwelling units - - - - - - - - - - - - - - -			
Three dwelling units - - - - - - - - - - - - - -			
Four dwelling units - - - - - - - - - - - - - - -			
b. 5 or more dwelling units			
3 or more bedrooms - - - - - - - - - - - - - -			500
2 bedrooms - - - - - - - - - - - - - - - - - - -			400
1 bedroom -			300
Efficiency apartment - - - - - - - - - - - - - -			250
SECTION 7.80 – MINIMUM LOT WIDTH			
I. In feet (at the building setback line)	75 ft	75 ft	25 ft
SECTION 790 – MINIMUM LOT DEPTH			
I. In feet -	110 ft	110 ft	110 ft
SECTION 7.100 – MINIMUM LOT COVERAGE			
I. As a percentage of total lot area - - - - - -	90%	80%	95%

TABLE OF HEIGHT, AREA, BULK AND DEMENSIONAL REQUIREMENTS	R-3	R-2	R-1
SECTION 7.30 - MAXIMUM HEIGHT			
I. In feet - - - - - - - - - - - - - - - - -	No limit	35 ft	35 ft
II. In stories - - - - - - - - - - - - - - - -	No limit	2.5	2.5
SECTION 7.40 - MINIMUM SIDE YARD			
I. Width in feet or proportionate to height of building (whichever is greater) for each side	40% of ht or 15ft	50% of ht. or 7ft	50% of ht. or 7ft
II. Exceptions:			
a. Where abutting R-A; R-1; R-3 Zones	20% of ht or 5 ft	50% of ht or 8 ft	50% of ht or 10 ft
b. Where abutting B-1; S&O; R-3 Zones	20% of height or 5 ft	50% of height or 8 ft	50% of height or 10 ft
c. Where abutting a side street - - - - - -	15ft	20 ft	20 ft
Note: Where ever c. above backs onto a facing such side street the side yard shall be equal to the front yard required for the use on such side street			
Note: Where the right-of-way of a street in an R-1, R-2, or R-3 zone exceeds 60 feet, the side yard of a corner lot will not be required to exceed 12 ft.			
SECTION 7.50 - MINIMUM FRONT YARD			
I. In feet -	20 ft	25ft	30 ft
II. Exceptions:			
a. If within the same block, fronting a common street and abutting any zone requiring a deeper front yard (excluding the R-A zone) all uses shall have a front yard not less than 80% of that required in said abutting zone			
b. Where fronting on R-A; R-1; R-2 Zones	20 ft	25 ft	30 ft
c. Where fronting on B-1; S&O; R-3 Zones	**20** ft	25 ft	30 ft
SECTION 7.60 – MINIMUM REAR YARD			
I. In feet -	20 ft	25 ft	30 ft
II. Exceptions: (In feet or proportionate to building height, whichever is greater)			
a. Where abutting R-A; R-1; R-2 Zones	15 ft or 40% of height	25 ft	30 ft
b. Where abutting B-1; S&O; R-3 Zones	15 ft or 40% of height	25 ft	30 ft
SECTION 7.70 – MINIMUM LOT AREA			
I. In square feet - - - - - - - - - - - - - - - - - - -			
II. Exceptions: a. For residential purposes per dwelling units.			
One dwelling unit - - - - - - - - - - - - - - - -	8,400	8,400	8,400
Two dwelling units - - - - - - - - - - - - - - -	8,400	8,400	8,400
Three dwelling units - - - - - - - - - - - - - -	8,400	8,400	
Four dwelling units - - - - - - - - - - - - - - -	3,000		
b. 5 or more dwelling units	2,000		

3 or more bedrooms - - - - - - - - - - - - - -	1,000		
2 bedrooms -	850		
1 bedroom -	700		
	R-3	**R-2**	**R-1**
Efficiency apartment - - - - - - - - - - - - - -	530		
SECTION 7.80 – MINIMUM LOT WIDTH			
I. In feet (at the building setback line)	75 ft	75 ft/50 ft Note 1	75 ft/50 ft Note 1
SECTION 790 – MINIMUM LOT DEPTH			
I. In feet -	110 ft	110 ft	110 ft
SECTION 7.100 – MINIMUM LOT COVERAGE			
I. As a percentage of total lot area - - - - - -	35%	30%	25%

TABLE OF HEIGHT, AREA, BULK AND DEMENSIONAL REQUIREMENTS	R-A
SECTION 7.30 - MAXIMUM HEIGHT	
I. In feet - - - - - - - - - - - - - - - - -	35 ft
II. In stories - - - - - - - - - - - - - - - -	2.5
SECTION 7.40 - MINIMUM SIDE YARD	
I. Width in feet or proportionate to height of building (whichever is greater) for each side	15 ft
II. Exceptions:	
a. Where abutting R-A; R-1; R-3 Zones	15 ft
b. Where abutting B-1; S&O; R-3 Zones	15 ft
c. Where abutting a side street - - - - - -	35 ft
Note: Where ever c. above backs onto a facing such side street the side yard shall be equal to the front yard required for the use on such side street	
Note: Where the right-of-way of a street in an R-1, R-2, or R-3 zone exceeds 60 feet, the side yard of a corner lot will not be required to exceed 12 ft.	
SECTION 7.50 - MINIMUM FRONT YARD	
I. In feet -	30 ft
II. Exceptions:	
a. If within the same block, fronting a common street and abutting any zone requiring a deeper front yard (excluding the R-A zone) all uses shall have a front yard not less than 80% of that required in said abutting zone	
b. Where fronting on R-A; R-1; R-2 Zones	30 ft
c. Where fronting on B-1; S&O; R-3 Zones	30 ft
SECTION 7.60 – MINIMUM REAR YARD	
I. In feet -	30 ft
II. Exceptions: (In feet or proportionate to building height, whichever is greater)	
a. Where abutting R-A; R-1; R-2 Zones	30 ft
b. Where abutting B-1; S&O; R-3 Zones	30 ft
SECTION 7.70 – MINIMUM LOT AREA	
I. In square feet - - - - - - - - - - - - - - - - - - -	43,560
II. Exceptions: a. For residential purposes per dwelling units.	
One dwelling unit - - - - - - - - - - - - - - - -	43,560
Two dwelling units - - - - - - - - - - - - - - -	
Three dwelling units - - - - - - - - - - - - - -	
Four dwelling units - - - - - - - - - - - - - - -	
b. 5 or more dwelling units	
3 or more bedrooms - - - - - - - - - - - - - -	
2 bedrooms - - - - - - - - - - - - - - - - - - -	
1 bedroom -	

Efficiency apartment - - - - - - - - - - - - -	
SECTION 7.80 – MINIMUM LOT WIDTH	
I. In feet (at the building setback line)	75 ft
SECTION 790 – MINIMUM LOT DEPTH	
I. In feet -	200 ft
SECTION 7.100 – MINIMUM LOT COVERAGE	
I. As a percentage of total lot area - - - - - -	15%

SECTION 7.110 - ADDITIONAL HEIGHT REGULATIONS

1. The regulations and requirements as to height of buildings shall be subject to the following exceptions:
   a. Public or semi-public buildings, such as hospitals, churches or schools, either public or private, where permitted, may be erected to a height not exceeding seventy five (75) feet, providing that such buildings shall be set back one additional foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
   b. Parapet walls and false mansards shall not extend more than six (6) feet above the height limit. Flagpoles, chimneys, cooling tower, electric display signs, elevator bulkheads, pent houses, finials, gas tanks, grain elevators, stacks, silos, storage towers, radio towers, ornamental towers, monuments, cupolas, domes, spires, standpipes, and necessary mechanical appurtenances may be erected as to height in accordance with existing or hereafter adopted ordinances except that in Districts R-A, R-l, and R-2, no radio aerial or television antenna support shall be erected more than five
   (5) feet above the height limitations of such districts and in no event shall exceed more than twenty-five (25) feet above the ridge of a roof.
   c. No building or structure shall be erected in the vicinity of an airport in any area included in any approach, transition or turning zone, as defined by the federal agency delegated with the powers or authority to control or regulate aviation, the height of which exceeds the limits permitted or recommended by such federal agency.

SECTION 7.120 - ADDITIONAL YARD AND AREA REGULATIONS

1. The regulations and requirements as to yard and area shall be subject to the following exceptions:
   a. In any district, the ordinary projection of skylights, parapets, window sills, belt courses, cornices, chimneys, and chimney foundations, buttresses, eaves and other architectural or ornamental features may extend not more than two feet into any required yard. In addition steps to the principal entrance, walks, fences, walls, balustrades, landscape or garden ornaments shall be permitted subject to any other controls affecting such features. Also, fire escapes may extend into such required yard by no more than thirty (30) percent of the required yard dimension. (Porches

and balconies shall be considered as part of the structure and shall not be permitted to extend into the required yard area.)

b. For any building used jointly for business and dwelling purposes or industry and dwelling purposes, the number of dwelling units permitted by the lot area requirements per dwelling unit shall be reduced in the same proportion as the floor area devoted to business or industry bears to the entire floor area of the building, provided that floor area below the first floor of such building shall not be included in any calculation under this provision.

c. For any building providing jointly for hotel and apartment house uses, the number of dwelling units permitted in apartments by the lot area requirements per dwelling unit shall be reduced in the same proportion as the total floor area devoted to hotel or non-housekeeping rooms bears to the total floor area devoted to both uses.

d. In R-1, R-2 districts, any accessory building, not exceeding twelve (12) feet or one story in height may occupy not more than fifteen (15) percent of the rear yard.

e. No rear yard shall be required in industrial districts on any lot, the rear line of which adjoins a railway right of way or which has a rear railway track connection as long as sufficient access for fire fighting equipment is available. Access to be approved by the Fire Chief prior to issuance of any permit.

f. Front and side yard requirements are subject to the provisions of any setback building lines adopted by the governing body, before or after the adoption of this Ordinance, and in the event of conflict, the greater setback requirements shall control.

Chapter 8

RESERVED

Chapter 9
OFF-STREET PARKING AND LOADING REGULATIONS

SECTION 9.1 - GENERAL

I. No building or structure shall be erected, converted, or structurally altered nor shall any building structure or land be used, for any purpose without provision for off-street parking and loading as required by this Chapter.

II. When off-street parking and loading is required:
Off-street parking and loading shall be provided, at the time of the erection, con- version or structural alteration of any building or structure or establishment, conversion or extension of any use of land.

III. Required off-street parking space cannot be used for storage or merchandise,

equipment or material and shall be open for its primary function at all times.

SECTION 9.2 - OBLIGATION FOR RETAINING OFF-STREET PARKING OR LOADING SPACE

I. The provision of off-street parking and loading space shall be a continuing obligation of the owner of the real estate on which any use is located. It shall be unlawful for an owner of any building or land use activity affected by the off-street parking and loading requirements of this Chapter to discontinue, reduce or dispense with (or cause same) the required off-street parking or loading space established by this Chapter.

II. Whenever off-street parking is required and cannot be provided within the principal building or on the same lot as the principal building and is located on another parcel or property as permitted by this Chapter, such parcel or property shall be owned by the owner of the principal building or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal building, or as long as off-street parking is required for such principal building in accordance with the terms of this Chapter.

SECTION 9.3 - OFF-STREET PARKING REQUIREMENTS

I. Each use enumerated and in the amount as specified in the Table of off-street parking requirements. Where off-street parking is provided or required for ten or more vehicles, the parking must be so situated to prevent the vehicle from backing into dedicated public street rights of way.

II. In the case of a use for which off-street parking requirements are not specifically enumerated or mentioned, the requirements for off-street parking for a use which is similar shall apply. Similarity to be determined by the Zoning Administrator.

III. Any off-street parking lot not required by the provisions of this Chapter but which is voluntarily provided shall observe all requirements of this Chapter in the development of such parking area.

IV. Location, design and general adequacy of ingress and egress of parking areas will be approved by the Zoning Administrator.

SECTION 10.4 - TABLE OF OFF-STREET PARKING REQUIREMENTS

USE	PARKING SPACES REQUIRED
Apartment Hotel	One for each guest room or residence unit
Assembly Halls and Auditorium	One for each 3 seats of maximum seating capacity of the main assembly room.
Assembly Halls and Exhibition Halls without fixed seats	One for each 100 square feet of usable floor area.
Automobile Service Station	One for each lubrication stall or area and 1 for each 2 fuel pumps.
Auto Wash (Mechanical assembly line service)	Twenty spaces minimum for customers awaiting service.
Auto Wash, self-service	Two per each stall.
Auto Repair Garage	One for each 500 sq. ft. of floor area-- minimum five (5) spaces.
Banks or Saving and Loan Office (for drive-in type--See drive-in establishments)	One for each 200 sq. ft. of gross floor area.
Barber and Beauty Shop	Two for each shop operator.
Boarding House	One for each boarder.
Bowling Alleys	Five for each alley plus required space for any bar, restaurant and for assembly space which may be part of bowling alley.
Children's Homes	One for each 5 beds.
Church	One for each 4 seats in sanctuary or auditorium.
Clubs - - Night	One for each 100 sq. ft. of floor area.
Clubs - - Country, Golf or Private	One for every 2 members
College – University or other institutions	One for every 2 students. If dormitories are not available one for every student.
Community Center	One for every 200 sq ft of floor area.
Dance Halls or Ballrooms	One for every 100 sq ft of floor area used for dancing.
Dance or Music Studios	One for every 200 sq ft of floor area.
Day Camp	One for each 3 staff members
Dormitories	One for each 2 beds plus 1 for each 100 sq. ft. of usable floor area.
Drive-In-Eating Place with service to automobile	Twelve minimum plus 1 for each 50 sq. ft of building floor area.
Drive-In Eating Place without service to automobile	One for each 100 sq. ft. of floor areal
Drive-In Establishment, general	One for each 50 sq. ft. of floor areal
Dry Cleaning Shops (automatic services)	One for each 2 dry cleaning machines.

Dwellings: 1 & 2 family dwellings	Two for each dwelling unit.

USE	**PARKING SPACES REQUIRED**
Dwellings: Multi-family dwelling (3 or more)	Two and one half for each dwelling unit.
Fraternity and Sorority Houses	One for each 2 members or residents
Fraternal Organizations	One for each 200 sq. ft. of gross floor area with minimum of 10 spaces.
Funeral Homes	Five for each room used as a slumber room or parlor or 1 for each 75 sq. ft. of floor area of assembly rooms used for services whichever is greater.
Health Center	One for each 200 sq ft. of gross floor area.
Homes for the Aged	One for each 2 beds, plus 1 space for each full time staff member and attending physician.
Hospital – General Acute Care	One for each bed.
Hotel	One for each guest unit plus one (1) space for each ten (10) guest units, plus required parking for any restaurant and / or assembly space in hotel.
Industrial Establishment	One for each employee, based on estimated maximum daily or maximum 8-hr shift requirements in a 24 hr. period.
Institution of a Charitable Nature	One for each 2 employees, plus 1 for each 10 residents.
Laundromats	One for each 2 washing machines.
Libraries and Museums	One for each 500 sq. ft. of floor area.
Machinery Sales, indoor	One for each 500 sq. ft. of floor area, minimum 5 spaces.
Marinas	One for each boat berth, not to include area required for winter boat storage.
Mobile Home or House Trailer	Two for each dwelling unit plus 1 additional space for each 4 lots or stands.
Motor Vehicle Sales, indoors	One for each 100 sq. ft. of usable floor areas of sales room and one (1) for each auto service stall in the service area.
Nurseries-Open / enclosed retail space	One for each 600 sq. ft. of sales area.
Nursery School	One for each ten (10) pupils.

Nursing Home	One for each 2 beds, plus 1 space for each full time staff member and attending physician.
USE	**PARKING SPACES REQUIRED**
Office Buildings and Office General	One for each 300 sq. ft. of floor area exclusive of basement or other interior space used for mechanical services and areas within the building used for parking cars.
Outdoor Sales Lot	One for each 1,000 sq ft of site area.
Personal Service Establishments.	One for each 200 sq. ft. of floor area.
(see also barber and beauty parlors)	
Professional Office	One for each 200 sq. ft. of floor area.
Refreshments – including alcoholic beverages or food establishments for the sales and consumption on the premises, having less than 4,000 sq. ft. of floor area	One for each 100 sq. ft of floor area
Refreshments – including alcoholic beverages or food establishments for the sales and consumption on the premises, having more than4,000 sq. ft. of floor area	20 plus 1 for each 100 sq ft of floor area in excess of 4000 sq ft of floor area.
Repair Shop, in building	One for each 400 sq. ft. of floor area.
Research and Testing Laboratories	One for each employee computed on the basis of the greatest number of persons employed at any one period during the day or night.
Retail Shops -- under 2,000 sq. ft of floor area	One for each 200 sq ft of floor area.
Retail Shops -- 2,000 sq. ft of floor area or over	Ten plus 1 for each 400 sq. ft of floor area in excess of the first 2,000 sq. ft. of floor area.
Rooming Houses	One for each guest room, but not less than 2 in any case.
Sanitariums	One for each 2 beds, plus 1 space for each full time staff member and attending physician.
Schools – Business, vocational or trade	One for each student.
Schools – Elementary or Junior High, Public or parochial	One for each teacher, employee or administrator in addition to the requirements of the auditorium or assembly hall. If no auditorium or assembly hall exists, then two (2) spaces per classroom is required in addition to that required for each teacher, employee or administrator in the school.
Schools – High School, public or parochial	One for each teacher, employee and administrator and 1 for every five (5) students

	in addition to the requirements of the auditorium and assembly hall.
USE	**PARKING SPACES REQUIRED**
Shopping Centers –	
a. One (1) acre or less in size	250 sq. ft. of off-street parking for each 100 sq. ft. of building area.
b. More than one (1) acre in size	300 sq. ft. of off-street parking for each 100 sq. ft. of building area.
Skating Rinks	One for each 100 sq. ft. of floor area.
Sports Arenas or Stadium	One for each 2 seats or four feet of bench length.
Storage of – Gravel, Petroleum Products, Sand Etc. in open.	One for each 2,000 sq. ft. of total site area.
Theater	One for each 2 seats.
Tourist Homes	One for each transient offered tourist accommodation, in addition to parking spaces required for permanent residents of the building.
Tourist Cabins	One for each lodging unit.
Veterinary Clinic	One for each 300 sq ft of floor area.
Warehouse and Enclosed Storage, Of Wholesale Operation.	One for each 1,000 sq ft. of floor area or 1 space for each 3 employees, which ever is greater.
Welfare Center	One for each 200 sq. ft. of gross floor area.

SECTION 9.50 - OFF-STREET LOADING REQUIREMENTS

I. For every building, structure or part thereof, intended or used for manufacturing, warehousing, retailing, wholesaling or other uses involving receipt or distribution of vehicles, materials, supplies or merchandise, there shall be provided and maintained on the lot adequate space for standing, loading and unloading services.

   Such loading and unloading space shall be an area at least fourteen (14) feet by fifty (50) feet, with eighteen (18) foot height clearance, and shall be provided according to the following table.

SECTION 60 - TABLE OF OFF-STREET LOADING REQUIREMENTS

KIND OF CLASS OR USE	NUMBER OF LOADING SPACES REQUIRED
Number of sq. ft. of gross floor area (except floor area below the ground story) in buildings used for retail and	

wholesale, mfg. and storage, etc.

3,000 to 24,999 (incl.)	1
25,000 to 84,999	2
85,000 to 154,999	3
155,000 to 234,999	4
235,000 to 324,999	5
325,000 to 424,999	6
425,000 to 534,999	7
535,000 to 654,999	8
655,000 to 774,999	9
775,000 to 924,999	10.

Number of sq. ft. of gross floor area (except floor area below the ground story) in office building, hotels, hospitals and institutions.

3,000 to 99,999 (incl.)	1
100,000 to 334,999	2
335,000 to 624,999	3
625,000 to 944,999	4
945,999 to 1,299,999	5
1,300,000 to 1,695,000	6

SECTION 9.70 - DETERMINATION OF REQUIRED NUMBER OF SPACES

I. FLOOR AREA: Floor area when used as a measurement for determining the number of parking spaces for office, merchandising or service uses, shall mean the gross floor area used, or intended to be used for service to the public as patrons or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for non-public purposes such as storage, processing or packaging or merchandise, show windows, offices for rest rooms or utilities, dressing, fitting or alteration rooms.

II. BEDS: Bassinets shall not be counted as beds in determining the number of parking spaces based upon the number of beds.

III. PLACES OF ASSEMBLY: In stadia, sports' arenas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four (24) inches of such seating facilities shall be counted as one (1) seat for determining the number of off-street parking spaces required.

SECTION 9.80 - LOCATION OF OFF-STREET PARKING

I. Off-street parking for one and two-family dwellings shall be located on the lot of

the use it serves. Off-street parking for any other use shall be located on or within three hundred (300) feet of the lot occupied by the use it serves as measured along lines of public access.

II. No off-street parking area shall be located upon any part of lot which would be required as a yard area.

III. No off-street parking area shall be located on any part of a lot which is required as open space by the provisions of these zoning regulations.

IV. No off-street parking area shall be located on or within dedicated, public rights of way.

V. Off-street parking areas for four (4) or more vehicles shall be located not less than ten (10) feet from any dwelling, school, hospital or institution for human care, located either upon the some lot or upon any adjacent lot.

VI. Off-street parking areas and loading zones of four (4) or more spaces found in view of or located on land adjacent to property zoned R-1, R- 2, or R-3 shall be screened with screen or fence having a density of not less than one hundred (100) percent and at least five (5) feet in height.

VII. Off-street parking and loading of four (4) or more spaces located on land adjacent to property zoned R-1, R-2 or R-3 shall not be lighted in any manner which allows intense light or glare beyond the common parking lot boundary. The design of same to be approved by the Zoning Administrator.

Chapter 10
SIGNS

SECTION 10.10 - SCOPE OF REQUIREMENTS

1. The requirements established in this Chapter shall apply and govern in all districts except as provided for elsewhere in these Zoning Regulations.

SECTION 10.20 - GENERAL LIMITATION

1. No sign shall be erected or maintained unless it is in compliance with the requirements of the district in which it is located and has been issued a sign permit.
2. No sign shall be erected or maintained which constitutes a nuisance because of glare, focus, animation or flashing.
3. No private sign or its supporting structure shall interfere with the line of vision between a motorist and any official traffic sign or signal or other vehicles approaching any street intersection. The determination as to such sign interference with traffic safety shall rest with the Engineer.
4. No sign shall be located on or over public property and rights of way unless specifically authorized by the governing body or when otherwise permitted by these Zoning Regulations.
5. No private sign shall display flashing intermittent lights resembling those

customarily used by emergency vehicles or traffic signals and shall use no dominating or emphasized word that might be misconstrued to be a public safety warning, traffic sign or signal.

6. No sign of any type used for advertising purposes shall be located between any side of a building and any interior property line which is adjacent to an R-1, R-2, R-3, R-A or S&O District.
7. No free-standing ground or pole sign for business or outdoor advertising purposes shall be located on property fronting upon or adjacent to a designated parkway or is adjacent to or across the street from a public park.
8. There shall be no signs of any nature painted directly on the exterior siding or surface of any except has allowed by a condition use permit.

SECTION 10.30 - DEFINITIONS

For the purpose of these Zoning Regulations the terms or words used herein shall be interpreted or defined as follows:

SIGN: Any device which displays or includes any letter, words, motif, insignia, symbol or design used as or is in the nature of an advertisement or announcement or is intended to direct public attention to an object, product, place, activity, organization or business but not including any display of official notice or official flag.
ACCESSORY SIGN: Any sign which is located on the same property or lot as the use, object, project, place, activity, service or person which it refers.
NON-ACCESSORY SIGN: Any sign which is not located on the same plot as the use, object, project, place, activity, service or person to which it refers.
ANIMATED SIGN: Any sign, or any portion thereof, which is set in motion by any force.
AREA, SIGN: The entire area within a single continuous perimeter enclosing the extreme limits of that portion serving a sign function. The supports, uprights or bracing shall not be included as sign area unless it clearly serves a sign function.
FLASHING SIGN: Any illuminated sign on which artificial lights revolve, rotate or are not constant in intensity or color.
FREE STANDING SIGN: Any sign not attached to a building but having its own permanent foundation and support.
ILLUMINATED SIGN: Any sign which has characters, letters, figures, designs or outlines illuminated by electric lights of illuminated tubes as part of the sign proper, or illuminated or independently located spot or flood lights.
PORTABLE SIGN: Any sign not attached to a building or having a permanent foundation or support and so designed so that it maybe moved from one location to another.
PROJECTING SIGN: Any sign attached to a building and projecting more than fifteen (15) inches beyond the building wall.
TEMPORARY SIGN: Any non-illuminated sign intended to be displayed for ninety (90) days or less.
WALL SIGN: Any sign attached directly to, or part of the building wall and supported throughout its length by said wall and projecting not more than fifteen (15) inches beyond the building wall.

SECTION 10.4 - SIGN PERMIT

1. For the purpose of assuring compliance to these Zoning Regulations, no permit allowing the construction, erection, placement, or painting of any sign shall be issued until a sign permit has been issued.
2. Sign permits shall be acquired from the Zoning Administrator.
3. Application for sign permits shall provide the information necessary for a proper determination that the proposed sign conform to the requirements established in this Article.
4. If a sign for which a clearance is granted is not erected within ninety (90) days from the date of issuance, the sign clearance slip, unless renewed, shall be deemed void.
5. If a sign becomes a hazard or nuisance, the Zoning Administrator shall direct its removal.

SECTION 10.5 - SIGNS NOT REQUIRING A SIGN PERMIT

1. The following signs shall be permitted when they are not animated or illuminated except by reflected or hidden non-flashing illumination. The following signs shall be considered to be exceptions where they are not specifically permitted by of this Section 10.70 of this Chapter.

    a. Memorial signs or tablets.
    b. Signs required to be maintained or operated by law or governmental order, rule or regulation.
    c. Temporary accessory construction or subdivision site signs denoting participating architect, engineer, contractor or the like. Said total sign area shall not exceed forty (40) square feet for each major approach.
    d. Temporary, portable accessory signs not to exceed eight (8) square feet in sign area. (To include rent or sale signs.)
    e. Accessory bulletin boards, or announcement for churches or public buildings not to exceed twenty-five (25) square feet in sign area.
    f. Name plates, address plates or identification signs of less than one and one- half square feet, for all residential buildings.
    g. Accessory name plates, address plates or identification signs not to exceed ten (10) square feet for non-residential buildings where said sign is a permanent part of the building, and does not project beyond the building wall.
    h. Accessory flags or emblems or civic, philanthropic, educational, or religious organizations.
    i. Temporary, accessory signs announcing a campaign, drive or special event of any of the organizations mentioned above.

Chapter 11
BOARD OF ZONING APPEALS

SECTION 11.10 - ESTABLISHMENT

1. A Board of Appeals is hereby established in accordance with the provisions of the Kansas Statutes regarding the Zoning of Cities. The word "Board" when used in this ordinance shall be construed to mean the Board of Zoning Appeals.

2. The Planning Commission of the City of Peabody shall sit as the Board of Zoning Appeals. shall consist of three (3) members, who shall be residents of the City to be appointed by the Mayor with consent of the Governing Body. No member shall hold any other public office except that one member shall be a member of the Planning Commission. Membership of the first Board shall be appointed as follows: one member for one year; one member for two years; and one member for three years and thereafter members shall be appointed for three (3) years each. Members shall be removable for cause, upon written charges and after public hearing. Vacancies shall be filled by appointment for any unexpired term.

3. The Board shall adopt rules in accordance with the provisions of K. S.A. 12-714 and this ordinance. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or, in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board 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 be immediately filed in the office of the Board, and shall be public record. All testimony, objections thereto, and rulings thereon shall be taken down by a reporter employed by the Board for that purpose. The presence of two members shall be necessary to constitute a quorum.

SECTION 11.20 - POWERS AND DUTIES

Appeals to the Board may be brought by any person aggrieved or by any officer, department, board or bureau of the City of Peabody, affected by any decision of the administrative officer. Such appeal shall be brought within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.
An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a Court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

The Board shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as 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.

The Board shall have the following powers:

1. To 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 this Ordinance.

2. To hear and decide all matters referred to it or upon which such matters referred to it or upon which such Board is required to pass under this Ordinance.

3. In passing upon appeals, where there are practical difficulties or unnecessary hardship in the way of carrying out the strict letter of such ordinance, to vary or modify the application of any of the regulations or provisions;(such regulation), relating to the use, construction or alteration of buildings or structures, or the use of land so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

   In exercising the above-mentioned powers, such Board may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, in considering all appeals under this Ordinance, the Board shall before making any findings in a specific case, first determine that the proposed change will not constitute a change in the District Map and will not impair an adequate supply of light and air to adjacent property, or increase the congestion in public streets, or increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City. Every change granted or denied by the Board shall be accompanied by a written finding of fact specifying the reason for granting or denying the variation.

   A concurring vote of two-thirds of the members of the Board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance. Any person or persons, jointly or severally aggrieved by any decision of the Board, or any officer, department, Board of bureau of the municipality, may present to the District Court a petition, duly verified setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decision in the office of the Board.

   Upon the presentation of such petition, the court may allow a writ of certiorari

directed to the Board to review such decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take additional evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice - in making the decision appealed from.

All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings.

SECTION 11.30 - Variances:

The Board of Zoning Appeals shall have the power to grant the following variances:

1. A variation in the yard requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, at the time of the enactment of such regulations or restrictions, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such grant or variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations, it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.

2. A request for a variance may be granted in such case, upon a finding by the board that **ALL** of the following conditions have been met:

    A. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner(s) or of the applicant;
    B. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
    C. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
    D. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and;
    E. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

SECTION 11.40 - Special Exceptions:

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations:

1. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.
2. A nonconforming commercial use on a lot between two lots which are used for commerce.
3. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building. In a building now occupied by a nonconforming commercial or industrial use, an additional use of the same classification in the remainder of the building.
4. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of these Regulations; or the erection of an additional building upon the lot owned at the time of the passage of these Regulations by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.
5. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within 100 feet of said district boundary line.
6. In the "R-1" Single-Family Residential or "V-1" Village districts, a private garage(s) and/or storage building(s) as an accessory building(s) for more than

four motor vehicles and/or covering more than 900 square feet.

7. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these Regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these Regulations to relieve congestion in the streets would be best served by permitting such parking off the premises.

SECTION 12.60 - Special Yard and Height Exceptions:

The following special yard exceptions, limited as to location and especially in locations described below in this section, are permitted in the "R-1" Single-Family Residential or the "V-1" Village districts if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property permitted by these Regulations and provided such exceptions are approved by the Board:

1. An exception in the yard regulations on a lot where, on the adjacent lot, there is a front, side or rear yard that does not conform with the yard regulations.
2. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.
3. An exception in the depth of the rear yard on a lot in a block where there are nonconforming rear yard conditions.
4. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building hereafter constructed or extended, be the required minimum front yard depth.

SECTION 11.70 - Guidelines for Conditions:

Where, in these Regulations, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals, where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

1 No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof (i.e., gable, flat, etc.).
7. Construction design and type of construction materials to be used.
8. Whether the buildings, if multiple buildings are proposed, can be connected or not.

9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

SECTION 11.80 - Written Application Required:
Written application for an appeal, a special exception, or a variance referred to in this Article shall be filed with the Board or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted within 30 days of the action requiring said appeal, variance or special exception.

SECTION 11.80 - Stay of Proceedings:
Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

SECTION 11.90 - Public Hearing Required:
The Board shall hold a public hearing on each application for an appeal, decision, variance or special exception. Applications for a variance or special exception must be accompanied with a certified list of property owners, and their addresses, within 1,000 feet of the property for which the variance or special exception is being sought. On all applications, notice of the time and place of the public hearing shall be published once in the official County paper not less than 20 days prior to the date of such public hearing. In addition, for all applications for a variance or special exception all property owners within 1,000 feet shall be notified by registered mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

SECTION 11.100 - Findings and Records of Proceedings:
The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

SECTION 11.110 - Lapse of Special Exceptions or Variances:
After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

SECTION 11.120 - Decisions of the Board:
In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Chapter, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end 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. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court of Marion County, Kansas, to determine the reasonableness of any such order or determination.

Chapter 12

SECTION 12.10 – ZONING ADMINISTRATION

1. There is hereby established the Office of Zoning Administration.
2. The governing body shall appoint a person who in their opinion is qualified through education and experience to hold the title of Zoning Administrator.

a. The Zoning Administrator may hold another office or position concurrently.

3. The budget for the Office of Zoning Administration and the salary for the Zoning Administrator shall be established by the Governing Body in the same manner as for all other departments and staff salaries.
4. The Zoning Administrator shall be responsible for the issuance of all permits required by these zoning regulations unless otherwise specified.
5. It shall be the duty of the Zoning Administrator to enforce the provisions of this ordinance and to refuse to issue any permit for any building or structure or for the use of any premises which would violate any of the provisions hereof, and to cause any building, structure, place or premises to be inspected and examined, and to order in writing the remedying of any conditions found to exist therein or thereat in violation of any provision of this ordinance. Said Zoning Administrator is hereby authorized and directed to institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation, and to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.
6. The Zoning Administrator shall act as an agent of the Planning Commission in the receipt of all requests, application or communications and shall provide review reports to said Planning Commission as requested.

The Zoning Administrator shall also act in behalf of the Planning Commission in the

presentation of Planning Commission recommendations to the governing body, where ever such action is necessary and for such purposes shall be considered as staff for the Planning Commission.

SECTION 12.20 - INTERPRETATION

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals or general welfare. It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinance of any rules or regulations previously adopted pursuant to law relating to the use of buildings or premises, and not in conflict with any of the provisions of this Ordinance nor is it intended by this Ordinance to interfere with or abrogate or annul any easements or restrictions between parties; provided, however, that where these regulations imposes a greater restriction upon the use of buildings or premises than are imposed by such existing provisions of law or ordinance or by such rules or regulations or by such easements, covenants or agreements, the provisions of this Ordinance shall control.

SECTION 12.30 - PERMITS

1. No permit for the erection, construction, reconstruction, alteration, conversion, maintenance or use of any building, or the use of any premises shall be issued by the Zoning Administrator unless there first shall be filed in its office by the applicant therefor, a plan in duplicate, drawn to scale, correctly showing the location and actual dimensions of the lots to be occupied, the dimensions and location on the building to be erected, constructed, reconstructed, altered, converted, maintained, or use, with measurements in feet and inches from all lot lines to all foundation lines of the building, together with a true statement, in writing, signed by the applicant, showing the use for which such building or premises is arranged, intended or designed, and the location and dimensions of all accessory buildings or structures, and no permit shall be issued unless such plan shall show in all details that such a building or structure is to be erected, constructed, reconstructed, altered, converted, maintained, or used, and such premises are to be used in conformity with all the provisions of this Ordinance.

   A record of such applications and plans shall be kept in the office of the Zoning Administrator. Failure of any applicant or of his agents, servants or employees to erect, construct, reconstruct, alter, convert, maintain, or use of any buildings, structures or premises in conformance with such plans on which such permit is issued, when such failure constitutes a violation of any provisions of these regulations, shall render such permit void, and the Zoning Administrator is hereby authorized and directed to revoke any such permit by giving written notice to the applicant, or his agents, servants or employees and all work upon such buildings, structures, or premises shall be immediately discontinued on the serving of such notice until such buildings, structures or premises shall be changed so as to comply with such plans and permit.

2. If any such permit shall not have been issued within ten (10) days following the application therefor, applicant may deem it refused and proceed in accordance with the provisions of this ordinance.

3. If the Zoning Administrator refuses to issue same, he shall state in writing his reasons for such refusal and furnish applicant with a copy thereof.

SECTION 12.40 - CERTIFICATE OF OCCUPANCY

1. No vacant land shall be occupied or used, except for agricultural uses, and no building hereafter erected or structurally altered shall be occupied or used until a certificate of occupancy shall have been issued by the Zoning Administrator.

2. Certificate of Occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances, and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Zoning Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building affected.

3. No permit for excavation for any building shall be issued before application has been made for certificate of occupancy.

4. Certificate of Occupancy for a Building: Certificate of occupancy for a new building or the alteration of an existing building shall be applied for in writing coincident with the application for a building permit, and shall be issued within ten (10) days after the erection or alteration of such building or part thereof shall have been completed in conformity with the provisions of these regulations and all other laws and codes of the city. Pending the issuance of a regular certificate, a temporary certificate of occupancy may be issued for a period not exceeding six (6) month, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificates shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the City relating to the use or occupancy of the premises, or any other matter covered by this ordinance, and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

5. Certificate of Occupancy for Land: Certificate of occupancy for the use of vacant land or the change in the character of the use of land as herein provided, shall be applied for before any such land shall be occupied or used and a certificate of occupancy shall be issued within ten (10) days after the application has been made, provided such use is in conformity with the provisions of these regulations.

6. Certificate of Occupancy for a Non-Conforming Use: A certificate of occupancy

shall be required for all non-conforming uses. Application for certificate of occupancy for non-conforming uses shall be filed within twelve (12) months from the effective date of this ordinance, accompanied by affidavits of proof that such non-conforming use was not established in violation of this Ordinance.

SECTION 12.50 - CHANGES AND AMENDMENTS

1. The Governing Body may, from time to time on its own motion or on petition after public notice and hearings thereon, as provided herein, amend, supplement, change, modify, or repeal the regulations and restrictions as established herein. Before taking any action upon any proposed amendment, modification, change, restriction, or extension, the same shall be referred by the Governing Body to the Planning Commission for report and recommendation, in case of a protest against such amendment, change, modification or repeal, duly signed and acknowledged by the owners of ten (10) percent or more, either of the land, (exclusive of. streets and alleys) included in such proposed change, or within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the district proposed to be changed, such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the Governing Body.

2. No action or an amendment, change, modification or repeal shall be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a paper of general circulation in the City.

SECTION 12.60 – PENALTIES

1. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of this ordinance, the proper authorities of the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction or reconstruction, alteration, conversion, maintenance or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. Such regulations shall be enforced by the superintendent of buildings or other officer authorized to issue building permits, who is empowered to cause any building, structure, place or premises, to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this Ordinance.

2. The owner or general agent of a building or premises where a violation of any provision of the regulations of this ordinance has been committed or shall exist,

or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, or the owner, general agent, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the general agent, architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than ten dollars ($10.00) and not more than one hundred dollars ($100.00) for each and every day that such violations continues, but if the offense be willful, on conviction thereof, the punishment shall be a fine of not less than one hundred dollars ($100.00) or more than two hundred and fifty dollars ($250.00) for each and every day that such violation shall continue or by imprisonment for ten days for each and every day such violation shall continue, or by both fine and imprisonment in the discretion of the Court. Any such person who, having been served with an order to remove any such violation, shall fail to comply with said order within ten (10) days after such service, or shall continue to violate any provision of the regulations made under authority of this act in the respect named in such order, shall also be subject to a civil penalty of two hundred and fifty dollars ($250.00).

SECTION 2 - INVALIDITY OF A PART

In case any section, clause, sentence or paragraph or part of this ordinance shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not effect, impair or invalidate the remainder of this ordinance.

SECTION 3 - ADOPTION

Any other Ordinance or parts of any other Ordinances in conflict with provisions of this Ordinance are hereby repealed.

This ordinance shall take effect and be in force from and after its publication in the official City newspaper.

Passed this 26th day of September, 2011.
Approved this 26th day of September, 2011.

SEAL

_____SS_____
Larry R. Larsen, Mayor

ATTEST:

_____SS_____
Mac D. Manning, City Clerk

ORDINANCE NO. 08-2011

AN ORDINANCE TO REVISE AND UPDATE THE CITY OF PEABODY, KANSAS ZONING REGULATIONS BY REPEALING ORDINANCE NO. 707 OF THE CITY OF PEABODY, KANSAS CODE OF ORDINANCES AND INCORPORATING BY REFERENCE NEW ZONING REGULATIONS.

WHEREAS**,** in accordance with 12-741 of Kansas Statutes, the City of Peabody currently regulates and restricts in the incorporated area of the City of Peabody, the use of land and the location of improvements thereon, the height, number of stories, and size of buildings, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures and land for trade, industry, residence or other purposes, including , industry, residence or other purposes, including areas for agriculture and recreation; and, to divide into districts the incorporated area of the city of Peabody, Kansas, to carry out the aforesaid purposes, said districts being a part of the plan and incorporated in said plan by reference to maps and to regulate and restrict within such districts, the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land and to provide for a zoning commission and defining its powers and duties; and to provide for a board of zoning appeals and defining its powers and duties; to provide for amendments to this ordinance, method of interpretation and construction, enforcement and permits, and stating penalties; to repeal all portions of any ordinance passed in conflict herewith; and

WHEREAS, the Planning Commission did hold a public hearing on March 21, 2011, for public comment on the proposed revised zoning regulations; and

WHEREAS, upon the recommendation of the Planning Commission, the Governing Body has determined that is in the best interest of the City of Peabody to revise and update the Peabody zoning regulations by repealing the Peabody zoning regulations and adopting and incorporating by reference new regulations based upon the recommended zoning regulations;

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PEABODY, KANSAS:

SECTION 1.

That Ordinance Number 707, the Zoning Regulations of the Code of Ordinances of the City of Peabody is hereby repealed.

SECTION 2.

That the City of Peabody Zoning Ordinance is hereby amended by adding Ordinance Number 07-2011 to the City of Peabody Code of Ordinances, which reads as follows:

ZONING REGULATIONS OF THE CITY OF PEABODY, KANSAS.
Pursuant to the provisions of K.S.A. 12-741, there is hereby incorporated by reference for the purpose of providing zoning regulations within the City of Peabody, Kansas, all of the zoning regulations contained in that document thereafter known and referred to as the "Zoning Regulations for the City of Peabody, Kansas."

No fewer than three copies of the Zoning Regulations Ordinance for the City of Peabody, Kansas, shall be marked or stamped "Official Copy as incorporated by Ordinance No. 07-2011 of the City of Peabody, Kansas," and such copies shall be filed with the city clerk to be open to inspection and available to the public at all reasonable business hours, provided that such official copies may not be removed from city hall. All city officials requiring the use of the Zoning Regulations Ordinance for the City of Peabody, Kansas, shall be supplied, at the expense of the City, such number of official copies of such ordinance as may be deemed expedient by the Governing Body.

SECTION 3.

This ordinance shall take effect and be in force as of the date of its passage, approval publication in the Peabody Gazette-Bulletin, the official newspaper of the City of Peabody, as provided by law.

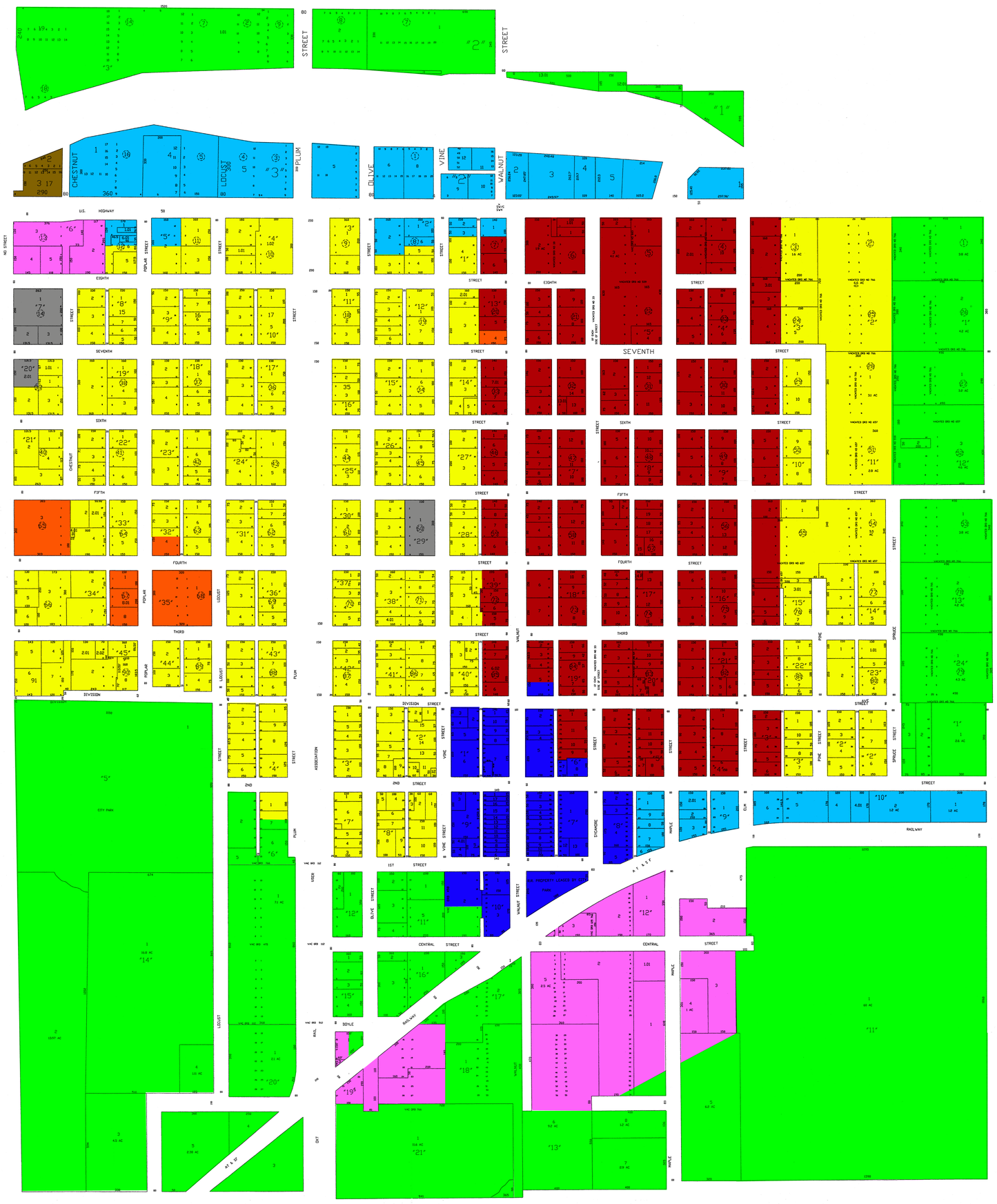
PASSED AND ADOPTED by the Governing Body, this 26th day of September, 2011.

_____SS_____
Larry K. Larsen, Mayor

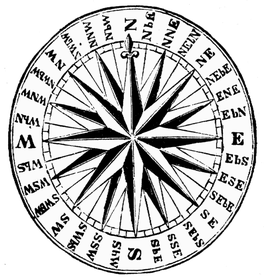
SEAL:

ATTEST:

_____SS_____
Mac D. Manning, City Clerk



PEABODY KANSAS ZONING MAP



LEGEND

- R - A RURAL/AGRICULTURAL
- R - 1 SINGLE FAMILY DWELLING
- B - 2 GENERAL BUSINESS
- R - 2 TWO FAMILY DWELLING
- B - 3 CENTRAL BUSINESS DISTRICT
- S & O SERVICE & OFFICE
- I - 2 HEAVY INDUSTRIAL
- R - 3 MULTI-FAMILY DWELLING
- I - 1 LIGHT INDUSTRIAL
- B - 1 LOCAL BUSINESS DISTRICT