

**ZONING REGULATIONS
of
MONTGOMERY COUNTY, KANSAS**

ARTICLE 1

TITLE

1. These regulations, including the zoning district maps made a part hereof, shall be known and may be cited and referred to as the ZONING REGULATIONS of MONTGOMERY COUNTY, KANSAS.

ARTICLE 2

PURPOSE AND INTENT

1. These zoning regulations, adopted pursuant to the provisions of K.S.A.12-715d, are intended to serve the following purposes:

To promote the health, safety, morals, comfort and general welfare of the county; and

To preserve and protect property values in the area of the County affected by these regulations; and

To divide the affected area of the County into zones and districts; and

To protect rural residents from premature encroachment by urban uses; and

To protect the agricultural community from incompatible, non-agricultural uses.

ARTICLE 3

GENERAL PROVISIONS

1. **Jurisdictional Area:** The provisions of these regulations shall apply to all structures and land in the area of Montgomery county Kansas so determined by the governing body of Montgomery County, Kansas.

The jurisdictional area shall be shown on the Official Zoning District Map.

2. **Establishment of Districts:** The jurisdictional area is hereby divided into eleven (11) zoning districts which are designated as follows:

"A-1" Agricultural District

Intent: To preserve the good agricultural resources of Montgomery County by the control of population density and non-agricultural land uses and to discourage the effects of *urban sprawl* into the rural areas, but not to regulate or restrict agricultural uses.

"R-1" Residential - Low Density District

Intent: To provide for low density residential development including those uses which reinforce residential neighborhoods.

"R-2" Residential - Medium Density District

Intent: To provide for high density residential development, including single-family, two-family and multi-family residences, in a manner which will encourage a strong residential neighborhood.

"R-3" Residential - High Density District

Intent: To provide for high density residential development, including single-family, two-family and multi-family residences, in a manner which will encourage a strong residential neighborhood.

"R-4" Mobile Home Park District

Intent: To provide medium density manufactured home park development which is compatible with the character of the surrounding neighborhood in which it is located. Manufactured home parks are considered as a residential use and should be located in areas where services and amenities are available such as those found in conventional residential areas.

"B-1" Business - Highway Service District

Intent: To provide commercial locations for use which serve as a convenience to the traveler or require a location on a highway or arterial in order to have an efficient operation. Screening and off-street parking are required to reduce possible adverse effects on surrounding residential uses.

"B-2" Business - General District

Intent: To provide a zone for those commercial uses which are intensive in nature and which require large lots and direct access to major streets.

"B-3" Business - Undeveloped Land

Intent: To provide a zone for land which can be identified as being located where future commercial development would be appropriate.

"I-1" Industrial - Light District

Intent: The intent of the district is to permit industrial uses that are not obnoxious due to appearance, noise, dust, or odor; that do not require intensive land coverage; and that can be compatibly developed with adjacent districts.

"I-2" Industrial - Heavy District

Intent: The "I-2" Heavy Industrial District is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district.

"P-1" Public Use

Intent: The intent of this district is to provide for governmental facilities, educational facilities, and religious facilities that are not of a commercial or residential nature.

3. **Zoning District Maps:** The boundaries of the districts are shown on the Official Zoning District Maps which are filed in the office of the County Clerk. Each of the said zoning maps, with all notations, references, and other information shown thereon, is as much as part of these zoning regulations as if such notations, references, and other information were specifically set forth herein.
4. **Rules Where Uncertainty May Arise:** Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning District Maps, the following rules apply:

The district boundaries are the center lines of streets, alleys, waterways, and railroad right-of-way, unless otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of a street, alley, waterway, or railroad right-of-way, the centerline of such street, alley, waterway or railroad rights-of-way shall be construed to be the boundary line of such district.

Where the district boundaries do not coincide with the location of streets, waterways, or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.

Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the zoning map.

5. **Exemptions:** The following structures and uses shall be exempt from the provisions of these regulations:

Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.

Railroad tracks, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

Retaining walls. Public signs.

Structures and equipment necessary for the exploration and production of crude oil and natural gas which are in compliance with the provisions of the Kansas Corporation Commission concerning oil and natural gas production.

6. **Application of Regulations:** The following general requirements shall apply to all zoning districts:

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with these regulations.

ARTICLE 4

DISTRICT REGULATIONS

1) "A-1" AGRICULTURAL DISTRICT

1. **Intent:** This district is intended to preserve the good agricultural resources of Montgomery County by the control of population density and non-agricultural land uses and to discourage the effects of *urban sprawl* into the rural areas, but not to regulate or restrict agricultural uses.
2. **Intended Uses:** Generally, farming and ranching operations, single family homes (including mobile homes with ground anchors, tie-downs and proper skirting), and other uses that are geared toward the rural/agricultural lifestyle.
3. **Intensity of Use Regulations:** Minimum lot area: 3 acres.

Exception: If a lot of less than 3 acres is under separate ownership on the effective date of the adoption of these regulations, the erection of a single family dwelling shall not be prohibited.

4. **Height Regulations:** Maximum structure height regulations shall comply with F.A.A. FEDERAL AVIATION REGULATION (PART 77- OBJECTS AFFECTING NAVIGABLE AIRSPACE). Habitable structures- maximum 35 feet.
5. **Yard Regulations:** see Frontage Regulations in Section 5.01

These regulations shall not apply to the existing use of any building or land nor shall they apply to any alteration of a building or land (provided that the alteration does not further violate these regulations) to provide for a change in use of said building or land after the date of adoption of these regulations, except if the proposed change of use of the building or land contradicts the regulations set within the "A-1" land use district.

6. **Use Limitations:** None.

2) "R-1" RESIDENTIAL - LOW DENSITY DISTRICT

1. **Intent:** The intent of this district is to provide for low density residential development including those uses which reinforce residential neighborhoods.

2. **Intended Uses:** Generally, large-lot-single-family residences, parks and other uses normally associated with a suburban or rural-residential setting.
3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system. If it is serviced by a public sewer system, the minimum lot area is 10,000 sq. feet.
4. **Height Regulations:** Maximum habitable structure height- 35 feet.
5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
6. **Use Limitations:** None.

3) **"R-2" RESIDENTIAL - MEDIUM DENSITY DISTRICT**

1. **Intent:** The intent of this district is to provide for moderate density residential development, including two-family and higher density single-family dwellings, in a manner which will encourage a strong residential neighborhood.
2. **Intended Uses:** The intended uses of this district are two-family and higher-density single-family homes dwellings in a manner which will encourage a strong residential neighborhood.
3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system. If it is serviced by a public sewer system, the minimum lot area is 8,000 sq. feet.
4. **Height Regulations:** Maximum habitable structure height- 35 feet.
5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
6. **Use Limitations:** None.

4) **"R-3" RESIDENTIAL - HIGH DENSITY DISTRICT**

1. **Intent:** The intent of this district is to provide for high density residential development, including single-family, two-family and multi-family residences, in a manner which will encourage a strong residential neighborhood.
2. **Intended Uses:** Generally, single-family, two-family, and multi-family

residences.

3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system. If it is serviced by a public sewer system, the minimum lot sizes are as follows:

Single-family- 6,000 sq. feet.

Two-family- 3,000 sq. feet per dwelling unit.

Multi-family- 1,500 sq. feet per dwelling unit or 6,000 sq. feet, whichever is greater.

4. **Height Regulations:** Maximum habitable structure height- 35 feet.
5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
6. **Use Limitations:** None.

5) **"R-4" MOBILE HOME PARK RESIDENTIAL DISTRICT**

1. **Intent:** It is the intent of this district to provide medium density manufactured home park development which is compatible with the character of the surrounding neighborhood in which it is located. Manufactured home parks are considered as a residential use and should be located in areas where services and amenities are available such as those found in conventional residential areas.
2. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system.
3. **Height Regulations:** Maximum habitable structure height - 35 feet.
4. **Yard Regulations:** see Frontage Regulations in Section 5.01.
5. **Use Limitations:** Each manufactured home park shall be designed in accordance with the following minimum design standards:
 - A. **Minimum Design Standards:**
 - (1) The park shall be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
 - (2) Manufactured home parks hereafter approved shall have a maximum

density of six (6) manufactured homes per gross acre, and a minimum area of 4,000 square feet shall be provided for each manufactured home space.

- (3) Each manufactured home space shall be at least 40 feet wide and be clearly defined.
- (4) All manufactured homes shall be so located to maintain a clearance of not less than twenty (20) feet from another manufactured home or 25 feet from any building within the park.
- (5) All manufactured home spaces shall front upon a private roadway of not less than 24 feet in width, including curbs on each side; provided, however, that no on-street parking is permitted. If parallel parking is permitted on one side of the street, the width shall be increased to 30 feet, and if parallel parking is permitted on both sides of the street, the width shall be increased to 36 feet. All roadways shall have unobstructed access to a public street.
- (6) All roadways and sidewalks within the manufactured home park shall be of all-weather surfacing.
- (7) A community building may be provided which may include recreation facilities, laundry facilities, storm shelter, and other similar uses.
- (8) The perimeter of all manufactured homes shall be fully skirted.

B. Water Supply:

- (1) Water shall be supplied to the park by a public water system.
- (2) Individual water service connections shall be provided at each manufactured home space.

C. Sewage Disposal: Individual sewer connections shall be provided for each manufactured home space and shall be installed in accordance with the Sanitary Code of Montgomery County, Kansas. If an individual septic system is used it shall comply with the Sanitary Code of Montgomery County, Kansas.

D. Tie-Downs and Ground Anchors: All manufactured homes shall be secured to the ground by tie-downs and ground anchors in accordance with the manufactured home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234, as amended.

E. Electrical: Each manufactured home space shall be supplied with an individual

meter which shall be installed in compliance with the National Electrical Code.

- F. **Gas:** Gas hookups, when supplied shall be installed in compliance with the regulations of the gas supplier.
 - G. **Refuse and Garbage Handling:**
 - (1) Storage, collection and disposal of refuse in a park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accidents, fire hazards or air pollution.
 - (2) All refuse shall be stored in fly-tight, watertight, rodent-proof containers. Containers shall be provided in sufficient number and capacity to properly store all refuse.
 - H. **Blocking:** All manufactured homes shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home in accordance with the manufactured home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234 as amended.
 - I. **Pad Requirements:** Shall be a flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water and edged to prohibit fraying or spreading of surfacing materials; or shall be of a hard surface of a minimum of two eighteen (18) inch wide concrete ribbons or slabs capable of carrying the weight and if sufficient length to support all blocking points of the manufactured home.
6. **Application Requirements:**
- A. An applicant for "R-4" Manufactured Home Park District shall prepare or cause to be prepared a preliminary manufactured home park plan, drawn to a scale of not less than 1" = 100', and twenty (20) copies of said plan shall be submitted to the planning commission for its review and recommendations. Said plan shall be designed in accordance with Section 4-77.1 Minimum Design Standards and shall have contours shown at two (2) foot intervals.
 - B. Upon approval of the preliminary manufactured home park plan by the Planning Commission, the applicant shall prepare and submit a final plan which shall incorporate any changes or alterations requested. The final plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their review and final action.

- C. Any substantial deviation from the approved plan, as determined by the Zoning Administrator, shall constitute a violation of these regulations. Changes in plans shall be resubmitted for reconsideration and approval by the Planning Commission and Governing Body prior to the occupancy of the manufactured home Park.

6) "B-1" BUSINESS - HIGHWAY SERVICE

- 1. **Intent:** This district is intended to provide commercial locations for use which serve as a convenience to the traveler or require a location on a highway or arterial in order to have an efficient operation.
- 2. **Intended Uses:** Service stations, convenience stores and other uses which cater to the needs of the traveling public.
- 3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system.
- 4. **Height Regulations:** Maximum habitable structure height- 35 feet.
- 5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
- 6. **Use Limitations:**
 - A. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located within the front yard but not less than 12 feet from the front lot lines and, in any event, not less than 40 feet from the centerline of any street or road on which the service station abuts.
 - B. Exterior lighting fixtures shall be shaped wherever necessary to avoid casting direct light on any home located in a residential district.

7) "B-2" BUSINESS - GENERAL DISTRICT

- 1. **Intent:** The intent of this district is to provide a zone for those commercial uses which are intensive in nature and which require large lots and direct access to major streets.
- 2. **Intended Uses:** Generally, automobile and implement sales, lumber yards, contractor's yards, offices and general retailing.
- 3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall

comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system.

4. **Height Regulations:** Maximum habitable structure height- 35 feet.
5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
6. **Use Limitations:** Same as "B-1" District.

8) **"B-3" UNDEVELOPED COMMERCIAL LAND**

1. **Intent:** The intent of this district is to provide a zone for land which can be identified as being located where future commercial development would be located.
2. **Intended Land Uses:** Land being held for future sale or future commercial type use.
3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system.
4. **Height Regulations:** Not Applicable
5. **Yard Regulations:** Not Applicable
6. **Use Regulations:** Must be re-zoned to B-1 or B-2 before any actual development or construction takes begins.

9) **"I-1" INDUSTRIAL - LIGHT DISTRICT**

1. **Intent:** The intent of the district is to permit industrial uses that are not obnoxious due to appearance, noise, dust, or odor; that do not require intensive land coverage; and that can be compatibly developed with adjacent districts.
2. **Intended Uses:** Generally, light manufacturing, trucking and warehousing and other uses that are not usually compatible with residential or general business atmospheres.
3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system. Otherwise, the minimum lot area is 6,000 sq. feet.
4. **Height Regulations:** Maximum structure height regulations shall comply with F.A.A. FEDERAL AVIATION REGULATION (PART 77- OBJECTS AFFECTING NAVIGABLE AIRSPACE).

5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
6. **Use Limitations:** None

10) **"I-2" INDUSTRIAL - HEAVY DISTRICT**

1. **Intent:** The "I-2" Heavy Industrial District is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential or commercial activity. Certain obnoxious or hazardous uses will require special permission to locate in this district.
2. **Intended Uses:** Generally, Heavy manufacturing, hazardous or obnoxious uses that would be detrimental to the lifestyle of a residential or business setting.
3. **Intensity of Use Regulations:** The minimum lot area in this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system. Otherwise, the minimum lot area is 10,000 sq. feet.
4. **Height Regulations:** Maximum structure height regulations shall comply with F.A.A. FEDERAL AVIATION REGULATION (PART 77- OBJECTS AFFECTING NAVIGABLE AIRSPACE).
5. **Yard Regulations:** see Frontage Regulations in Section 5.01.
6. **Use Limitations:** None

11) **P-1 PUBLIC USE DISTRICT**

1. **Intent:** The intent of this district is to provide for governmental facilities, educational facilities and religious facilities which are not of a commercial or residential nature.
2. **Intended Uses:** Public and parochial schools and school facilities, government buildings and government facilities, churches and church facilities.
3. **Intensity of Use Regulations:** The minimum lot area for this zoning designation shall comply with the Montgomery County Sanitary Code unless it is serviced by a public sewer system. Lot size shall also be determined by appropriate government regulations where applicable. Adequate space for public parking shall be required in this district.
4. **Height Regulations:** Maximum structure height regulations shall comply with F.A.A. FEDERAL AVIATION REGULATION (PART 77-OBJECTS AFFECTION

NAVIGABLE AIRSPACE).

5. **Use Limitations:** None

12. **RECREATIONAL VEHICLE (RV) PARKS:**

A. **Intent:** This use is intended to provide commercial rental parking spaces and sites for recreational vehicles (RV's) or travel trailers as defined in Article 11, Section 3 of the Montgomery County Zoning Regulations. Such regulations are to assure reasonable standards for the development of facilities for the occupancy of RV's and travel trailers on a temporary basis, ranging from short overnight stays to longer destination-type stays of days to weeks. All RV parks within Montgomery County, Kansas shall be governed by the following regulations:

1. **Design Standards for Recreational Vehicle (RV) Parks.**

- a. *Minimum Park Area.* The minimum size of an RV Park shall be five (5) acres.
- b. *Rental Space size.* Minimum rental space size for those spaces having utility hookups shall be one thousand five hundred (1,500) square feet. Minimum rental space size for those spaces not having hookups shall be nine hundred (900) square feet. Minimum rental space size shall not include any area required for access roads, off-street parking, service buildings, recreation areas, office and similar RV park needs.
- c. *Rental Pads.* A minimum of eighty percent (80%) of all spaces shall be equipped with surfaced area not less than ten feet (10') by forty feet (40'), containing hookups for water, sewer and electricity. Surfacing shall consist of gravel, asphalt or concrete. Where gravel surfacing is used, the design of the gravel pad shall be approved by a designated Montgomery County Public Works official to maintain proper drainage and minimize dust. Where provided, each RV unit shall be parked entirely on the surfaced area so that no part thereof obstructs any roadway or walkway within the RV park. Those spaces not equipped with such surfaced area, shall be designated solely for the pitching of tents and not having any self-contained toilets, lavatory and/or bathing facilities. Each rental pad shall be identified in respect to its assigned location by way of conspicuously designated signage.
- d. *Setback Requirements.* Each rental space shall meet the following setback requirements:
 1. Fifty feet (50') when abutting a State or Federal highway or local major arterial;
 2. Twenty-five feet (25') when abutting a public right of way other than those listed in a. above;

3. Fifteen feet (15') when abutting any property line other than a. or b. above;
 4. There shall be a minimum distance of sixteen feet (16') between RV units parked side by side;
 5. There shall be a minimum distance of sixteen feet (16') between RV units parked end to end;
 6. There shall be a minimum distance of twenty feet (20') between any RV space and any building.
- e. *Streets.* Streets or roadways and parking areas within the RV park shall be designated to provide safe and convenient access to all spaces and to facilities for common use by the park's occupants, and shall be constructed and maintained to allow free movement of emergency and service vehicles at all times, and shall be graded to drain and surfaced with gravel, asphalt or concrete. Road designs shall be reviewed and approved by the Director of Montgomery County Public Works. All interior roadways shall be designed with at least a thirty feet (30') width for two-way traffic, and at least fifteen feet (15') width for one-way traffic. A forty feet (40') turning radius shall be required on all curves to allow access by emergency vehicles. Road grades shall not exceed six percent (6%) and any bridges within the park shall have a capacity of not less than sixteen (16) tons. Access into the park from a public street shall meet the same design standards as those of the public street, for a distance of not less than forty feet (40') from the property line into the development. All roadways and walkways within the park shall be provided with adequate lighting to afford safe access.
- f. *Frontage.* All spaces shall have a minimum frontage of twenty feet (20') along an interior roadway.
- g. *Sanitary facilities.* Every RV park shall provide one or more service buildings equipped with flush toilets, lavatories, showers, and laundry facilities meeting minimum state installation standards. Such facilities shall be conveniently located and kept clean, sanitary and maintained in good working order. Such facilities shall be adequately lighted at all times of day or night and shall be well ventilated. Portable fire extinguishers, of the approved type and sizing, shall be provided and maintained in operating condition.
- h. *Sanitary disposal stations.* If sanitary "dump" stations are provided, each station shall:
1. Consist of a drainage basin constructed of impervious materials, be water tight, contain a disposal hatch and self-closing cover, and related washing facilities. Self-closing covers must provide appropriations sufficient to dissuade persons from entering/falling into any subterranean regions utilized for the storage and/or disposal of sewage.

2. The disposal hatch of sanitation “dump” stations shall either be connected to the park’s sewage disposal system or to a non-discharging state certified vessel designed as for storing domestic wastewater pending contractual services to remove and transport its contents at a proper off- site disposal area.
 3. Each sanitary “dump” station shall have a sign posted stating “DANGER-NOT TO BE USED FOR DRINKING OR DOMESTIC PURPOSES.”
 4. Sanitary “dumping” stations shall be approved by the local jurisdictional authority.
- i. Utilities.* All utilities shall be placed underground.
1. Water supply. An accessible water supply system shall be designed, constructed and maintained in compliance with State of Kansas Department of Health & Environment (KDH&E) Public Water Supply Systems minimum standards. All plans and specifications shall be submitted with the zoning or re-zoning application. Each rental space equipped with sewer and electrical hookups shall also be equipped with two water outlets, to provide connection for the RV and a garden hose. All other spaces shall be equipped with one water outlet.
 2. Sanitary sewer. A minimum of eighty percent (80%) of all rental spaces shall be equipped with a hookup to a public sewage disposal system or other approved holding facilities by way of a branch line and riser pipe at least four inches (4”) inside diameter. The riser pipe shall be capped with a watertight device when not in use. Sanitary sewage systems shall be installed in compliance with KDH&E minimum design standards.
 3. Electricity. A minimum of eighty percent (80%) of all rental spaces shall be equipped with an electrical outlet supplying power that has been installed in accordance with the National Electric Code (NEC) standards.
- j. Refuse disposal.* The storage, collection and disposal of refuse shall be performed so as to minimize accidents, fire hazards, air pollution, odors, insects, rodents or other nuisance conditions. All refuse shall be stored in durable, washable and nonabsorbent metal or plastic containers with tight fitting lids. Adequate refuse collection and removal must be performed by professional service providers and deposited into a KDH&E permitted landfill facility.
- k. Open Space.* Open space for common areas, playgrounds, and other similar recreational uses, shall be provided at the rate of at least ten percent (10%) of the gross area of the RV park. The size and distribution of such open space, shall be sufficient in serving as a functional part of the entire development plan. Open space shall not include any areas designated as a roadway, RV rental space, storage area, swimming pool, for pet-related activities, yard areas associated with a caretaker’s or manager’s residence, and/or setbacks as set forth in Section A.

- l. Fire protection.* A site and fire protection plan must be submitted, reviewed and approved by the local jurisdictional fire authority.
- m. Fires.* Fires shall be made only in stoves and other equipment listed, advertised or acquired in design for such intended purposes and stored in safe and convenient locations where they will not constitute fire hazards to vegetation, undergrowth, trees and RV's. No open burning or fires shall be permitted or allowed.
- n. Structural additions.* Temporary structures such as canvas awnings, screened enclosures, platforms, etc. which are normal camping equipment, may be erected but must be removed when the rental space is vacated. No other structural additions shall be erected/built onto or become part of the RV.
- o. Storage sheds.* No storage sheds, being permanent or temporary shall be allowed within a RV rental space.
- p. Tents.* Tents shall be permitted and limited to one tent per rental space. Group tent camping may be established, but only in the event that the area is served by: (1) More than one water outlet; (2) Restroom facilities within three hundred feet (300') from the designated group camping site; and (3) Adequate off street parking spaces. In addition, no tents shall be permitted or allowed in any designated open space area(s).
- q. Registration of Occupants.* It shall be the responsibility of the RV park's owner or manager to keep a current record of the names and addresses of the occupants in each RV space, the make, model, year and license number of each RV and motor vehicle by which it is towed, the state, territory or country issuing such licenses, and the arrival and departure dates of each occupant. Such records must be made available, upon request, to all appropriate agencies whose duties permit inspection thereof.
- r. Swimming Pools.* Any swimming and/or wading pools must be adequately maintained in a manner so as to provide the relative enjoyment and safety to the park's occupants. Fencing of such pools shall be as required by local building and life-safety codes.
- s. Other.*

 - 1. Those RV parks allowing for the occupancy of pets shall provide sufficient areas for animals to urinate and defecate their bodily wastes. Such wastes shall not create conditions that are attractants to insects or other factors for imposing

nuisances. The manner in which to sustain the area's sanitary conditions shall be the responsibility of the RV park owner or manager. Such areas shall be in addition to the RV park's open space requirements as specified in Section 11.

2. All fuel gas storage shall be the responsibility of the RV park owner or manager to insure safe conditions are maintained at all times therein the RV park.
- t. *Storm Refuge.* Service buildings shall be constructed so as to afford limited shelter from threatening weather conditions. Any such buildings are to be designed and constructed to meet or exceed formulated climatic basic wind speeds and snow loads associated with the geographical location.

B. **Means to Approve:** An RV park may be established only in districts where they are permitted in accordance with the Montgomery County Land Usage Grid. Upon application for establishment of an RV park, the Planning Commission shall consider the following factors and make a recommendation for approval or disapproval to the Governing Body:

1. Whether the site is in compliance with sound planning principles;
2. Whether the RV park would conflict with other land use in the area; and
3. Whether the site plan provides and complies with the design standards set forth in Amendment VI-Section A of the Montgomery County Zoning Regulations.
4. In addition to any other forms or documents required to be completed by an applicant for rezoning under the Montgomery County Zoning Regulations, an applicant for an RV park, or expansion of an RV park shall provide the following documents with the application:
 - a. Location and widths of roadways and any applicable walkways;
 - b. Typical street cross sections;
 - c. Topography of site, at two foot (2') contours;
 - d. Grading and drainage plans;
 - e. Utility plans;
 - f. Legal description of property including acreage;
 - g. Fire protection plan;
 - h. Copy of deed and title insurance policy or title commitment;
 - i. Location and description of all permanent structures and common facilities;
 - j. Acreage and percentage of land set aside as open space;
 - k. Density of RV rental spaces per acre;
 - l. Location of all areas subject to the inundation or storm water overflow, including the 100 year floodplain boundaries;
 - m. Vicinity map drawn to scale of 1" = 1000 ft. or 1" = 5,000 ft;
 - n. Proposed surface treatment and design of all interior roadways and rental pads;

- o. A time schedule for development;
- 5. Application and zoning/rezoning fee(s) for public hearing publication and notifications; and
- 6. Any other documents reasonably requested by the Montgomery County Zoning Administrator.

ARTICLE 5

SUPPLEMENTARY DISTRICT REGULATIONS

1. **Frontage Regulations:**

- (1) All structures shall be constructed at least 25 feet from the right-of-way of a public roadway or street. Information on particular right-of-ways may be obtained from the zoning administrator.
- (2) All structures shall have side yards of at least 8 (eight) feet.
- (3) Lots with to non-adjointing frontages (double frontage lots) shall maintain the required front yard setback along both frontages.

2. **Rear Yards:** All structures shall have rear yards of at least 8 (eight) feet if the structure abuts property of another ownership.

3. **Sight Triangle:** On a corner lot in any district, development shall conform to the requirements of the sight triangle as defined by this regulation.

4. **Determination of Building Setback Line:** The building setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the nearest architectural projection of the existing or proposed structure.

5. **Fences:** No fence shall be constructed which will constitute a visual hazard to traffic.

ARTICLE 6

NONCONFORMITIES

1. **General:** Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. A definition of each type is as follows:
 - A. **Nonconforming Lot of Record:** An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
 - B. **Nonconforming Structure:** An existing structure which does not comply with the yard requirements which are applicable to new structures in the zoning district in which it is located.
 - C. **Nonconforming Use:** An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

2. **Nonconforming Lots of Record:** The Zoning Administrator shall issue a construction permit for any nonconforming lot of record provided that:
 - A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
 - B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
 - C. Said lot can meet all yard regulations for the district in which it is located, and
 - D. Said lot can meet minimum standards for sewage treatment as required by the County Health Office.

3. **Nonconforming Structures:**
 - A. **Authority to Continue:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable yard and height regulations, may be continued, so long as it remains otherwise lawful.

- B. **Enlargement, Repair, Alterations:** Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
- C. **Damage or Destruction:** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its replacement cost, such structure shall not be restored without a variance from the planning commission unless it shall thereafter conform to the regulations for the zoning district in which it is located.
- D. **Moving:** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. **Nonconforming Uses:**

- A. **Authority to Continue:** Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, may be continued, so long as otherwise lawful.
- B. **Ordinary Repair and Maintenance:**
 - (1) Normal maintenance and incidental repair, or replacement, installation or relocation of non-bearing walls, non-bearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 - (2) Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
- C. **Extension:** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:
 - (1) Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).

- (2) Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming); provided, however, that such use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.

- D. **Enlargement:** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

- E. **Damage or Destruction:** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its appraised value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located.

- F. **Moving:** No structure that is devoted in whole or in part to a nonconforming use and no conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.

- G. **Change in Use:** If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use.

5. **Status of Conditional Uses:**

- A. **Status of Existing Conditional Uses:** Where a use exists at the effective date of these regulations and is permitted by these regulations only as a conditional use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district. Such conditional use shall not be enlarged or expanded unless a conditional use application is approved as set out in Article 7 of these regulations.

- B. **Status of Future Conditional Uses:** Any use for which a conditional use permit has been issued, as provided in these regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.

ARTICLE 7

PLANNING COMMISSION

1. Powers and Duties

- A. Comprehensive Plan:** To make or cause to be made a comprehensive plan for the coordinated development of the jurisdictional area, including references to planning for cities as deemed appropriate. At least once each year, the Planning Commission shall review or reconsider the comprehensive plan or any part thereof and may propose amendments, extensions or additions to the same.
- B. Zoning Regulations:** To make or cause to be made regulations for the implementation and administration of the comprehensive plan. To review the zoning regulations when deemed necessary and propose amendments, extensions or additions to the same.
- C. Hearing Requests for Change of Zoning:** To hear and consider requests from applicants for the change of zoning of a particular piece of land and to make recommendations to the Board of County Commissioners based on its findings.
- D. Conditional Uses:** To grant as an exception to the provisions of these zoning regulations, the establishment of those conditional uses that are expressly authorized to be permitted in a particular zoning district or districts. In no event shall exceptions to the provisions of the zoning regulations be granted where the conditional use or exception contemplated is not specifically listed as a conditional use in the zoning regulations. Further, under no conditions shall the Planning Commission have the power to grant an exception when the conditions of this exception, as established by these regulations, are not found to be present.
- (1) The Planning Commission shall not grant a conditional use permit unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
 - b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
 - c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.

- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - 1. The location and nature of buildings, structures, walls and fences on the site, and
 - 2. The nature and extent of landscaping and screening on the site.
 - e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
 - f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
 - g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
 - h. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.
 - I. The proposed development is consistent with the moral standards of the community.
- (2) In granting a conditional use, the Planning Commission may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potentially injurious effect of such conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

- E. Variances:** To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial Justice done.
- (1) The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the District Zoning Regulations, or where by reasons of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of this property in the manner similar to that of other property in the zoning district where it is located.
 - (2) A request for a variance may be granted, upon a finding of the board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
 - 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 or applicant.
 - b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.
 - c. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hard ship 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.
 - e. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.
 - (3) In granting a variance, the Planning Commission may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

2. **Disclaimer:** Any variance granted by this board to any individual or entity shall be based solely upon the unique and individual nature of the requested variance as detailed in 7.01.E.2 and shall not be construed as precedential on any other similar request by said party or any other party or parties. All applications for variance by the board will be reviewed on a case-by-case basis and a determination made according to its findings.

ARTICLE 8

BOARD OF ZONING APPEALS

1. **Formation:**

- A. The word "Board" when used in this article shall mean Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws or regulations. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board, and 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 filed in the office of the County Clerk and shall be public record.
- B. The Board shall consist of five (5) members. The members shall be selected in the following manner:
- 1) One member shall be appointed by each County Commissioner from the Appointing Commissioner's District.
 - 2) Two members shall be appointed by the chairman of the Montgomery County Planning Commission, one to be chosen from the members of the Montgomery County Planning Commission.
 - 3) The members first appointed will serve terms of one, two and three years, divided as equally as possible among the members. Thereafter the terms of the members shall be three years.
 - 4) Vacancies shall be filled by appointment from the original appointer or his/her successor.

2. **Powers and Jurisdiction:** The Board shall have the following powers and jurisdictions:

- A. **Appeals:** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations, or with
- (1) Appeals to the Board may be taken by the person aggrieved, or by any officer, department, or Bureau of the government affected by any decision of the Zoning

Administrator. Such appeal shall be filed with the Zoning Administrator within a reasonable time, as shall be prescribed. The Zoning Administrator shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from is taken.

- (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator 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 Zoning Administrator.

- B. **Conditions of Determinations:** In exercising the foregoing powers, the Board, in conformity with the provisions of this resolution, 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 building permit.

A majority of the Board shall constitute a quorum for the transaction of business, and a concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant upon any matter which it is required to pass under these regulations, or to affect any variation in such regulation.

3. Applications:

- A. **The procedure for requesting a hearing before the Board shall be as follows:**

- (1) All applications to the Board shall be in writing on forms provided by the Board.
- (2) All applications shall be accompanied by an ownership list, obtained from county records, listing the legal description and the name and address of the owners of all property located within 1000 feet of the boundaries of the property included in the application.
- (3) The Board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the governing body at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, each person on the ownership list, and each Planning Commission member.

- (4) An application shall be accompanied by a filing fee of one hundred dollars (\$100.00). A separate filing fee of \$100.00 shall be required for each request.

B. In addition to the above requirements, certain applications require additional information as follows:

(1) Appeals:

- a. An application for an appeal shall be filed within sixty (60) days after a ruling has been made by the Zoning Administrator.
- b. A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
- c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
- d. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

4. **Who May Appeal From the Board Decision:** Any person, persons, department of departments of the government, jointly or separately aggrieved by any decision of the Board may present to the District Court having jurisdiction, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the Court within thirty (30) days after the date of filing the decision of the Board in the office of the County Clerk.

ARTICLE 9

AMENDMENTS

1. **Amendments to Change Zoning District Boundaries.** The County Commission from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the adopted comprehensive plan, shall be presumed to be reasonable.
2. **Public Hearing:** All such proposed amendments first shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
3. **Public Notice.** In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 1000 feet of the area proposed to be altered. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body. Such notice is sufficient to permit the Planning Commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.
4. **Adoption.** The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Governing Body. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval. When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Governing Body may:

- (1) Adopt such recommendation by resolution;
- (2) Override the Planning Commission's recommendation by a 2/3 majority; vote of the membership of the Governing Body; or
- (3) Return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective resolution or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopted resolution.

5. **Applications.** Any party desiring any change in zoning district boundaries or regulations contained in these Zoning Regulations, as to any lot, tract or area of land, shall file with the County Clerk an application, and such application shall be accompanied by such data and information as prescribed in these Regulations
6. **Filing Fee.** For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the County Clerk a fee in the amount of \$100.00. Promptly upon the filing of any such application, the County Clerk shall refer the application to the Planning Commission for study and recommendation and shall report to the Governing Body concerning the nature of the application and that said application has been referred to the Planning Commission.
7. **Adoption and Amendment of Comprehensive Plan, Zoning and Subdivision Regulations, and Certain Other Actions of the Planning Commission.**

An affirmative vote of a majority of the entire membership of the Montgomery County Planning Commission shall be required for certain actions of the commission as prescribed by state law.
8. **Comprehensive Plan.** Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by the Planning Commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the Governing Body. No comprehensive plan shall be effective unless approved by the Board of

Montgomery County Commissioners. An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan.

9. **Public Facilities and Improvements.** Whenever the Planning Commission has adopted and certified the comprehensive plan for one or more major sections or functional subdivisions thereof, no public improvement, public facility or public utility of a type embraced within the recommendations of the comprehensive plan or portion thereof shall be constructed without first being submitted to and being approved by the Planning Commission as being in conformity with the plan. The Governing Body may override the plan and the recommendation of the Planning Commission. When the Planning Commission has reviewed a capital improvement program and found that specific public improvements, public facilities or utilities are consistent with the comprehensive plan, no further action is necessary.

10. **Findings of Fact.** In order to recommend, approve or disapprove a proposed zoning district amendment the Planning Commission shall make findings of fact to determine whether the application is found to be compatible with the following:
 - A. Character of the neighborhood.
 - B. Consistency with the comprehensive plan and Regulations of the County.
 - C. Adequacy of public utilities and other needed public services.
 - D. Suitability of the uses to which the property has been restricted under its existing zoning.
 - E. Length of time property has remained vacant as zoned.
 - F. Compatibility of the proposed district classification with nearby properties.
 - G. The extent to which the zoning amendment may detrimentally affect nearby property.
 - H. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.

11. **Protest.** Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the County Clerk within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning, excluding public streets and ways, the resolution adopting such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.

12. **Publication**. If the Governing Body approves an application, it shall adopt a resolution to that effect, but said request shall not become effective until its publication in the official County newspaper.

If the official zoning map has been adopted by reference, the amending resolution shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the resolution incorporating the same and shall reincorporate such map as amended.

ARTICLE 10
ADMINISTRATION

1. OFFICE OF THE ZONING ADMINISTRATOR:

- A. **Authorization:** A Zoning Administrator shall be appointed by the County Commissioners and shall be responsible for the enforcement of these regulations.
- B. **Duties of the Zoning Administrator:** The Zoning Administrator shall enforce these regulations and in addition thereto and in furtherance of said authority, shall:
 - (1) Approve and issue all zoning permits and make and maintain records thereof.
 - (2) Evaluate all applications for zoning permits for compliance with all applicable provisions of the zoning regulations, including but not limited to the District Regulations set forth in Article 4 hereof.
 - (3) Receive, file, and forward to the Board of Zoning Appeals the records in all appeals under the jurisdiction of such Board.
 - (4) Receive, file, and forward to the Planning Commissions the records in all conditional use, variances, zoning amendments, and any other matter properly coming before such Commission.
 - (5) Maintain permanent and current records of the zoning regulations including, but not limited to, all zoning maps, amendments, conditional uses, variances, appeals and applications thereof and records of hearing thereon.
 - (6) Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled text of the zoning regulations, and the rules of the Board of Zoning Appeals.

2. Zoning Certificates:

- A. Zoning Certificates: Unless a zoning certificate shall first have been obtained from the Office of the Zoning Administrator:
 - (1) The construction of any structure shall not be commenced and;
 - (2) The improvement of land preliminary to any use of such land shall not be commenced.

Any zoning certificate issued in conflict with the provisions of these regulations shall be null and void.

- B. **Application for Zoning Certificate:** Every application for a zoning certificate shall include at least the following:
- (1) A common address and legal description of the piece or parcel of land, lot, lots, block or blocks, or parts or portions thereof, according to the recorded plat of such land.
 - (2) A general description of the proposed improvement(s) and/or structure(s) to be constructed on the piece or parcel.
 - (3) A completed zoning certification application on forms to be provided by the Zoning Administrator.
- C. **Issuance of Zoning Certificate:** A zoning certificate shall be either issued or refused by the Zoning Administrator within ten (10) days after the receipt of an application or within such additional period as may be agreed to by the applicant. No zoning certificate shall be issued unless all the zoning requirements of this resolution are met. The failure or refusal of the Zoning Administrator to issue a zoning certificate within the prescribed time shall not be construed as approval of the certificate.
- D. **Period of Validity:** A zoning certificate shall become null and void one (1) year after the issuance date unless within such one (1) year period construction of the authorized improvement or structure is commenced, or the authorized use is commenced.

3. **PENALTIES - PROPERTY OWNER, AGENT OR TENANT:**

- A. **Enforcement Procedures:** The Zoning Administrator shall levy a fine for any violation of any provision of the Montgomery County Zoning Regulations against any owner, agent of owner or tenant. Any violation of any provision of the Montgomery County Zoning Regulations shall be deemed punishable by a fine not to exceed \$1,000.00 for each offense and each day's violation shall constitute a separate offense. If the property use or violation is not ceased within the time set forth by the Zoning Administrator, the Zoning Administrator may issue an order directing that the present use be ceased until all penalties have been paid. In addition thereto, the County Attorney or County Counselor or any other person designated by the Board of County Commissioners may institute injunctive or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, use or to correct or abate such violation or to prevent occupancy of such building, structure or land.
- B. **Unpaid Penalties:** Unpaid penalties may be collected by filing an action in any court of competent jurisdiction for the purpose of enforcing the provisions of the resolutions adopting the Montgomery County Zoning Regulations. Unless prohibited by state law, the Zoning Administrator may certify the unpaid penalties to the Montgomery County Treasurer, together with the legal description of the property where the proposed violation has occurred, and such unpaid penalties shall constitute an assessment on the property and shall be collected in the same manner as ad valorem property tax.

ARTICLE 11

RULES AND DEFINITIONS

1. RULES, CONSTRUCTION, INTERPRETATION AND DEFINITIONS:

A. Rules:

- (1) In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
 - a. Words used in the present tense shall include the future.
 - b. Words in the singular number include the plural number, and words in the plural number include the singular number.
 - c. The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
 - d. The word "shall" is mandatory.
 - e. The word "may" is permissive.
 - f. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 - g. The word "Board" means the Board of Zoning Appeals.
 - h. Unless otherwise specified, all distances shall be measured horizontally.
 - i. The word "County" means Montgomery County, Kansas.
 - j. The abbreviation N/A means not applicable.
- (2) Any word or phrase which is defined in this article or elsewhere in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

B. Interpretation:

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

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

- A. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

3. **Definitions:** For the purpose of this Zoning Regulation, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Board of Zoning Appeals: That Board which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine appeals, conditional uses and variances to the zoning regulations.

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

Building, Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof

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

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

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

Dwelling, Single-Family: A residential building having accommodations for and occupied exclusively by one family.

Dwelling, Single-Family Attached: A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building.

Dwelling, Two Family: A residential building having accommodations for and occupied exclusively by two families, independently.

Dwelling, Multiple: A residential building having accommodations for and occupied exclusively by more than two families, independently.

Fence: A protective, confining or decorative barrier separate from any building and not including any living plant material.

Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street.

Governing Body: The County Commission of Montgomery County, Kansas.

Lot, Corner: A lot abutting upon two or more streets at their intersection.

Lot, Depth of: The mean horizontal distance between the front and the rear lot lines.

Lot, Double Frontage: A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot of Record: A lot which is a part of a subdivision, the plat 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 prior to the adoption of this regulation.

Lot, Zoning: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots or record, one or more portions of a lot or lots or record, or any combination thereof.

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

Mobile Home: A transportable structure larger than 320 square feet in floor area, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

Nonconforming Structure: A structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.

Nonconforming Use: An existing use of a structure or land which does not conform with the regulations of the district in which it is situated as established by this regulation or any amendments hereto.

Planning Commission: The Montgomery County Planning Commission.

Public Utility: Any business which furnishes the general public (a) telephone service, (b) telegraph service, (c) electricity, (d) natural gas, (e) water and sewer, or (f) any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State.

Right-of-Way: A strip of land occupied or intended to be occupied by a street crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer, or for another special use.

Road Network:

A. Arterial: A road which provides for through traffic movement between and around areas

with direct access to abutting property, subject to necessary control of entrances, exists, and curb cuts.

- B. **Collector:** A road which provides for traffic movement between materials and local streets, with direct access to abutting property.
- C. **Local:** A road which provides direct access to abutting land and local traffic movement whether in business, industrial, or residential areas.
- D. **Major Arterial:** A road which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.

Salvage Yard: A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, handled or prepared for recycling, which shall include auto wrecking yards, but shall not include retail secondhand furniture stores or the purchase and storage of used or salvaged materials as a part of a manufacturing operation.

Secretary of the Planning Commission: The Zoning Administrator or other individual appointed by the Planning Commission to perform prescribed administrative duties.

Sight Triangle: An area at a road At the intersection in which nothing shall be erected, placed planted, or allowed to grow in such a manner as to materially impede vision measured from the centerline of the intersection of the roads, 90 feet in each direction following the center lines of the roads.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

Travel Trailer Or Recreational Vehicle: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. Examples are travel trailers, camping trailers, truck campers, and motor homes. Manufactured homes and modular homes shall not be considered trailers or recreational vehicles.

Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground upward.

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

Yard, Rear: A yard extending across the full width of the lot, the depth of which is the least distance between the rear lot line and the rear setback line.

Yard, Side: A yard extending from the front yard, or front lot line where no front yard is

required, to the rear yard.

Zone or District: A section of the Zoning Area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space are herein established.

Zoning Administrator: The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these zoning regulations.

Zoning Area: The area to be zoned as set out on the official Zoning Map filed of record.

Zoning Regulations: The term "zoning regulations" or "this or these regulations" shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted zoning regulations of the Montgomery County, Kansas.