CUSHING ZONING ORDINANCE

ARTICLE I TITLE, PURPOSE, INTERPRETATION AND APPLICATION, JURISDICTION, SEVERABILITY, AND REPEAL OF CONFLICTING ORDINANCES

SECTION 101 Title

101.1 This Ordinance shall be known as and may be cited and referred to as the "Zoning Ordinance of the City of Cushing, Oklahoma."

SECTION 102 Purpose

102.1 This Ordinance is enacted for the purposes of promoting the health, safety, morals, and general welfare of the community; lessening congestion in the streets, securing safety from fire, panic, and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; conserving the value of buildings and encouraging the most appropriate use of land throughout the community; and promoting the development of the community in accordance with a comprehensive plan.

SECTION 103 Interpretation and Application

103.1 As concerns interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements. Where this Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinance, the provisions of this Ordinance shall control. Terms and words are to be used and interpreted as defined in Article III of this Ordinance. Words used in the present tense include the future; the singular shall include the plural, and the plural the singular; the word "building" shall mean as well the word "structure"; the word "used" shall include "arranged", "designed", "constructed", "altered", "converted", "rented", "leased", or "intended to be used", and the word "shall" is mandatory and not directory, except where the natural construction of the writing indicates otherwise.

SECTION 104 Jurisdiction

104.1 This Ordinance shall be in full force and effect in the corporate limits of the City of Cushing, Oklahoma. Territory annexed to the corporate limits of the City of Cushing, Oklahoma, subsequent to the effective date of this Ordinance shall immediately be subject to the provisions of this Ordinance and shall be deemed to be designated as A-General Agricultural District until altered or reclassified in the manner provided by law.

SECTION 105 Severability Clause

105.1 In case any portion of this Ordinance shall be held to be invalid or unconstitutional, the remainder of the Ordinance shall not thereby be invalid, but shall remain in full force and effect.

SECTION 106 Repeal of Conflicting Ordinances

106.1 Any ordinance now in effect that conflicts with any provisions of this Ordinance is hereby repealed.

ARTICLE II ESTABLISHMENTS OF DISTRICTS

SECTION 201 Zoning Districts

201.1 Zoning Districts Established. For the purpose of this Ordinance and the promotion of public health, safety, and general welfare of the community, the following Districts are hereby established for the City of Cushing, Oklahoma.

A-1	Rural Agricultural District	C-3	General Commercial District
RE	Rural Estate District	C-4	Automotive & Commercial
R-1	Single Family Residential Districts	C-5	Central Business District
R-2	Combined Residential Districts	I-1	Light Industrial District
R-3	Multi-Family Residential Districts	I-2	Heavy Industrial District
C-1	Office District	PUD	Supplemental District
C-2	Convenience Commercial District	FD	Supplemental District

201.2 Zoning Map Incorporated. The locations and boundaries of the Zoning Districts shall be established by Ordinance and shall be delineated and shown on a map entitled "Zoning Map", and the Zoning Map is hereby incorporated as a part of this Ordinance.

201.3 District Boundaries Established. The boundaries of a Zoning District shall extend to a center line of abutting streets, regardless of the legal description used in establishing such Districts. In the event of uncertainty in the exact boundaries of any of the Districts as shown on the Zoning Map, the Planning Commission, upon written application or upon its own motion, shall recommend the location of such boundaries to the Board of Adjustment, and the Board of Adjustment shall make the final determination.

201.4 Maintenance of Official Zoning Map. It shall be the duty of the Zoning Administrator to maintain an up-to-date official Zoning Map, including all amendments directly adopted by the City Commission.

ARTICLE III DEFINITIONS

SECTION 301 Interpretation of Words and Terms

Accessory Use or Structure: A use or structure customarily incidental, appropriate and subordinate to the principal use of a building or to the principal use of land and which is located upon the same lot therewith. An accessory use or structure shall be so necessary or commonly to be expected that it cannot be supposed that the Ordinance intended to prevent it.

Agriculture: The use of land for agricultural purposes including farming, dairying, pasturage, horticulture, animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory shall be secondary to that of normal agricultural activities, and provided further that the above uses shall not include the commercial feeding of swine or other animals, stockyards or commercial feed lots for cattle.

Alley: A minor right-of-way dedicated to public use not more than thirty (30) feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

Automobile or Trailer Sales Area: An open area, other than a street, used for the display, sales or rental of new or used motor vehicles or trailers in operable condition and where no repair work is done.

Automobile Repair, Major: General repair, rebuilding or reconditioning of engines, motor vehicles or trailers; collision services including body, frame, or fender straightening or repair; overall painting or paint shop; vehicle steam cleaning.

Automobile Repair, Minor: Incidental replacement of parts and motor service to passenger cars and trucks not exceeding one and one-half (1-1/2) ton capacity.

Automobile Service Station or Filling Station: Any area used for retail sale of gasoline or oil fuels or automobile accessories, and incidental services including facilities for lubricating, and washing and cleaning, but not including painting, major repair, or the sale of butane or propane fuels.

Automobile Wash or Automatic Car Wash: A building or structure or chain conveyor, blowers, steam cleaners and other mechanical devices used primarily for the purpose of washing motor vehicles.

Block: In describing the boundaries of a District, the word "block" refers to the legal description. In all other cases, the word "block" refers to the property abutting on one side of the street between two (2) intersecting streets or between an intersecting street and a railroad right-of-way or between an intersecting street and a watercourse.

Boarding House and Rooming House: Where meals or lodging are provided for persons other than the family or their relatives and excluding facilities for transient persons such as hotels, motels, inn and other such facilities.

Board of Adjustment: The Board of Adjustment of the City of Cushing, Oklahoma.

Building: Any structure having a roof supported by columns or walls that is used or intended to be used for the shelter or enclosure of persons, animals, or property.

Building Accessory; See "Accessory Use or Structure".

Building Height: The vertical distance from the average line of the highest and lowest points of that portion of the lot covered by the building to the highest point of coping of a flat roof, or the deckline of a mansard roof or the average height of the highest gable of a pitch or hip roof.

Building Line: A line established beyond which no part of a building shall project, except as otherwise provided by this Ordinance.

Building, Principal: A building or buildings in which the principal use of the building site is conducted. In any Residential District, any dwelling shall be deemed to be the principal building on the building site.

Bulletin Board: Any sign announcing the activities of an educational, religious, institutional or similar use.

Cemetery: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes.

Child Care Center: Any place, home or institution which receives three or more children under the age of sixteen years for care apart from their natural parents, legal guardians or custodians, and received for regular periods of time for compensation; provided, however, this definition shall not include public and private schools organized, operated or approved under the laws of this state, custody of children fixed by a court, children related by blood or marriage within the third degree to the custodial person, or to churches or other religious or public institutions caring for children within their institutional building while their parents or legal guardians are attending services or meetings or classes and other church activities.

Clinic: A place used for the care, diagnosis and treatment of sick, ailing, infirm and injured persons and those in need of surgical or medical attention but who are not customarily provided with board and room or kept overnight on the premises.

Club: A non-profit association of persons who are bona fide members, paying regular dues, and organized for some common purpose, but not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Comprehensive Plan: The official plan of the City of Cushing, Oklahoma, as adopted by the City Commission.

Convalescent Home: Also, a nursing home, a rest home; a home for the aged, recuperating, chronically ill, or incurable persons, in which two (2) or more persons not of the immediate family are received, kept, or provided with food and shelter or care for compensation, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury.

Coverage: The lot area covered by all buildings located thereon, including the area covered by all overhanging roofs.

Dwelling: Any building or portion thereof designed or used as a residence of one or more persons, but not including a tent, cabin, trailer coach, mobile home, boarding or rooming house, hotel or motel.

Dwelling, Single-Family: A building containing one dwelling unit and designed for or used exclusively by one (1) family.

Dwelling, Two-Family: A building containing two dwelling units and designed for or used exclusively by two (2) families; also includes the word "duplex".

Dwelling, Modular: A relocatable living unit manufactured offsite and transported on an independent carrier unit, to a permanent site which has been constructed in accordance with an "Engineering Bulletin" issued by the Office of Technical Standards, Department of Housing and Urban Development, Washington, D.C.

Dwelling, Multi-Family: A building or portion thereof containing three or more dwelling units and designed for or used by three (3) or more families; also includes the word "apartments".

Dwelling Unit: A room or group of rooms arranged, intended or designed as a habitable unit, containing kitchen, bath and sleeping facilities for not more than one family living independently of any other family.

Essential Services: The erection, construction, alteration or maintenance by public utilities or municipal or other governmental agencies of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewer, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories thereof, reasonably necessary for the furnishing of adequate services by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

Family: A person living alone or two or more persons related by blood or marriage, living together as a single housekeeping unit, using a single facility in a dwelling unit, for culinary purposes, as distinguished from a group occupying a boarding house, lodging house, hotel, motel, fraternity house, or sorority house.

Flood: (One-Hundred Year Frequency) A flood having an average frequency of occurrence once in 100 years although the flood may occur in any year, based on statistical analyses of stream flow records available for the watershed and analyses of rainfall and run-off characteristics in the general region of the watershed, as determined by the City Engineer, or as determined by the U.S. Corps of Engineers and confirmed by the City Engineer or as determined by a registered professional engineer and certified by the City Engineer.

Floodway: The channel of a watercourse or drainway and those portions of the adjoining lands which are reasonably required to carry and discharge the floodwater of the 100-year frequency flood.

Flood Hazard Area: The land area adjoining a floodway which is not reasonably required to carry and discharge the floodwater of the 100-year frequency flood but which would be inundated by the floodwater of the 100-year frequency flood based on full urbanization of the watershed.

Flood Area: The sum of the gross horizontal areas of the several floors of a building or buildings, measured from the exterior faces of the exterior walls or from the center lines of walls separating two buildings.

Frontage: The lineal measurement of a lot boundary which is abutting a street.

Garage Apartment: A dwelling for one (1) family erected as a part of a private garage.

Garage, Parking: Any building or portion thereof used for the storage of four or more automobiles in which any servicing which may be provided is incidental to the primary use for storage purposes, and where repair facilities are not provided.

Garage, Public: The structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repairing or refinishing of any vehicles.

Garage, Private: A detached accessory building or a portion of the principal building used or intended for use by the occupants of the premises for storage of passenger vehicles or trailers.

Garage, Repair: A building in which are provided facilities for the care, servicing, repair, or equipping of automobiles.

Guesthouses: Living quarters within an accessory building for the sole use of persons employed on the premises or for temporary use by guests of the occupants of the premises, which living quarters have no kitchen facilities and are not rented or otherwise used as a separate dwelling.

Height: The vertical measurement of any structure on any parcel of land measured from the average elevation of the lot or parcel to the uppermost point of the structure.

Home-Occupation: A customary occupation or profession conducted for gain or support by a member of the immediate family residing on the premises.

Hospital: See "Medical Facilities".

Hotel: A building or group of buildings under one ownership containing six or more sleeping rooms occupied or intended or designed to be occupied as the more or less temporary abiding place of persons who are lodged with or without meals for compensation, but not including trailer parks, or camp, hospital, asylum, orphanage, or building where persons are housed under restraint.

Industry: Storage, repair, manufacture, preparation or treatment of any article, substance, or any commodity for commercial use.

Institutional Uses: Those uses organized, established, used or intended to be used for the promotion of a public, religious, educational, charitable, cultural, social, or philanthropic activity and normally operated on a non-profit basis.

Junk or Salvage Yard: A place where waste, discarded or salvage materials are bought, sold, exchanged, bailed, packed, disassembled or handled, including all wrecking yards, house-wrecking yards, used-lumber yards and places or yards for storage of salvaged house-wrecking and structural steel materials and equipment; but not including such places where such uses are conducted entirely within a completely enclosed building, and not including pawnshops and establishments for the sale, purchase, or storage of used furniture and household equipment, used cars in operable condition, or salvage materials incidential to manufacturing operations.

Kennel: Any structure or premises on which three (3) or more dogs over four (4) months of age are kept.

Livability Space: The open space of a lot which is not allocated to or used for off-street parking or loading areas or for paved access to the off-street parking or loading area.

Loading Space: A space on the same lot as the principal use of at least ten (10) feet in width and thirty (30) feet in length and having a vertical clearance of at least fourteen (14) feet, designated for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot: For purposes of this Ordinance, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

a. a single lot of record;
b. a portion of a lot of record;
c. a combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; and
d. a parcel of land described by metes and bounds;

provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Ordinance.

Lot Frontage: The front of a lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under YARDS in this section.

Lot measurements:

a. DEPTH of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front with the rearmost points of the side lot lines in the rear.

b. WIDTH of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of culs-de-sac, where the 80 percent requirement shall not apply.

Lot of Record: A lot which is part of a subdivision recorded in the office of the County Clerk, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Types: The diagram (Figure 1) which follows illustrates terminology used in this Ordinance with reference to CORNER lots, INTERIOR lots, REVERSED FRONTAGE lots and THROUGH lots.

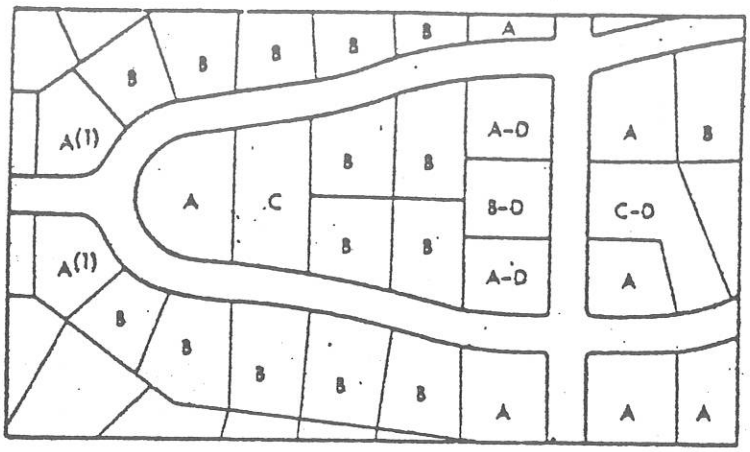

FIGURE 1

a. A = CORNER lot, defined as a lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A (1) in the diagram.

b. B = INTERIOR lot, defined as a lot other than a corner lot with only one frontage on a street.

c. C = THROUGH lot, defined as a lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

d. D = REVERSED FRONTAGE lot, defined as a lot on which the frontage is at right angles or approximately right angles (interior angle less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot (A-D in the diagram), an interior lot (B-D) or a through lot (C-D).

Mean Lot Elevation: The average elevation of a lot.

Medical Facilities:

a. Nursing Home, Rest or Convalescent Homes: See "Convalescent Home".

b. Dental or Medical Clinic: A building used for the examination and treatment of the physically ill, provided that no facilities are provided for patients remaining overnight except under emergency conditions except as provided for in Section 405.2.

c. Dental or Doctor's Office: The same as dental or medical clinic, including the various dental and medical specialities.

d. Hospital: An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities, and staff offices which are an integral part of the facilities.

e. Public Health Center: A facility primarily utilized by a health unit for providing public health services, including related facilities.

Mobile Home: A detached residential dwelling unit designed for long-term occupancy and containing sleeping accommodations and designed for transportation, after fabrication, on its own wheels with the carriage frame for transportation being an integral part of the construction of the unit including axles, wheels and hitch, and arriving at the site where it is to be occupied as a dwelling, complete and ready for occupancy except for minor and incidential unpacking and assembly operations, location on jacks or other temporary or permanent foundations, and connection to utilities.

Mobile Home Parks: A parcel of land under single ownership which has been planned and improved for placement of mobile homes to be occupied as residences.

Mobile Home Lot: A portion of a mobile home park allocated to the exclusive use of the occupants of a single mobile home.

Modular Home: See Dwelling Unit Modular.

Motel: An area containing one (1) or more buildings designed or intended to be used as temporary sleeping facilities of one (1) or more transient persons.

Open Space: Area included in any side, rear, or front yard, or any other unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projection of cornices and eaves of porches.

Parcel: A lot as defined herein.

Parking Space: A permanently surfaced area of not less than two hundred (200) square feet, either within a structure or in the open, exclusive of driveways or access drives, for the parking of motor vehicles.

Planning Commission: The Cushing Planning Commission, as established by the statutes hereinabove cited. The Cushing Planning Commission shall also be the Zoning Commission for the City of Cushing.

Rooming House: See "Boarding House".

Sign: Any word, lettering, part of letters, figures, numerals, phrases, sentences, emblems, devices, designs, picture, trade names or trademarks by which anything is made known, such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, a service, a commodity or product, which are visible from any public street or right-of-way and designed to attract attention. "For Sale" and "For Rent" shall be deemed signs within the meaning of this definition, but the term "sign" shall not include the flag, pennant, or insignia of any nation, state, city, or other political, educational, charitable, philanthropic, civic, professional, religious, or like campaign, drive, movement, or event used for a public purpose in the public interest.

Sign, Display Surface Area: The net geometric area of the surface of the sign upon, against or through which the message is displayed or illustrated, including the outward extremities of all letters, figures, characters and delineations, provided that only one face of a double-faced sign shall be included in the computation of display surface area.

Sign, Illuminated: A sign designed to give forth any artificial light, or designed to reflect light from one or more sources, natural or artificial.

Sign, Projecting: A sign erected on the face or outside wall of a building which projects out at any angle therefrom.

Sign, Temporary: Signs of temporary nature used to advertise the premises for sale, rent, or lease.

Special Exception: A use or a design element of a use which is not permitted by right in a particular district because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the Board of Adjustment, where specifically authorized by this Ordinance, and in accordance with the substantive and procedural standards of this Ordinance.

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

Street: A public right-of-way more than thirty (30) feet in width which the primary public means of access to abutting property and used primarily for vehicular circulation.

Street, Arterial: Any street designated on the Comprehensive Plan as an arterial, primary arterial, secondary arterial, major street, etc.

Street, Minor: Any street not designated on the Comprehensive Plan as an arterial.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders.

Structure: Anything constructed, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground (not including sidewalks, driveways and similar improvement areas).

Thoroughfare Plan: The part of the Comprehensive Plan referring to transportation development goals, principles, and standards; also includes use of the words "Major Street Plan" and "Trafficways Plan".

Townhouse. One series of three or more attached dwelling units, separated from one another by continuous vertical party walls without openings from basement floor to roof.

Trailer: A portable or mobile unit, other than a mobile home, used or designed to carry or transport material or animals.

Variance: A relaxation of a restriction of the Zoning District Regulation granted by the Board of Adjustment, where by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstances of a particular property, the literal enforcement of the restriction, would result in unnecessary hardship.

Yard: A required open space other than a court unoccupied and unobstructed by any structure or portion of a structure from 30 inches above the general ground level of the graded lot upward, provided, however, that fences, walls, poles, posts, and other customary yard accessorites, ornaments, and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

Yard, Front: A yard extending between side lot lines across the front of a lot adjoining a public street.

In any required front yard, no fence or wall shall be permitted which materially impedes vision across such yard above the height of 30 inches, and no hedge or other vegetation shall be permitted which materially impedes vision across such yard between the heights of 30 inches and 10 feet.

In the case of through lots, unless the prevailing front yard pattern or adjoining lots indicates otherwise, front yards shall be provided on all frontages. Where one of the front yards that would normally be required on a through lot is not in keeping with the prevailing yard pattern, the zoning administrator may waive the requirement for the normal front yard and substitute therefor a special yard requirement which shall not exceed the average of the yards provided on adjacent lots.

In the case of corner lots which do not have reversed frontage, a front yard of the required depth shall be provided in accordance with the prevailing yard pattern and a second front yard or half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of reversed frontage corner lots, a front yard of the required depth shall be provided on either frontage, and a second front yard or half the depth required generally for front yards in the district shall be provided on the other frontage.

In the case of corner lots with more than two frontages, the zoning administrator shall determine the front yard requirements, subject to the following limitations: (a) At least one front yard shall be provided having the full depth required generally in the district; (b) No other front yard on such lot shall have less than half the full depth required generally.

Yard, Depth: The depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear yard lines shall be parallel.

Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

Yard, Interior Side: Any side yard that does not abutt a street.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of THROUGH LOTS, side yards shall extend from the rear lines of front yards required. In the case of CORNER LOTS, yards remaining after full- and half-depth front yards have been established shall be considered side yards.

Yard, Width: The width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Yard, Special: A yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the zoning administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district, determining which shall apply by the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

ARTICLE IV GENERAL PROVISIONS APPLYING TO ALL OR TO SEVERAL DISTRICTS

SECTION 401 Limitation on Use

401.1 Application of Regulations in Districts Authorized. No land, building, structure, or improvement shall be used and no building, structure, or improvement shall be made, erected, constructed, moved, altered, enlarged, or rebuilt which is designed, arranged, or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, coverage, yard, space, and other requirements established in the District in which such land, building, structure, or improvement is located, and such use is authorized, except as provided by Article V, Nonconformities.

401.2 Application of Regulations to the Uses of a More Restricted District. Whenever the specific District regulations pertaining to one District permit the uses of a more restricted District, such uses shall be subject to the conditions set forth in the regulations of the more restricted District, unless otherwise specified.

401.3 Residential Uses Restricted to Residential Lots. It is intended that these regulations be interpreted as not permitting a dwelling unit to be located on the same lot with or within a structure used or intended to be used primarily for nonresidential purposes except that one accessory residential unit may be provided for a night watchman, motel manager, or similar purpose where essential to the main use of the lot.

SECTION 402 Division of Lots

402.1 An improved lot shall not hereafter be divided into two or more lots unless all lots resulting from such division comply with all the applicable yard, space, area, parking and loading regulations of the Zoning District in which located.

SECTION 403 Use of Yards, Building Encroachments and Building Setbacks

403.1 No building, structure, or improvement shall be permitted to encroach upon required yard spaces set forth in the provisions of this Ordinance; provided, however, that surfaced parking facilities, signs, fences, and gasoline pumping service units may be permitted to occupy required yard space unless otherwise prohibited in those Districts permitting such improvements and provided that no inoperative vehicle may be stored in the front yard of a lot in a Residential District.

403.2 Where an existing building or buildings on the same side of the street and within the same block, encroach on the required front yard or building setback, the required front yard or building setback for new construction shall be established as follows:

A. If the proposed building is to be located more than 200 feet from an encroaching building, the proposed building shall conform to the front yard or setback established for the district in which the proposed building is to be located.

B. If the proposed building is to be located between adjacent buildings which conform to the required front yard or building setback, or between a conforming building and an intersecting street, the proposed building shall conform to the front yard or serback established for the district in which the proposed building is to be located.

C. If the proposed building is to be located within 200 feet of encroaching buildings on both sides and there are no intervening buildings, the front yard or building setback shall be the average of the front yard or setback of the two nearest front corners of the encroaching buildings.

D. If the proposed building is to be located within 200 feet of an encroaching building on one side, but not both sides, and there are no intervening buildings, the front yard or building setback shall be the average of the otherwise required front yard or setback and the setback of the nearest front corner of the encroaching building.

Provided, however, that in the application of "C" or "D" above, the front yard or building setback shall not be reduced to less than 5 feet plus 1/2 of the right-of-way width designated on the Major Street Plan for the abutting street, or 5 feet plus 25 feet if the street is not designated on the Major Street Plan.

SECTION 404 Street Access

404.1 No principal building shall hereafter be constructed on a lot which does not abut a public dedicated street.

SECTION 405 Trailers, Commercial Vehicles, and Mobile Home Parks

405.1 Storage and Parking in Residential Districts. Commercial vehicles and trailers of all types, including travel, camping and hauling and mobile homes shall not be parked or stored on any lot occupied by a dwelling or on any lot in any Residential District except in accordance with the following provisions:

A. No more than one (1) commercial vehicle, which does not exceed one and one-half (1-1/2) tons rated capacity, per family living on the premises shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, radioactive, gasoline, or liquified petroleum products be permitted.

B. No more than one (1) camping or travel trailer or hauling trailer per family living on the premises shall be permitted, and said trailer shall not exceed thirty (30) feet in length or eight (8) feet in width; and further provided that said trailer shall not be parked or stored for more than forty-eight (48) hours unless it is located behind the front yard building line. A camping or travel trailer shall not be occupied either temporarily or permanently while it is parked or stored in any area within the incorporated limits except in a mobile home park authorized under the ordinances of the City of Cushing, Oklahoma, except as provided for in Section 405.2.

C. Mobile homes may be permitted by conditional use permit on individual lots in all Residential Districts and by right in the Agriculture District when in compliance with all applicable provisions of this Ordinance.

405.2 Display in Commercial and Industrial Districts. Commercial vehicles and trailers of all types may be displayed in such commercial districts allowing sales of said vehicles or in such industrial districts allowing their manufacture; provided, however, said vehicles may not be used for dwelling purposes either temporarily or permanently except in a mobile home park authorized under the Ordinances of the City of Cushing, Oklahoma.

405.3 A mobile home park shall be in conformity with the following provisions:

A. Bulk and Area Requirements:

1. Each mobile home park shall meet the following minimum requirements:

tract area:	
per mobile home space	5,000 square feet
total	5 acres
tract width:	
elsewhere	100 feet

The mobile home tract shall be a single parcel, unless divided by a public right-of-way in such a manner as not to preclude efficient design and operation; if so divided, no part shall be less than one acre.

2. Each individual mobile home space in a mobile home park shall neet the following minimum requirements:

area	2,000 square feet, or twice the floor area of the mobile home placed on the space, whichever is larger
setback from internal street or drive	20 feet
rear yard	10 feet
separation between mobile home and boundary of mobile home space	5 feet

B. Common Recreation Space: There shall be at least 800 square feet of common recreation space per mobile home space in a mobile home park; the minimum area of any common recreation area shall be 10,000 square feet, and the minimum width of any such area shall be 80 feet. Each required common recreation area shall be within 300 feet of each of the mobile homes it is intended to serve, measured along a route of pedestrian access. Such recreation area shall be no nearer than 25 feet to any property line. Each required common recreation area shall be graded and drained so as to dispose of all surface waters accumulated within the recreation area and shall be surfaced with turf or other dustless surface.

C. Off-Street Parking Areas: Off-street parking space may be provided on common areas of mobile home parks and shall be located within 200 feet of each mobile home space so served, measured along a route of pedestrian access. If parking space is provided with each mobile home space, the minimum area of such space shall be increased by 375 square feet.

D. Interior Driveways: Interior driveways shall be improved in accordance with the requirements for streets set forth in the subdivision regulations and properly maintained.

E. Accessory Commercial Facilities: In a mobile home park containing at least 40 units of improved mobile home spaces, there may be provided accessory commercial facilities for the convenience of the residents of the development upon recommendations of the Planning Commission and approval of the City Commission and issuance of a special permit and provided that:

1. The gross floor area of such accessory uses shall not exceed 25 square feet for each mobile home space in the park;

2. All commercial uses shall be govered by the requirements of the Convenience Commercial District; and

3. No such structure shall be closer than 50 feet to any property in an Agricultural, Residential, or Office District outside the mobile home park.

F. Other Regulations: In addition to complying with this section, each mobile home park shall comply with all pertinent rules and regulations of the State of Oklahoma and of the locality.

SECTION 406 Off-Street Parking and Loading

406.1 General Intent and Application. It is the intent of these requirements that adequate parking and loading facilities be provided off the street for each use of land within the City. Requirements are intended to be based on the demand created by each use. These requirements shall apply to all uses in the districts.

406.2 Required Open Space. Off-street parking or loading space shall be a part of the required open space associated with the permitted use and shall not be reduced or encroached upon in any manner.

406.3 Location. The off-street parking lot shall be located within two hundred (200') feet, exclusive of street and alley widths, of the principal use and shall have direct access to a street or alley.

406 Applicability of Requirements. The off-street parking and off-street loading ties whether they are principal uses, accessory uses, or a minimum requirement he initiation, enlargement, or change of use, shall meet the requirements of this ion, as follows:

A. For all buildings and structures erected and all uses of land established after the effective date of this Code, parking and loading facilities shall be provided as required by this Section.

B. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, seating capacity, or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.

C. Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the building or structure was erected prior to the effective date of this Code, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use, if the latter were subject to the parking and loading provisions of this Code.

D. Accessory off-street parking and loading facilities in existence on the effective date of this Code and located on the same lot as the building or use served shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new building or use under the provisions of this code.

.5 Design Standards for -Off-Street Parking Areas

A. A required off-street parking space shall be at least eight (8') feet in width and at least twenty-one (21') feet in length exclusive of access drives or aisles. Such space shall have a vertical clearance of at least six (6') feet six (6") inches.

B. Each required parking space shall be accessible from a public street without passing through another required space.

C. Lighting used to illuminate an off-street parking area shall be so arranged as to direct the light away from properties within a Residential District which do not contain uses for which the parking is being provided.

D. Unenclosed off-street parking areas shall be surfaced with an all-weather material.

E. Off-street parking lots in residential districts: Whenever off-street parking lots for more than six (6) vehicles are to be located within or adjacent to a residential district, the following provisions shall apply.

1. All sides of the lot abutting the residential district shall be enclosed with a screening wall or fence which shall be constructed and maintained in conformity with Section 407 of this Ordinance.

2. No parking shall be permitted within a front yard setback line established ten (10') feet back of the property line of interior and corner lots wherever the parking lot is located in a residential district or immediately abuts the front yard of a residential unit. In all other cases no setback shall be required; provided, however, that on any corner lot formed by two (2) intersecting streets no parking shall be permitted, and no wall, fence, sign, structure or plat growth having a height in excess of three (3') feet above the elevation of the crown of the adjacent roadway surface shall be maintained in a triangle formed by measuring a distance of thirty (30') feet along said front and side lot lines, from their point of intersection, and connecting the points so established to form a triangle on the area of the lot adjacent to the street intersection.

3. All yards shall be landscaped with grass, shrubs, an evergreen ground cover and maintained in good condition the year round.

4. Driveways used for ingress and egress shall be confined to and shall not exceed twenty-five (25) feet in width, exclusive of curb returns.

5. All of the lot used for parking and driveway purposes shall be paved with a sealed surface pavement and maintained in such a manner that no dust will be produced by continued use.

6. The intensity of light and arrangement of reflectors shall be such as not to interfere with residential district uses.

7. No sign of any kind shall be erected except information signs used to guide traffic and to state the conditions and terms of the use of the lot. Only nonintermittent incandescent lighting of signs shall be permitted.

406.6 Amount of Off-Street Parking Required. Off-street parking facilities shall be provided in all Districts in accordance with the following standards:

USES	PARKING SPACES
Airport	1 per each 500 sq. ft. of enclosed passenger terminal area
Antique and Furniture Stores	1 per 300 sq. ft. of floor area
Aquarium, Art Gallery, Museum, Planetarium, and Cultural Facility	1 per 800 sq. ft. of floor area
Automobile Rental	1 per 600 sq. ft. of floor area
Automobile Sales	1 per 600 sq. ft. of floor area, plus 1 per 1,000 sq. ft. of open air display storage, or service area
Camper Sales	1 per 600 sq. ft. of floor area, plus 1 per 1,000 sq. ft. of open air display storage, or service area
Care Home	1 per 1,000 sq. ft. of floor area
Childrens' Nursery	1 per 1,000 sq. ft. of floor area
Church	1 per 40 sq. ft. of chapel or sanctuary floor area
College, University	1 per 600 sq. ft. of classroom floor area, plus 1 per 4 dormitory beds, plus 1 per 4 stadium seats
Commercial Amusement Establishments	1 per 225 sq. ft. of floor area
Commercial Recreation Facilities	1 per 800 sq. ft. of site area
Community Center	1 per 500 sq. ft. of floor area
Drive-In Restaurant	N/A
Drive-In Theatre	N/A
Duplex Dwelling	2 per dwelling unit

USES	PARKING SPACES
Eating Places	1 per 225 sq. ft. of floor area
Extractive Operations	1 per 1,000 sq. ft. of floor area
Farm Equipment Sales, Service, Rental, Repair	1 per 600 sq. ft. of floor area plus 1 per 1,000 sq. ft. of open air display storage or service area
Foster Homes	1 per 1,000 sq. ft. of floor area
Fraternity or Sorority House	1 per 2 beds
Funeral Homes	1 per 40 sq. ft. of assembly floor area, plus 1 per 300 sq. ft. of non-assembly floor area
Golf Course	5 per green plus 1 per 400 sq. ft. of club house floor area
Golf DrivingRange	1 per tee
Halfway House	1 per 1,000 sq. ft. of floor area
Heavy Industrial Uses	1 per 1,000 sq. ft. of floor area
Hospital	1 per bed
Hotel	1 per sleeping room plus 1 per 225 sq. ft. of accessory facilities such as restaurants and taverns
Library	1 per 500 sq. ft. of floor area
Light Manufacturing and Industrial Uses	1 per 1,000 sq. ft. of floor area
Medical and Rental Offices, Clinics and Laboratories	1 per 250 sq. ft. of floor area
Mobile Home	2 per each mobile home dwelling unit
Mobile Home Sales	1 per 600 sq. ft. of floor area plus 1 per 1,000 sq. ft. of open air display storage or service area

USES	PARKING SPACES
Moderate Industrial Uses	1 per 1,000 sq. ft. of floor area
Motel	1 per sleeping room plus 1 per 225 sq. ft. of accessory facilities such as restaurants and taverns
Motorcycles Sales	1 per 600 sq. ft. of floor area plus 1 per 1,000 sq. ft. of open air display storage or service area
Multi-Family Dwelling	1.5 per efficiency or 1 bedroom dwelling unit; 2 per 2 or more bedroom dwelling unit
Office and Studios	1 per 300 sq. ft. of non-assembly floor area
Private Club	1 per 400 sq. ft. of floor area
Public Park	1 per 4 stadium seats, plus 1 per 500 sq. ft. of community center or recreation building, plus 1 per 300 sq. ft. of pool area
Retail Establishments	1 per 225 sq. ft. of floor area
Retail Trade and Service Establishments	1 per 225 sq. ft. of floor area
Rooming/Board House	1 per 2 beds
Sanitariums	1 per 1,000 sq. ft. of floor area
Schools:	
Elementary and Middle High	1 per 1,200 sq. ft. of floor area
Senior High	1 per 800 sq. ft. of floor area, plus 1 per 4 stadium seats
Service Establishments	1 per 400 sq. ft. of floor area
Single Family Detached Dwelling	2 per dwelling unit
Townhouses	1.5 per efficiency or 1 bedroom dwelling unit; 2 per 2 or more bedroom dwelling unit

USES	PARKING SPACES
Trade Establishments	1 per 400 sq. ft. of floor area
Truck Sales	1 per 600 sq. ft. of floor area plus 1 per 1,000 sq. ft. of open air display storage or service area
Vehicular Repair	1 per 600 sq. ft. of floor area
Uses providing spectator seating such as stadiums, arenas, rodeo grounds	1 per 4 seats
Warehousing, Storage, Wholesaling, and Trucking	1 per 5,000 sq. ft. of floor area

For all uses not covered in these standards, the Planning Commission shall make a determination of the parking demand to be created by the proposed use, and the amount of parking thus determined shall be the off-street parking requirement for the permitted use.

406.7 Off-Street Loading

A. Off-street loading space required. Every industrial, commercial, and civic building hereafter erected or expanded shall provide space as indicated herein for loading and unloading of vehicles. The number of off-street loading berths required by this Section shall be considered as the absolute minimum, and the developer shall evaluate his own needs to determine if they are greater than the minimum specified by this Section.

B. Size of off-street loading spaces. All off-street loading berths shall have the minimum dimensions of twelve (12') feet by sixty (60') feet and fifteen (15') feet overhead clearance. In no case shall required off-street loading space encroach upon off-street parking space required under this Ordinance, or on public right-of-way.

C. Number of off-street loading space required. The following Table illustrates the number of truck berths required by use category according to floor area.

TABLE I
Commercial Land Use

Floor Area (sq. ft.)			Truck Berths
0	-	8,000	0
8,001	-	50,000	1
50,001	-	250,000	2
Each Addition		200,000	1

TABLE 2
Industrial Use

Floor Area (sq. ft.)			Truck Berths
0	-	20,000	1
20,000	-	40,000	2
40,000	-	60,000	3
60,000	-	100,000	4
Each Additional		80,000 sq. ft.	1

TABLE 3
Wholesaling, Storage & Distribution

Floor Area (sq. ft.)			Truck Berths
0	-	2,000	0
2,001	-	10,000	1
10,001	-	25,000	2
25,001	-	40,000	3
40,001	-	60,000	4
60,001	-	100,000	5
Each Additional		80,000 sq. ft.	

TABLE 4
Civic Uses

Floor Area (sq. ft.)			Truck Berths
0	-	15,000	0
15,001	-	75,000	1
75,001 and above			2

D. Design of Loading Spaces. Off-street loading spaces shall be designed so that vehicles shall maneuver entirely within the property lines of the premises. Unenclosed off-street loading areas shall be permanently paved with hard surfaced pavement. A six (6") inch barrier curb must also be constructed to separate a loading area from public right-of-way.

E. Loading Zones. If the use is located in the CBD District, the applicant may apply to the Zoning Administrator for a street loading zone that does not impede a moving lane of traffic.

F. Time Requirements. Where the Zoning Administrator approves an on-going loading zone, that zone cannot be used between 7:00 a.m. and 9:00 a.m., and 4:00 p.m. and 7:00 p.m. each weekday. Semi-tractor trailer trucks cannot use a designated on-street loading zone between 7:00 a.m. and 7:00 p.m. each Monday through Friday.

G. Loading Violations. Violators of this Ordinance will be subject to the enforcement procedures listed in the Municipal Ordinance Code.

H. Exemptions to Off-Street Loading Requirements. An applicant with less than two loading spaces as required in Section 406.7C may utilize the public street for maneuvering space if the maneuvering is performed on either a local or collector street segment. Said segment shall exist entirely within an industrial zoned area and shall not connect with other segments of the same street or other streets, that traverse through non-industrial zoned areas. Any applicant may appeal the loading berth requirements in Section 406.7C to the Zoning Administrator if he can verify that those requirements are excessive due to other factors such as railroad access, air freight storage next to airports, waterway access, etc.

SECTION 407 Screening Wall or Fence

407.1 Specifications. When the provisions of this Ordinance require the construction of a screening wall or fence as a condition for the initiation and subsequent continuance of a use, the screening wall or fence:

A. Shall be constructed, designed, and arranged to provide visual separation of uses, irrespective of vegetation;

B. Shall not be less than five (5) feet not more than eight (8) feet in height; and

C. Shall be constructed with all braces and supports on the interior.

407.2 Maintenance. The screening wall or fence shall be maintained by the owner of the zoning lot containing the use requiring the construction of the screening. Failure to maintain after notice by the Zoning Administrator shall constitute an offense hereunder.

SECTION 408 Sewer Service

408.1 No structure or use in any District shall be erected or commenced which does not have a connection to the public sewer system, unless and until the County Public Health Officer certifies that a septic tank or any substitute disposal system can be installed and operated effectively. As a basis for making his decision, the Public Health Officer may require such percolation tests as he deems to be necessary. Such tests are to be made at the expense of the property owner.

SECTION 409 Group Housing Projects

In the case of a housing project consisting of a group of two or more buildings to be constructed on a plot of ground of at least two (2) acres, the height, area and setback requirements of this ordinance may be modified by the City Commission upon the recommendation of the Planning Commission following the submission of an application for such development by the applicant in such cases where the application will provide a development that will be in harmony with the character of the neighborhood, will insure a density of land use no higher and a standard of open space at least as high as required by this ordinance in the district in which the proposed project is to be located. In no case shall a use or building height or density of population be permitted which is less than the requirements of the district in which the housing project is to be located.

SECTION 410 Townhouse Development

410.1 Purpose and Intent. The purpose of this Section is to provide a mechanism that permits more flexible housing development and design within residentially zoned property. The intent of this Section is to allow deviation from a residential district's strict development regulations without increasing the overall permitted density, and to provide the development of a variety of housing types in which to choose as design alternatives.

410.2 Townhouse Development Permitted. Townhouse Development, which comprises group house arrangements of attached or detached buildings, may be permitted by Conditional Use Permit within the R-3 residential zoning district. Townhouse Development may be approved in the R-3 district when in compliance with the zoning district's requirements and the provisions of this Section.

410.3 Development Regulations. The residential density shall not exceed a maximum number of dwelling units computed as follows:

Maximum Number of Permitted Dwelling Units	=	Gross Square footage of property located within an R-3 Residential District divided by 5000 square feet for the first 10,000 ft. of property and by 2,000 square feet for the balance of the gross square footage of property.

A. Minimum Lot Area.

No Townhouse Development lot shall be less than seventeen hundred fifty (1750') square feet.

B. Yard Requirements.

1. Any Townhouse Development having not more than two (2) units shall meet the following minimum yard requirements.

Yard	Setback
Front	25 feet
Side (interior)	5 feet
Side (corner)	15 feet
Rear	15 feet

2. Any Townhouse Development having more than two (2) units shall meet the following minimum yard requirements:

Yard	Setback
Front	25 feet
Side lot(interior)	(1) A townhouse having two (2) party walls shall have no side interior yard requirements. (2) End Unit shall have to meet the following side yard requirements: 15 feet.
Side (corner)	25 feet
Rear	25 feet.

C. Building Height

Townhouse Developments shall not exceed the height provisions permitted under the regulations of the R-3 zoning district.

D. Lot Width

The minimum width of a Townhouse Development lot shall be twenty-four (24') feet.

E. Not more than six townhouses shall be placed together in a row, and no row shall be longer than one hundred eighty (180') feet.

410.4 Common Ownership. Where property within a Townhouse Development is to be held in common ownership, such development shall comply with provisions in the Common Open Space and Common Improvement Regulations.

410.5 Accessory Buildings. No detached accessory buildings or structures other than permitted fences or walls shall be allowed on any lot less than thirty (30') feet in width. Those lots having at least thirty (30') feet in width shall comply with the accessory use requirements applicable to the R-3 zoning district.

410.6 Parking, Loading, and Access. Townhouse Developments shall comply with all applicable provisions of the Parking and Loading Regulations, with each unit required to provide a minimum of two (2) parking spaces.

SECTION 411 Home Occupations

411.1 Home Occupations in General. Home occupations shall be subject to the following regulations:

A. Permitted in the Agricultural and all Residential Districts.

B. No exterior alterations of the structure shall be made which are of a nonresidential nature.

C. Except for one (1) nonilluminated name plate attached to the building entrance which is not more than four (4') square feet in area, no evidence of any home occupation shall be perceptible to an observer in the street or on any other property in an A or R District.

D. Except as provided for beauty salons in subsection 411.2, no article, product, or service sold in connection with such activity shall be other than those produced on the premises.

E. Except as provided for beauty salons in subsection 411.2, no mechanical equipment shall be used in connection with such activity other than such equipment as is customary for domestic or household purposes.

F. No person shall be employed at any time, other than a member of the immediate family residing on the premises.

G. Home occupation shall be clearly incidential and secondary to the use of the dwelling for dwelling purposes.

411.2 Accessory Beauty Salons: An accessory beauty salon shall be permitted as a home occupation only if it meets the conditions set forth in subsection 411.1 and the following conditions:

A. It shall be located in the main dwelling.

B. It shall have only one operator on duty at any time.

C. It shall have at least two off-street parking spaces meeting the Parking Standards, in addition to the spaces required for the residential use of the dwelling.

D. The sale of beauty aids shall be incidental to the operation of the beauty salon.

411.3 Customary home occupations include, but are not limited to, the following occupations:

Architects, engineers, lawyers, planners, and members of similar professions; artists, authors, composers, and sculptors; beauty salons; day care homes; dressmakers, seamstresses, and tailors; foster homes for not more than six children; home crafts, such as cabinet work, lapidary work, model making, and rug weaving; insurance agents and real estate brokers; ministers, priests, and rabbis; salesmen, sales representatives, and manufacturers' representatives; teaching of not more than four pupils at one time, or, in the case of music, not more than one; and yard work.

411.4 Customary home occupations do not include the following occupations:

Animal hospitals, kennels, or stables; barber shops; dancing schools; funeral homes; interior decoration workshops; medical or dental offices or clinics or hospitals; nursery schools; restaurants; and tourist homes.

ARTICLE V NONCONFORMITIES

SECTION 501 Intent

501.1 Within the Districts established by this Ordinance or amendments that may later be adopted, there exist lots, structures, and uses of land and structures which were lawful before this Ordinance was passed or amended but which would be prohibited, regulated, or restricted under the terms of this Ordinance or future amendment. It is the intent of this Ordinance to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this Ordinance to be incompatible with permitted uses in the Districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same District. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of this Ordinance.

SECTION 502 Nonconforming Lots of Record

502.1 In any District in which a lot exists of record at the effective date of adoption or amendment of this Ordinance which does not conform in size or area to the provisions of this Ordinance, buildings for the uses permitted in such District may be erected on such lot, notwithstanding limitations imposed by other provisions of this Ordinance, provided that such lot is in separate ownership and not of continuous frontage with other lots in the same ownership.

SECTION 503 Nonconforming Structures

503.1 Where a lawful structure exists at the effective date of adoption or amendment of this Ordinance that could not be built under the terms of this Ordinance by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Ordinance.

C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the District in which it is located after it is moved.

SECTION 504 Nonconforming uses of Structures

504.1 If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Ordinance that would not be allowed in the District under the terms of this Ordinance, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted to a use not permitted by this Ordinance in the District in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the District in which it is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Ordinance, but no such use shall be extended to occupy any land outside such building.

C. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations for the District in which such structure is located, and the nonconforming use may not thereafter be resumed.

D. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months, the structure, or structure and premises in combination, shall not thereafter be used except in conformance with the regulations of the District in which it is located.

E. Where nonconfirming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconfirming status of the land.

SECTION 505 Nonconforming Uses of Land

505.1 Where, at the effective date of adoption or amendment of this Ordinance, lawful uses of land exist that are no longer permissible under the terms of this Ordinance as enacted or amended, such uses may be continued so long as they remain otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Ordinance.

B. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance.

C. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the regulations specified by this Ordinance for the District in which such land is located.

SECTION 506 Changes in Nonconformity

506.1 A nonconforming use of a structure, or of a structure and land in combination, shall not be changed unless changed to a use permitted in the District in which located; except that the Board of Adjustment may permit a change to a more restricted nonconforming use and such change shall be construed as an abandonment of the former permitted nonconforming use.

ARTICLE VI

SPECIFIC DISTRICT REGULATIONS

SECTION 601

A-AGRICULTURAL DISTRICT

601.1 GENERAL DESCRIPTION

The regulations for the agricultural zoning district are designed to protect undeveloped areas from intensive uses until a use pattern is approved.

A-1 Rural Agricultural District

The A-1 district is intended to provide an area primarily for agricultural uses or extraction of the various products such as oil, minerals, rock and gravel from the earth and/or to prevent such land from being prematurely developed for urban purposes. The rural nature and low density of population in this district requires only that buildings and facilities related to the uses of this district have a reasonable setback from streets and highways. It is the purpose of this district to protect such agricultural or extractive uses from unplanned urbanization so long as the land is not programmed for essential municipal services.

601.2 USES PERMITTED

The permitted uses in the agricultural district are set forth in the Table below. Where the letter "x" appears on the line of a permitted use, the permitted in this district subject to the general provisions of the Zoning Ordinance as set forth in the preceding sections. Where the letter "p" appears instead of the letter "x", this use is permitted subject to acquiring a Conditional Use Permit as set forth in Section 803.

TABLE OF PERMITTED USES IN AGRICULTURAL DISTRICT

PERMITTED USES	ZONING DISTRICT A-1
Aircraft transportation (Conditional Use Permit requirement shall apply only to establishing and enlarging of airports, flying fields and heliports and to establishing, relocating and lengthening of runways)	p
Airway beacon or marker	p
Animal hospital (with or without outside runs)	x
Apiary	x
Arboretum or botanical garden	x
Boarding or training animals	x
Carnival, circus, tent revival or similar temporary open-air enterprise	p

PERMITTED USES	ZONING DISTRICT A-1
Child care institution: other than day nursery	p
Church, synagogue or temple, including Sunday School facilities	x
Civil defense and related activities facility	p
College, junior college, professional school, or university: public or equivalent private: Stadium or field house: other facilities	p
Community center: public	p
Construction facilities, accessory	p
Convalescent, maternity or nursing home	p
Dairy farm; egg farm	x
Earth moving, excavation or depositing construction materials, clay, earth, gravel, minerals, rock, sand or stone on the ground	p
Electric regulating substation	p
Farm for raising dogs, cattle, goats, horses, sheep, rabbits, or poultry	x
Field crop farm	x
Fire protection and related activities facility	p
Fishery	x
Flood control works	p
Fruit, tree nut, or vegetable farm	x
Gas pipeline right-of-way	p
Gas pressure control station	p
Golf course: public or private	p
Growing and harvesting of trees	x
Horticultural specialty farm	x
Hospital, general	p
Hospital restricted to mental, narcotics or alcoholic patients; sanatorium	p
Library: private, nonprofit and public other than branch	p
Mental institution	p
Mining, quarrying and earth extractions	p
Mobile Home (free standing)	p
Monastery, convent or novitiate	p
Motion picture theater; drive-in	p
Museum or art gallery: public	p
Newspaper distribution station	p
Nursery school or day nursery	x
Nursery (trees and shrubs)	x

PERMITTED USES	ZONING DISTRICT A-1
Park, playground or tot lot: public	x
Parish house, parsonage or rectory	x
Petroleum pipeline or pressure control station	p
Pipeline right-of-way or pressure control station, NEC	p
Police protection and related activites facility	p
Postal services facility	p
Public stable	x
Radio transmitting station or tower, other than amateur	p
Railroad right-of-way (excluding switching and marshalling yards)	p
Religious retreat facility	p
Retail sale of farm products sold on premises	x
School, elementary: public or equivalent private	x
School, secondary: public or equivalent private	x
Sewage pressure control station	p
Sewage treatment plant or sludge drying bed	p
Single-family detached dwelling	x
Skating rink: public	p
Solid waste disposal facility	p
Swimming pool: public	p
Taxicab stand or dispatching station	p
Telegraph transmitting or receiving station or right-of-way	p
Telephone exchange station, relay tower or right-of-way	p
Television transmitting station or relay tower	p
Tennis courts: public	p
Veterinarian treating animals on premises	x
Water pipeline right-of-way, treatment plant, storage facility or pressure control station	p
Wildlife area (public)	x
Zoological garden: public	p

601.3 AREA AND HEIGHT REGULATIONS FOR A-1 RURAL AGRICULTURAL DISTRICT

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
5 Acres	330'	10%	35'	50'	30'	50'

All lots and improvements within the A-1 District shall meet the following requirements:

A. All lots shall have not less than five (5) acres of land including street dedications, and not more than one (1) principal building shall be placed on any one (1) lot.

B. Each lot shall have a frontage of not less than three hundred thirty (330) feet provided, however, that right-of-way dedications may be included in calculating lot frontage.

C. Not more than ten percent (10%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision.

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot except upon the approval of the Board of Adjustment.

E. All structures shall have not less than a fifty (50) foot front yard setback.

F. All principal structures shall have not less than a thirty (30) foot side yard setback. Accessory buildings may have side yards of not less than ten (10) feet.

G. All structures shall have not less than a fifty (50) foot rear yard setback.

601.4 ACCESSORY USES

A. Accessory uses that are incidental to permitted uses in the Agricultural District that are not detrimental to the adjacent property or character of the zone including guesthouses, private garages, barns, and sheds are permitted subject to the area and height regulations above.

B. Accessory uses shall be permitted in an interior side yard.

C. Accessory uses shall not occupy more than thirty (30%) percent of the rear or interior side yard, with no accessory use constructed upon a lot until the construction of the main building has been actually commenced, and no accessory use may be utilized unless the main building on the lot is also being used.

D. Accessory uses may include the following accessory signs, subject to provisions of Section 601.5: Bulletin boards, identifications signs, nameplates, real estate signs and subdivision signs.

601.5 SIGNS AND BILLBOARDS

No signs, posters, bulletin boards, or other similar displays shall be permitted in the A-1 District except as follows:

A. One bulletin board may be erected on each street frontage of an educational, religious, institutional, or similar use requiring an announcement of its activities. The bulletin board shall not exceed twelve (12) square feet in surface area nor fifteen (15) feet in height, and illumination, if any, shall be by constant light.

B. One identification sign may be erected on each street frontage of a single-family subdivision or permitted non-residential use. The sign shall not exceed twelve (12) square feet in surface area nor fifteen (15) feet in height, and illumination, if any, shall be by constant light.

C. A real estate sign advertising the sale, rental, or lease of the premises may be erected on each street frontage of the parcel. The sign shall not exceed eighty (80) square feet in surface area fifteen (15) feet in height, and illumination, if any, shall be by constant light.

D. Business signs and outdoor advertising may be erected on a lot abutting designated State and Federal Highways, and shall comply with State Law.

SECTION 602

RESIDENTIAL DISTRICTS

602.1 GENERAL DESCRIPTION

The regulations for the residential zoning districts are designed to: (1) protect the residential character of areas so designed from the noise, congestion and heavy traffic of commercial and industrial activities; (2) encourage a suitable environment for family life by providing for openness of living areas and permitting appropriate neighborhood facilities and compatible community facilities.

RE Residential Estate District

The RE district is intended to provide for very low density urbanization where partial urban services are provided by the municipality and health and safety standards may be otherwise insured by the individual on large lots. It is anticipated that the tracts in this district will be in close proximity to residential and commercial uses and be adequately served by police and fire protection, solid waste collection, water and sanitary waste disposal meeting Oklahoma State Health Department and local requirements. It is not intended that this district provide a location for a lower standard of residential or other development than is authorized in other districts.

R-1 Single Family Residential Districts

The R-1 districts are designed to provide quiet, low density areas for single family living with related recreational, religious and educational facilities protected from all commercial and industrial activity.

R-2 Combined Residential Districts

The R-2 districts encourage similar basic restrictions of the R-1 districts and permit a quiet, slightly higher population density area for family living protected from all commercial and industrial activity.

R-3 Multi-Family Residential Districts

The R-3 districts provide medium and high population density zone areas, containing a mixture of duplex, town house and multi-family dwellings along with limited home occupations and limited private and public community uses where lots are large enough for family living, but small enough to afford low development costs, economy of streets and utilities, and proximity to schools, churches and shopping.

602.2 USES PERMITTED

The permitted uses in the reisdential districts are set forth in the Table below. Where the letter "x" appears on the line of a permitted use and in the column of a district, the listed use is permitted in that district, subject to the general provisions of the Zoning Ordinance as set forth in the preceding sections. Where the letter "p" appears instead of the letter "x" this use is permitted subject to acquiring a Conditional Use Permit as set forth in Section 803.

TABLE OF PERMITTED USES IN RESIDENTIAL DISTRICTS

PERMITTED USES	ZONING DISTRICT			
	RE	R-1	R-2	R-3
Apartment house				x
Apartment hotel				x
Arboretum or botanical garden	p	p	p	x
Boarding or rooming house				x
Cemetery; crematory; columbarum; mausoleum	p	p	p	p
Child care institution: other than day nursery				p
Church, synagogue or temple, including Sunday School facilities	p	p	p	x
Civil defense and related activities facility	p	p	p	p
College, junior college: not including trade school		p	p	x
Community center: public	p	p	p	x
Convalescent, maternity or nursing home			p	p
Dormitories				x
Electric regulation substation	p	p	p	p
Fire protection and related activities facility	p	p	p	p
Fraternity or sorority house				x
Gas pressure control station	p	p	p	p
Golf course: excluding miniature and commercial driving range	p	p	p	p
Greenhouses: no products sold on premises	x	x	x	x
Hospital, general				p
Hospital restricted to mental, narcotics or alcoholic patients; sanatorium				p
Library: private, nonprofit and public	p	p	p	p
Mobile homes (free standing)	p	p	p	p
Mobile home parks (shall comply with Mobile Home Park Provisions, Section 405)				p
Multiple-family dwelling				x
Museum or art gallery		p	p	p
Nursery school or day nursery		p	p	p
Nursery (trees and shrubs): no products sold on premises	p	p	p	p

PERMITTED USES	ZONING DISTRICT RE	R-1	R-2	R-3
Nursery (trees and shrubs): sale of products on premises	p	p		
Parish house, parsonage or rectory	x	x	x	x
Park, playground or tot lot: public	x	x	x	x
Petroleum pipeline or pressure control station	p	p	p	p
Police protection and related activities facility	p	p	p	p
Postal services facility	p	p	p	p
Public off-street parking lot		p	p	x
Radio transmitting station or tower other than amateur	p	p	p	p
School, elementary: public or equivalent private	x	x	x	x
School, secondary: public or equivalent private		x	x	x
Sewage pressure control station	p	p	p	p
Single-family detached dwelling	p	p	p	p
Swimming pool: public	x	x	x	x
Telephone exchange station, relay tower	p	p	p	p
Television transmitting station or relay tower	p	p	p	p
Tennis courts: public	p	p	p	x
Townhouse (shall comply with Townhouse Provisions, Section 410)				x
Truck gardens: no products sold on premises	x	x	x	x
Two-family dwelling			x	x
Utility rights-of-way	x	x	x	x
Water treatment plant, storage facility or pressure control station	p	p	p	p
Zoological garden: public	p	p	p	x

602.30 LOT, YARD AND HEIGHT REGULATIONS

No lot or yard shall be established or reduced in dimension or area in any residential district that does not meet the minimum requirements set forth in the following sections. No building or structure shall be erected or enlarged that will cause maximum lot coverage or maximum height regulations to be exceeded for such district as set forth in the following sections:

602.31 AREA AND HEIGHT REGULATIONS FOR RE RESIDENTIAL ESTATE DISTRICT

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
1 acre or, as required	120'	15%	35'	40'	10'	40'

All lots and improvements within the RE Residential Estate District shall meet the following requirements:

A. All lots shall have an area of not less than that required for septic tank purposes as may be determined by the Oklahoma State Department of Health and the City of Cushing regulations where public sanitary sewer services are not available, but in no case shall the lot area be less than one (1) acre of land, including street dedications, and not more than one (1) principal building shall be placed on any one (1) lot.

B. Each lot shall have a frontage of not less than one hundred twenty (120) feet.

C. Not more than fifteen percent (15%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision.

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot except upon the approval of the Board of Adjustment.

E. All structures shall have not less than a forty-foot (40') front yard setback.

F. All principal structures shall have not less than a ten-foot (10') side yard setback. Accessory buildings may have side yards of not less than ten (10) feet.

G. All structures shall have not less than a forty-foot (40') rear yard setback.

H. Within the RE District, the Board of Adjustment may permit the construction of residential structures without connecting to public water supply provided it is determined that (a) public water supply is not available and/or will not become available within a reasonable period; and (b) that said approval would not endanger the health, safety and protection of citizens in the area.

602.32 AREA AND HEIGHT REGULATIONS FOR R-1 SINGLE FAMILY DISTRICTS

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
9,000 Sq. Ft.	70'	30%	35'	25'	7' interior lots 15' street side of corner lots.	20% depth of lot.

All lots and improvements within the R-1 District shall meet the following requirements:

A. All lots shall have not less than nine thousand (9,000) square feet of lot area, and not more than one (1) principal building shall be placed on any one (1) lot, except that not less than twelve thousand (12,000) square feet shall be required for uses other than single-family residences.

B. Each lot shall have a frontage of not less than seventy-five (75') feet. The frontage of any wedge-shaped lot which meets the requirements of minimum lot size may be a minimum of thirty-five (35) feet; provided the front building line on the lot shall be a minimum of seventy (70) linear feet measured at an equal distance parallel to and from the front lot line.

C. Not more than thirty percent (30%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision.

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot.

E. All structures shall have not less than a twenty-five (25) foot front yard setback.

F. For a single-family dwelling of one story, the minimum width of the side yard shall be seven (7) feet for interior lot lines and fifteen (15') feet for the side yard abutting the side street on a corner lot. For buildings of more than one story, the minimum width of the side yard on interior lot lines shall be not less than ten (10) feet. For a principal building other than a single-family dwelling, the minimum width of the side yard shall be not less than the height of the building, but in no case less than fifteen (15) feet.

G. A rear yard of twenty percent (20%) of the depth of the lot shall be provided for the principal building. Unattached buildings of accessory use may be located in the rear yard of a main building; provided, however, that no accessory building shall be located closer than ten (10) feet to the rear lot line.

602.33 AREA & HEIGHT REGULATIONS FOR R-2 COMBINED RESIDENTIAL DISTRICT

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
6,000 Sq.Ft. for single-family dwellings	50' for single-family dwelling	35%	35'	25' interior	5'	20% depth of lot
10,000 sq. ft. for two-family dwellings	80' for two-family dwelling					10' street side of corner lots

All lots and improvements within the R-2 Combined Residential District shall meet the following requirements:

A. All lots shall have not less than six thousand (6,000) square feet for single-family dwellings and not less than 10,000 square feet for two-family dwellings and other uses, and not more than one (1) principal building shall be placed on any one (1) lot except as otherwise specified.

B. Each lot shall have a frontage of not less than fifty (50) feet for single-family dwellings and eighty (80) feet for two-family dwellings and all other uses. The frontage of any wedge-shaped lot may be a minimum of thirty-five (35) feet provided the width of the lot at the front building line on the lot shall be not less than that specified above.

C. Not more than thirty-five percent (35%) of the lot area shall be covered with improvements. Paved areas are not considered improvements within the meaning of this provision.

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot within the approval of the Board of Adjustment.

E. All structures shall have not less than a twenty-five (25) foot front yard setback.

F. For a single- or two-family dwelling of one story, the minimum width of the side yard shall be five (5) feet for interior lot lines and ten (10) feet for the side yard abutting the side street on a corner lot. For buildings of more than one story, the minimum width of the side yard on interior lot lines shall be not less than ten (10) feet. For a principal building other than a single-or two-family dwelling, the minimum width of the side yard shall be not less than the height of the building, but in no case less than fifteen (15) feet.

G. A rear yard of twenty percent (20%) of the depth of the lot shall be provided for the principal building. Unattached buildings of accessory use may be located in the rear yard of a main building; provided, however, that no accessory building shall be located closer than ten (10) feet to the rear lot line.

602.34 AREA & HEIGHT REGULATIONS FOR R-3 MULTI-FAMILY DISTRICT

Minimum Lot Area	Minimum Lot Frontage	Maximum % Coverage	Maximum Height	Minimum Front Yard Setback	Minimum Side Yard Setback	Minimum Rear Yard Setback
Duplex: 10,000 sq. ft.	60'	35%	35'	25'	5'	20%
Multi-family: 10,000 sq.ft.+ 2,000 sq. ft. each unit over two.	100'	50%	35'	1'/1 15' min.	1'/1 15' min.	20%

All lots and improvements within the R-3 Multi-Family Residential District shall meet the following requirements:

A. All lots shall have an area of not less than ten thousand (10,000) square feet for a two-family dwelling,. or ten thousand (10,000) square feet plus two thousand (2,000) square feet for each dwelling unit over two (2) for multi-family dwellings. For uses other than dwelling purposes, the lot area shall not be less than ten thousand (10,000) square feet except as otherwise specified.

B. Each lot shall have a frontage of not less than sixty (60) feet for two-family dwelling, and one hundred (100) feet for multi-family dwelling and all other uses. The frontage of any wedge-shaped lot may be a minimum of thirty-five (35) feet provided the width of the lot at the front building line shall be not less than that specified above.

C. Not more than fifty percent (50%) of the lot area shall be covered with improvements, except that duplex shall not exceed thirty-five percent (35%) coverage. Paved areas are not considered improvements within the meaning of this provision.

D. No improvement or structure shall exceed thirty-five (35) feet in height above the mean elevation of the lot.

E. A minimum front yard setback of twenty-five (25) feet shall be provided on all duplex dwellings. One (1) foot of setback for each one (1) foot of height shall be provided for all uses other than single-family and duplex, but not less than fifteen (15) foot front yard shall be provided.

F. For dwellings and accessory buildings located on corner lots, there shall be a side yard setback from the intersecting street of not less than fifteen (15) feet. One (1) foot of setback for each one (1) foot of height for all uses other than duplex shall be provided.

G. A rear yard of twenty percent (20%) of the depth of the lot shall be provided for the principal building. Unattached buildings of accessory use may be located in the rear yard of a main building; provided, however, that no accessory building shall be located closer than ten (10) feet to the rear lot line.

602.4 ACCESSORY USES

A. Accessory uses that are incidental to permitted uses in the residential districts that are not detrimental to the adjacent property or character of the zone including guesthouses, private garages, and sheds are permitted subject to the area and height regulations above.

B. Accessory uses shall not occupy more than thirty (30%) percent of the rear or interior side yard, with no accessory use constructed upon a lot until the construction of the main building has been actually commenced, and no accessory use may be utilized unless the main building on the lot is also being used.

C. Accessory uses may include the following accessory signs, subject to provisions of Section 601.5: Bulletin boards, identification signs, nameplates, real estate signs and subdivision signs.

D. Accessory uses shall be permitted in an interior side yard.

E. Accessory uses may include the following accessory signs, subject to provisions of Section 602.5: bulletin boards, identification signs, nameplates, real estate signs and subdivision signs.

602.5 SIGNS AND BILLBOARDS

No signs, billboards, posters, bulletin boards, or other similar displays shall be permitted in the Residential District except as follows:

A. Official public notices may be erected on affected property.

B. One (1) non-illuminated name plate not exceeding two (2) square feet in area and not containing lettering other than the name of the owner or occupants or name or address of the premises may be erected on any single or two-family residential structures.

C. In any RE, R-1, R-2, or R-3 District, a temporary bulletin board or sign not exceeding eight (8) square feet in area, pertaining to the lease, hire or sale of a building or premises may be temporarily erected on any lot, which board or sign shall be removed as soon as the premises are leased, hired or sold, provided, however, that a temporary project sign not exceeding one hundred and sixty (160) square feet in area, pertaining to the lease or sale of lots and/or improvements within a subdivision may be temporarily erected within the subdivision upon a conditional use permit, which sign shall be removed as soon as eighty-five (85%) percent of the lots within the subdivision have been sold.

D. In any RE, R-1, and R-2 District, one bulletin board may be erected on each street frontage of an educational, religious, institutional or similar use requiring announcement of its activities. The bulletin board shall not exceed twelve (12) square feet in surface area nor fifteen (15) feet in height, and illumination, if any, shall be by constant light.

E. In any R-3 District, one (1) non-illuminated name plate not exceeding twenty-four (24) square feet in area, identifying the name and use of the premises may be erected on any structure other than a single or two-family structure or an accessory building to such a structure.

RECEIVED 7-25-12

MEMORANDUM

TO: Steve Spears, City Manager NO. CM-08-2012

FROM: Stewart Arthurs, City Attorney

RE: Sale of Low-Point Beer by Eating Places Situated in a C-3 Zoning District.

DATE: July 24, 2012

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1. An issue has arisen as to whether an eating place situated in a C-3 zoning district may sell low-point beet. Confusion has arisen under Section 603.2, Uses Permitted, of the Cushing Zoning Ordinance. In the Table of Permitted Uses, it is stated that "Eating place other than a drive-in, not serving beer or providing dancing or entertainment" is permitted, as a matter of right, in a C-2, C-3, C-4 and C-5 zoning districts.

2. The question is whether the above quoted language excludes serving beer in an eating place in such zoning districts.

3. Earlier in the list of Permitted Uses it is stated that "drive-in restaurant not serving beer" is permitted by a Conditional Use permit in a C-3 zoning district, and as a matter of right, in a C-4 and C-5 zoning district. A "Dance Hall" is only permitted in C-4 and C-5 zoning districts as a matter of right.

4. It appears that the intent of the drafter of the Table of Permitted Uses was intending to except dance halls and drive-in restaurants not serving beer from the provision allowing eating places. Note also that a "Bar" is permitted in a C-3 zoning district with a Conditional Use Permit, and as a matter of right in a C-4 and C-5 zoning district.

5. In the drafting of other City ordinances, the sale of low-point beer for consumption on the premises is incidental to the main purpose of a business. One such provision is 10-156 of the Cushing City Code relating to the employment of minors being permitted where the incidental sale of low-point beer does not exceed 25% of the gross sales of the business or establishment.

6. The zoning ordinance does not specifically address whether or not low-point beer can be supplied in an eating place in any zoning district in the City of Cushing, except as quoted in paragraph 1 of this memo.

7. Prior interpretations by the City have allowed such sales in eating places in C-3 zoning districts such as Pizza Hut, Mazzio's and Rodolpho's.

8. I am of the opinion that eating places situated in a C-3 zoning district may serve low-point beer. I am further of the opinion that in order to avoid future confusion, that the Table of Permitted Uses should be amended to so reflect.

H:\city\memos\citymanager\08-2012 Low-point beer sales in restaurants.doc

SECTION 603

COMMERCIAL DISTRICTS

603.1 GENERAL DESCRIPTION

The regulations for the commercial districts are designed to: (1) encourage stable and efficient commercial areas to meet the needs for commercial goods and services of the trade area; (2) minimize the adverse effects of commercial uses on other land uses; and (3) provide opportunities for investment with development of residential areas and thoroughfares.

C-1, Office District

This Commercial District is for the conduct of general and professional office and related activity to meet the needs of the community in such a manner as to avoid being offensive to a general neighborhood containing residential, religious, recreational and educational elements. It is intended that this District be located so as not to introduce traffic onto solely residential streets or become an intrusion into a residential district, but to serve as a buffer between residential and more intensive commercial activities.

C-2, Convenience Commercial District

This commercial district is intended for a unified grouping in one or more buildings of retail shops and stores and personal services of limited size and service area that provide for the regular needs and are for the convenience of the people residing in the adjacent residential neighborhoods where retail shops and personal services are not otherwise readily available. It is intended that the suburban convenience center be developed as a unit with adequate off-street parking space for customers and employees, and with appropriate landscaping and screening.

C-3, General Commercial District

This commercial district is established for major retail and service activity removed from the central business district with major thoroughfare access and adequate open space and parking.

C-4, Automotive and Commercial Recreation District

This commercial district is established as a district in which the principal use of land is for establishments offering accommodations, supplies or services to motorists, and for certain specialized uses such as retail outlets, extensive commercial amusement and service establishments which serve the entire community but do not, and should not necessarily, locate in more restrictive commercial districts.

C-5, Central Business District

This commercial district is designed for the conduct of personal and business services and the general retail trade of the community. It is designed to accommodate a wide variety of commercial uses in the central business district or areas of mixed business enterprises. It will not normally be applied in the case of new commercial areas.

603.2 USES PERMITTED

The permitted uses in the commercial districts are set forth in the Table below. Where the letter "x" appears on the line of a permitted use and in the column of a district, the listed use is permitted in that district, subject to the general provisions of the Zoning Ordinance as set forth in the preceding sections. Where the letter "p" appears instead of the letter "x", this use is permitted subject to acquiring a Conditional Use Permit as set forth in Section 803.

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Advertising agency	x		x	x	x
Addressing, duplicating, mailing, mailing list, stenographic, telephone messages and similar office services	x		x	x	x
Aircraft parts, other than air-frames or engines; sales, service, rental or repair					x
Amusement park, commercial			p	x	x
Animal hospital serving household pets and similar small animals			p	p	x
Antique store			x	x	x
Apparel and accessories store		x	x	x	x
Armature rewinding shop				x	x
Artists or photographers studio, not including the processing of film for others		x	x	x	x
Auctioneer					x
Auditorium or arena			x	x	x
Automobile parking or storage, as a principal use			x	x	x
Automobile wash service, including self-service			p	x	x
Automobile accessory and supply store		p	x	x	x
Automobile and truck rental			x	x	x
Automobile and truck sales (new and used) and service			x	x	x
Automobile body shop			p	x	x
Automotive service station, not including body or motor repair or painting		p	x	x	x
Armored car service				x	x

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Baked goods, candy, bread, dairy and ice cream manufacturing					x
Bank	x		x	x	x
Bar			p	x	x
Barber or beauty shop	x	x	x	x	x
Beer sales for consumption off the premises		x	x	x	x
Beverages, non-alcoholic, manufacturing					x
Bicycle store		x	x	x	x
Billiard or pool parlor			x	x	x
Blueprinting, photocopying and similar reproductive services	p	x	x	x	x
Boarding or rooming house	p				x
Boat and marine rental, repair, sales				x	x
Bookstore, not including newsstand		x	x	x	x
Bottling works, all beverages			x	x	x
Bowling alley				x	x
Broadcasting or recording studio	p		x	x	x
Building supplies, including sale of lumber			x	x	x
Bus station			x	x	x
Carnival, circus or similar temporary amusement enterprise				x	x
Carpentry, custom woodworking or furniture making			x	x	x
Carting, crating, express handling, moving or storage				x	x
Camera and photographic supply store		x	x	x	x
3 or More → Child care institution: other than day nursery	p	p	x	x	x
Church, synagogue or temple, including Sunday School facilities	x	x	x	x	x
City or county jail	p		p	x	x
City, county, school district, state or federal facilities	p	p	x	x	x
Civil defense and related activities facilities	p	p	x	x	x
Clinic, dental, medical or osteopathic, chiropodist, pharmacy	x	x	x	x	x
Clothing: custom dressmaking or altering for retail, including tailoring and millinery		x	x	x	x
Clothing, second-hand		p	x	x	x
Cold storage plant				x	x
College, junior college, professional school: public or equivalent private	p		x	x	x

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Community center: public	p	p	x	x	x
Computing, data processing or similar service	p		x	x	x
Contractor (special trade): facilities other than office				x	x
Convalescent, maternity or nursing home	p	p	x	x	x
Custom ceramic products, manufacturing					x
Dance hall				x	x
Delivery service			x	x	x
Department store			x	x	x
Detective or protective service			x	x	x
Diaper service		x	x	x	x
Direct selling organization			x	x	x
Disinfecting, deodorizing or exterminating service				x	x
Drafting service	x		x	x	x
Drive-in restaurant not serving beer			p	x	x
Driving school, private			x	x	x
Drugstore or proprietary store		x	x	x	x
Dry cleaning and dyeing plant				x	x
Dry cleaning, pick-up and self-service		x	x	x	x
Dry goods store		x	x	x	x
Eating place other than drive-in, not serving beer or providing dancing or entertainment		x	x	x	x
Electric regulating substation	p	p	p	p	p
Electrical supplies			x	x	x
Employment service	x		x	x	x
Farm equipment sales, service, rental, repair				x	x
Feed and fertilizer sales				x	x
Financial institution, other than pawnshop	p	p	x	x	x
Fire protection and related activities facility	p	p	x	x	x
Fire extinguisher service			x	x	x
Florist shop		x	x	x	x
Food locker plant				x	x
Food store, including bakery (retail only)		x	x	x	x
Fraternal Organization	p		x	x	x
Freight depot, railroad or truck				x	x
Freight forwarding service				x	x
Funeral home, mortuary or undertaking establishment			x	x	x

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Fur repair and storage			x	x	x
Furniture and home furnishings, sales and repair		p	x	x	x
√ Garage or parking for commercial or public utility vehicles			p	x	x
Garden supply store		x	x	x	x
Gas pressure control station	p	p	p	p	p
Gasoline service station			x	x	x
General store: general merchandise store		x	x	x	x
Gift, novelty or souvenir shop		x	x	x	x
Golf course, including commercially operated driving range or miniature golf course				x	x
Golf driving range, commercial				x	x
Gunsmith shop			x	x	x
Hardware store		x	x	x	x
Hat cleaning or repair shop		p	x	x	x
Heating equipment				x	x
Highway or street maintenance garage, yard or similar facility				x	x
Hospital, health center, institution for aged or children	p		p	x	x
Hospital restricted to mental, narcotics or alcoholic patients, sanatorium			p	x	x
Hotel or motel			p	x	x
Household appliance store		x	x	x	x
Ice vending establishment		x	x	x	x
Institution, non-residential		p	x	x	x
Interior decorating shop			x	x	x
Jewelry sales and repair		x	x	x	x
Jewelry, watchmaking			x	x	x
Laboratory: research, development or testing	p		p	x	x
Laundry, pick-up station only		x	x	x	x
Laundry plant				x	x
Laundry, self-service	p	x	x	x	x
Leather goods or luggage store		x	x	x	x
Library: private non-profit and public, other than branch	p	p	x	x	x
Limited price variety store		x	x	x	x
Linen supply or industrial laundry			x	x	x
Liquor store		p	x	x	x
Locksmith, key shop		x	x	x	x
Lumber				x	x
Mail order house: catalog office or retail store			x	x	x

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Mattresses, rebuilding and renovating					x
Medical or dental clinic	x	x	x	x	x
Medical or dental laboratory	p		x	x	x
Mobile homes or travel trailers, sales and service			x	x	x
Monument sales				x	x
Motion picture distribution and services				x	x
Motion picture theater			x	x	x
Motion picture theater, drive-in				x	x
Multi-family dwellings	p				p
Museum or art gallery	p		x	x	x
Music, musical instruments or photograph record store		x	x	x	x
Newspaper distribution station	x	x	x	x	x
Newspaper offices, print shop			x	x	x
Newsstand		x	x	x	x
Nursery school or day nursery	p	p	x	x	x
Office equipment and supplies, retail sales, service, rental or repair			x	x	x
Offices: general	x	x	x	x	x
Offices of non-profit membership association	x	x	x	x	x
Offices: professional and governmental	x	x	x	x	x
Oil field or oil well supplies				x	x
Optician, optical laboratory or supplies	p		x	x	x
Optician or optometrist	x	x	x	x	x
Outdoor advertising plant				x	x
Packing or crating service				x	x
Paint, glass or wallpaper store			x	x	x
Parish house, parsonage or rectory	p		p	p	p
Pawnshop			x	x	x
Pet shop			x	x	x
Petroleum pressure control station	p	p	p	p	p
Photofinishing service		x	x	x	x
Picture framing			x	x	x
Pipeline pressure control station	p	p	p	p	p
Plumbing fixtures, sales and service			x	x	x
Postal service facilities	p	p	x	x	x
Printing or publishing, including engraving or photo-engraving			x	x	x
Police protection and related activities facilities	p	p	x	x	x
Radio, television, photograph or other household electronics equipment store		x	x	x	x

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Radio transmitting station or tower, other than amateur			x	x	x
Railroad passenger terminal				x	x
Religious goods store		x	x	x	x
Repair service limited to equipment (wholesale is permitted use in the district in which the repair service is located)				x	x
Rug cleaning or repair					x
Sales, service, repair or rental of business machines			x	x	x
School, elementary: public or equivalent private	x	x	x	x	x
School, private: barber, beauty, business, commercial art, correspondence, stenographic, trade or vocational	x	x	x	x	x
School, secondary: public or equivalent private	x	x	x	x	x
Sewage treatment plant	p	p	p	p	p
Sewage pressure control station	p	p	p	p	p
Sewing machine store		x	x	x	x
Shoe sales and repair		x	x	x	x
Sign painting			x	x	x
Skating rink				x	x
Solid waste disposal facilities	p	p	p	p	p
Sporting goods sales		x	x	x	x
Stadium, arena or similar facility	p	p	p	p	p
Stationery store		x	x	x	x
Storage, Mini-Warehousing			p	x	x
Store selling architects', artists', or engineers' supplies and equipment or dental, medical or office supplies or equipment			x	x	x
Studio, photographic, musical, fine arts		x	x	x	x
Swimming pool, public	p	p	p	x	x
Taxicab garaging and maintenance				x	x
Taxicab stand or dispatching station	p	p	x	x	x
Taxidermist			x	x	x
Telegraph transmitting or receiving station			x	x	x
Telephone exchange, including garage, shop or service facilities				x	x
Tennis courts: public	p	p	p	x	x
Television transmitting station or relay tower			p	x	x
Tire recapping					x
Tobacco store		x	x	x	x

PERMITTED USES	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Tool sharpening					x
Toy store		x	x	x	x
Transportation ticket service			x	x	x
Travel arranging service			x	x	x
Truck sales			x	x	x
Variety store		x	x	x	x
Vending machines: sales, service, rental or repair				x	x
Venetian blind cleaning					x
Veterinarian, office only	x	x	x	x	x
Veterinarian hospital with inside runs only			p	x	x
Veterinarian hospital with outside runs				p	p
Warehousing, inside storage only				x	x
Warehousing, outside storage					x
Water filtration plant, pump station elevated storage or reservoir	p	p	p	p	p
Wholesale establishment, stock limited to floor samples			p	x	x
Wholesale establishment with stocks not limited to floor samples				p	x
Window cleaning service				x	x

603.3 LOT, YARD AND HEIGHT REGULATIONS

No lot or yard shall be established or reduced in dimension or area in any commercial district that does not meet the minimum requirements set forth below. No building or structure shall be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such districts as set forth in the following table.

LOT REGULATIONS	ZONING DISTRICT C-1	C-2	C-3	C-4	C-5
Minimum lot area (sq. ft.) [A]	10,000	10,000	10,000	12,000	-
Minimum lot width at building line (feet)[B]	75	75	75	100	-
Maximum lot coverage (percent)[C]	40	40	50	30	-
YARD REGULATIONS (in feet)					
Minimum front yard[D]	50	50	50	50	-
Minimum rear yard[E]	10	10	10	10	10
Minimum side yard[F]	-	-	-	-	-
Height[G]	35	35	35	35	35

A. The lot area of lots in the commercial districts shall be not less than that as set forth above, provided that the area of any lot in a C-2 District shall not exceed 48,000 square feet. There are no lot area requirements in a C-5 District.

B. The width of lots in the commercial districts shall not be less than that set forth above. There are no minimum lot requirements in the C-5 District.

C. The total building coverage of any lot shall not exceed that specified above, provided, however, that paving, landscaping, lighting fixtures, and similar improvements shall not be considered as a part of the total building coverage. There are no coverage requirements in the C-5 District.

D. The front yard of any lot in the commercial districts shall be not less than that specified in the table above, provided, however, that gasoline pump islands may be permitted within the front yard and shall be designed to standards set forth by the Zoning Administrator. There are no front yard requirements in the C-5 District.

E. The rear yard of any lot in the commercial districts shall be not less than that specified above, provided, however, that the rear yard of any lot adjoining a Residential District on the rear shall have a rear yard setback of two (2) feet for each one (1) foot of building height, plus a screening wall or fence as provided in Section 407 of this Ordinance.

F. There are no side yard requirements on lots within the Commercial Districts except where such lot abuts a residential district, in which case there shall be a side yard setback of two (2) feet, for each one (1) foot of building height, plus a screening wall or fence as provided in Section 407 of this Ordinance.

G. No building or structure in any Commercial District shall exceed a height of thirty-five (35) feet except upon the approval of the Board of Adjustment.

603.4 ACCESSORY USES

Accessory uses customarily incidental and subordinate to a principal use permitted in a Commercial District are permitted.

603.41 ACCESSORY USE CONDITIONS

A. Accessory buildings shall meet the minimum building setback lines of the applicable district.

B. An accessory building erected as an integral part of the principal building shall be made structurally a part thereof, shall have a common wall therewith, and shall comply with the requirements applicable to the principal building.

C. Signs in the Commercial Districts, whether accessory or principal uses are subject to the provisions of 603.5.

603.5 SIGNS AND BILLBOARDS

A. In the C-1 Office District, one business sign, not exceeding 32 square feet in surface area, may be erected on each street frontage of a lot. Ground signs shall not exceed the height of the building in which the principal use is located, or 20 feet, whichever is lower. No business sign shall be located within 50' of any R-District, if visible from such district. Illumination, if any, shall be by constant light.

B. In the C-2, C-3, C-4, and C-5 Commercial Districts, business signs may be erected not exceeding an aggregate display surface area for wall or canopy signs of three (3) square feet per each lineal foot of the building wall to which the sign or signs are affixed. In addition to the wall or canopy signs permitted hereinabove, a lot containing one (1) business establishment may utilize for business signs one roof, projecting or ground sign of 2.5 square feet of display area per lineal foot of street frontage, provided, however, that if more than one (1) roof projecting a ground sign is erected, only 1.5 square feet of display surface area per lineal foot of street frontage may be erected.

C. A ground sign shall not exceed twenty (20') feet in height, as measured from the mean curb level of the lot upon which it is erected, and shall be set back a minimum distance of five (5') feet from any lot line.

D. A roof sign shall not exceed more than twenty-five (25') feet above the mean roof level of the structure to which it is affixed.

E. A projecting sign shall not extend more than twelve (12') feet above the mean roof level of the structure to which it is affixed, and shall not project more than sixty (60") inches therefrom.

F. In no event shall any sign extend above the height limit established for the zoning district in which a sign is located.

G. No business or outdoor advertising sign shall be located within forty (40') feet of a residential district if visable from such district, and no flashing sign shall be located within 100 feet of an abutting residential district if visible from such district, provided if the districts are separated by a public street, the district shall not be deemed abutting.

H. All signs shall be erected upon private property and shall not encroach upon any public street or walk except as provided by the applicable codes of the City of Cushing. All signs shall not overhang at a height of less than nine (9') feet above walkways and fifteen (15') feet above a drive or alley.

I. An unimproved lot may, as a matter of right, erect outdoor advertising signs without size limitations, if located behind the building setback line, provided that upon the occupancy of any building on the lot, any sign not complying with the display set out above shall be removed within thirty (30) days from such occupancy.

J. The use of red, green, or amber illumination in connection with any sign shall not be permitted within one hundred (100') feet of any intersection. Any use of red, green, or amber illumination in connection with any sign must be so located that it in no way creates a confusion with any traffic signal or may be interpreted by any motorist as a traffic signaling device.

SECTION 604

INDUSTRIAL DISTRICTS

604.1 GENERAL DESCRIPTION

The regulations for the industrial districts are designed to: (1) make available a range of suitable sites for all types of manufacturing and related activities; and (2) protect residences by separating them from manufacturing activities and by prohibiting the use of such space for new residential or commercial development.

I-1 Light Industrial District

The purpose of the I-1, Light Industrial District, is to provide a location for industries which do not by their nature create nuisances. The intent is to preserve this land for industry in a location beneficial to industries and to prohibit non-industrial uses. Any use constructed, established, altered, or enlarged in the I-1, Light Industrial District, after the effective date of this Ordinance shall be so operated as to comply with the following standards:

A. No building shall be used for residential purposes, except that a watchman may reside on the premises.

B. No retail sales or services shall be permitted except as incidental to or accessory to a permitted use.

C. No noise, either continuous or intermittent, from any operation conducted on the premises, other than that emanating from vehicular traffic, shall be detectable at any boundary line of the lot.

D. No toxic matter, noxious matter, smoke, gas, or odorous or particulate matter shall be emitted that is detectable beyond the lot lines of the lot on which the use is located.

E. No vibrations shall be detectable beyond the lot lines of the lot on which the use is located.

F. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District.

G. The manufacture of flammable materials which produce explosive vapors or gases is prohibited.

H. No outside storage of equipment and/or material, except equipment in daily use, shall be permitted in such a location where it can be viewed from any public street.

I. Any operation that produces intense glare or heat shall be performed within a completely enclosed building, and exposed sources of light shall be screened so as not to be detectable beyond the lot lines.

I-2, Heavy Industrial District

The purpose of the I-2, Heavy Industrial District, is to provide a location for industries which may by their nature create some nuisance. The intent is to preserve this land especially for such industry in locations with access to arterial streets as designated on the Thoroughfare Plan, as well as locations generally accessible to railroad transportation. Any use constructed, established, altered, or enlarged in the I-2, Heavy Industrial District, after the effective date of this Ordinance shall be so operated as to comply with the following standards. No use already established on the effective date of this Ordinance shall be so altered or modified as to conflict with, or further conflict with, the following standards.

A. No building shall be used for residential purposes, except that a watchman may reside on the premises.

B. No retail sales or services shall be permitted except as incidental to or accessory to a permitted use.

C. No storage, manufacture, or assembly of goods shall be conducted out of a building unless the nearest point of said activity is more than three hundred (300) feet from the boundary of any Residential Zoning District.

D. Exterior lighting fixtures shall be shaded wherever necessary to avoid casting direct light upon property located in any Residential District.

E. All manufacturing, fabricating, assembly, disassembly, repairing, storing, cleaning, servicing, and testing of goods, water, and merchandise shall be carried on in such a manner as not to be injurious or offensive by reason of the emission or creation of noise, vibration, smoke, dust, or other particulate matter, toxic or noxious matter, odors, glare, heat, fire or explosive hazards.

F. No activities involving storage, utilization, or manufacture of materials or products which decompose by detonation shall be permitted.

604.2 USES PERMITTED

The permitted uses in industrial districts are set forth below. Where the letter "x" appears on the line of a permitted use and in the column of a district, the listed use is permitted in that district, subject to conformance to special conditions applying to the districts as set forth in Section 604.1, above. Where the letter "p" appears instead of an "x", this use is permitted, subject to acquiring a Conditional Use Permit as set forth in Section 803.

TABLE OF PERMITTED USES IN INDUSTRIAL DISTRICTS

PERMITTED USES	ZONING DISTRICT I-1	ZONING DISTRICT I-2
Abattoir		x
Accessories for vehicles or equipment whose sale is permitted, but not including the rebuilding or recapping of tires	x	x
Advertising agency	x	x
Aerosol containers: filling on contract basis	x	x
Agricultural services		x
Air conditioning and heating equipment	p	x
Aircraft parts: sales, service, rental or repair, including airframes and engines	x	x
Aircraft transportation	p	p
Airway beacon or marker	x	x
Animal bones, offal or waste: assembly, incinerator, processing or utilization		p
Animal hospital	p	x
Animal and marine fats and oils: manufacturing or processing		p
Animal and poultry slaughter and processing		p
Apiary		x

PERMITTED USES	ZONING DISTRICT I-1	I-2
Apparel and other textile products	x	x
Armature rewinding shop	x	x
Armored car service		x
Arsenal		x
Auditorium or arena: public	x	x
Auctioneer (non-animal)	x	x
Automatic merchandising establishment	x	x
Automobile accessory, tire or battery stores without tire recapping	x	x
Automobile, bus, truck dismantling, salvaging or wrecking		p
Automobile parking or storage, as a principal use	x	x
Automobile sales, new or used	x	x
Automobile wash services, including self-service	p	x
Batching or mixing plant, asphaltic or Portland cement, concrete, mortar or plaster		x
Blueprinting, photocopying and similar reproduction services	x	x
Boarding or training animals		x
Boat accessory store	x	x
Boat rental or storage	x	x
Book bindery	p	x
Bottling plant	x	x
Brick, tile or clay manufacturing		x
Broadcasting or recording studio	x	x
Brooms and brushes	x	x
Building materials	p	x
Building materials or lumber: wholesale sales	x	x
Building services, including janitorial service, floor waxing and office cleaning	x	x
Bus garaging and equipment maintenance		x
Buses: sales, service, rental and repair	p	x
Cabinet maker	x	x
Canvas or canvas products	x	x
Carpentry, woodworking or furniture working	x	x
Ceramic products	x	x
Cesspool cleaning establishment		x

PERMITTED USES	ZONING DISTRICT I-1	I-2
Chemicals, compounding or packaging		x
City, county, school district, state or federal facilities	x	x
City or county jail	x	x
Civil defense and related activities facilities	x	x
Coal preparation		x
Cold storage plant	p	x
Compounding of cosmetics, toiletries, drugs and pharmaceutical products	x	x
Computing, data processing or similar service	x	x
Construction equipment repair, sales or storage	p	x
Contract sorting, grading and packing of fruits and vegetables for grower		x
Contractor (general or heavy construction) facilities other than office	p	x
Contractor (special trade) facilities other than office	p	x
Cornshelling, hay bailing and threshing services		x
Cotton ginning and compressing		x
Creosoting or similar process		x
Dairy farm: products, egg farm		x
Delivery service	p	x
Detective or protective service	x	x
Direct selling organization: retail	p	x
Disinfecting, deodorizing or exterminator service	p	x
Drafting service	x	x
Drive-in restaurant	p	x
Dry cleaning and dyeing plant	x	x
Eating places other than drive-in not serving beer	p	x
Electric generating plant	p	x
Electric regulating substation	p	x
Electric utility maintenance facility	x	x
Electrical appliance, equipment and supplies	x	x
Electrical equipment assembly	x	x
Electronic equipment assembly and manufacture	x	x
Employment service	x	x
Exploration for minerals		p
Explosives: manufacture, storage, warehousing or wholesaling		x
Extraction of sand, gravel, clay, quarrying of rock		p

PERMITTED USES	ZONING DISTRICT I-1	I-2
Facilities of Adhoc governmental agencies	x	x
Fairgrounds	x	x
Farm equipment: sales, services, rental and repair	x	x
Farm for raising dogs, cattle, goats, horses, sheep, rabbits or poultry		x
Farm products, NEC, wholesaling or public warehousing		x
Farm supply store	p	x
Fertilizer		p
Financial institution	x	x
Fire extinguisher service	x	x
Fire protection and related activities facility	x	x
Fireworks: manufacture, storage, warehousing or wholesaling		x
Food products, including bakery products, candy, fruit and vegetable processing and canning, packing and processing of meats and poultry, but not including slaughtering of animals or poultry	x	x
Food products, including slaughtering of animals and poultry		x
Forestry services		x
Foundries		x
Freight depot, railroad or truck	x	x
Freight forwarding service	x	x
Fur animal raising		x
Furnace cleaning		x
furniture, home furnishings and equipment store	x	x
Furniture manufacturing	x	x
Gas pressure control station	p	x
Gas utility maintenance facility	p	x
Garbage or trash: assembly incineration or processing		x
Gases or liquids, flammable, storaged		x
Gasoline service station	x	x

PERMITTED USES	ZONING DISTRICT I-1	I-2
Glass or glass products		x
Grain milling or processing		x
Hair, felt, feather or leather products		x
Hardware, industrial sales	p	x
Hay, grain or feed store	p	x
Highway garage or similar public maintenance facility		x
Hog raising		p
Ice plants, dry or natural	x	x
Incinerators		x
Institution - non-residential	x	x
Instrument and meter manufacturing	x	x
Jewelry manufacturing	x	x
Laboratory: research, development or testing	x	x
Laundry (except self-service) and laundry services	p	x
Leather goods fabrication	x	x
Linen supply or industrial laundry	p	x
Livestock assembly, feeding, sales, shipment		p
Livestock auction sales barn and pens		x
Livestock breeding and slaughtering		x
Lumberyards	x	x
Manufacturing NEC, appropriate in the more restrictive industrial districts	x	x
Mattresses: rebuilding or renovating	x	x
Medical or dental clinic	x	x
Metals or minerals (except petroleum products or scrap) sales	x	x
Mining of coal, metal ores and non-metallic minerals other than fuels		p
Mobile homes or travel trailers - sales and service	x	x
Monument works	x	x
Motion picture distribution and services	x	x
Motion picture theather - drive-in	p	x
News syndicate service	x	x
Nonmetallic mineral preparation		x
Office: professional	x	x
Oil field equipment and supplies: sales, service, rental or repair	x	x
Optical goods manufacturing	x	x
Ore dressing and beneficiating		x
Orthopedic or medical supplies	x	x

PERMITTED USES	ZONING DISTRICT I-1	I-2
Outdoor advertising plant	x	x
Packing and crating service	p	x
Paint, enamel, lacquer, turpentine, varnish manufacturing		p
Paper manufacturing or processing		p
Paper products including envelopes, stationery, wallpaper manufacturing	x	x
Petroleum pipeline or pressure control station	p	x
Petroleum products, storage		x
Photofinishing service	x	x
Pipeline pressure control station	p	x
Plastic products including luggage, tableware or similar products	x	x
Police protection and related activities facility	x	x
Postal services facilities	x	x
Poultry and small game dressing and packing		x
Prescription pharmacy	x	x
Printing and publishing including engraving or photoengraving	x	x
Production of crude petroleum, natural gas and natural gas liquids		p
Public stable		p
Quarrying of stone		p
Radioactive waste disposal		p
Radio transmitting station or tower	p	x
Railroad equipment storage or maintenance		x
Railroad freight terminal		x
Repair, renting and servicing of commodities		x
Retail sales of farm products sold on premises		x
Rubber products, natural or synthetic manufacturing		p
Rug cleaning or repairing	p	x
School, commercial or trade	x	x
Scrap and waste materials handling, including building and vehicle wrecking establishments and junkyards		p
Scrap steel cutting on control basis		x
Second-hand automotive parts, accessories, battery and tire dealer		x

PERMITTED USES	ZONING DISTRICT I-1	I-2
Sewage pressure control station	p	x
Sewage treatment plant or sludge drying bed	p	x
Sporting or athletic equipment manufacturing	x	x
Steel products, fabrication and assembly		x
Tar or tar products		x
Taxicab garaging and maintenance		x
Taxicab stand or dispatching station	p	x
Telegraph transmitting or receiving station	p	x
Telephone exchange station, relay tower	p	x
Television transmitting tower or receiving station	p	x
Tire recapping		x
Truck, bus, train terminals	x	x
Truck sales, service, rental, repair	x	x
Vending machines: sales, service, rental or repair	x	x
Venetian blind, window shades, awnings	x	x
Warehousing, NEC other than warehousing accessory to another permitted use	x	x
Water treatment plant, storage facility or pressure control station	p	x
Wholesaling, NEC	x	x
Wholesaling, or public warehousing of farm products NEC, food NEC, grain, hides, skins, raw furs, livestock, petroleum products (bulk station or terminal), scrap or waste materials		x
Window cleaning service	x	x
Wood distillation		x
Wood or lumber processing		x

604.3 LOT, YARD AND HEIGHT REGULATIONS

No lot or yard shall be established or reduced in dimension or area in any industrial district that does not meet the minimum requirements set forth in the following tables. No building or structure shall be erected or enlarged that will cause the maximum lot coverage or maximum height regulations to be exceeded for such district as set forth below.

LOT REGULATIONS	ZONING DISTRICT I-1	I-2
Maximum lot coverage (per cent)[A]	30	50
YARD REGULATIONS (in feet)		
Minimum front yard[B]	25	25
Minimum rear yard[C]	10	10
Minimum side yard[D]	--	--
Height[E]	50'	90'

A. The total building coverage of any lot shall not exceed that specified above, provided, that paving, landscaping, outside storage (where permitted), lighting fixtures and similar improvements shall not be considered as apart of the total building coverage.

B. The front yard of any lot in the industrial district shall be not less than that specified in the table above.

C. The rear yard of any lot in the industrial districts shall be not less than that specified above, provided, however, that the rear yard of any lot adjoining a Residential District on the rear, shall have a rear yard setback of two (2) feet for each one (1) foot of building height, plus a screening wall or fence as provided in Section 407 of this Ordinance.

D. There are no side yard requirements on lots within the Industrial Districts except where such lot abuts a residential district, in which case there shall be a side yard setback of two (2) feet for each one (1) foot of height, plus a screening wall or fence as provided in Section 407 of this Ordinance.

E. No building or structure in any Industrial District shall exceed a height as set forth in the table above.

604.4 ACCESSORY USES

Accessory uses customarily incidental and subordinate to a principal use permitted in an Industrial District are permitted in such district.

604.41 ACCESSORY USE CONDITIONS

A. Accessory buildings shall meet the minimum building setback lines of the applicable district.

B. An accessory building erected as an integral part of the principal building shall be made structurally a part thereof, shall have a common wall therewith, and shall comply with the requirements applicable to the principal building.

C. Signs in the Industrial Districts, whether accessory or principal uses, are subject to the provisions in 604.5.

604.5 SIGNS AND BILLBOARDS

A. In the I-1 and I-2 Industrial Districts, one business or outdoor advertising sign shall be erected not exceeding an aggregate display surface area for wall or canopy sign of three (3) square feet per each lineal foot of the building wall to which the sign or signs are affixed. In addition to the wall or canopy signs permitted hereinabove, a lot containing one (1) business establishment or vacant lot, may utilize for business sign or outdoor advertising one roof projecting or ground sign of 2.5 square feet of display area per lineal foot of street frontage, provided, however, that if more than 1.5 square foot of display surface area per lineal foot of street frontage may be erected.

B. A ground sign shall not exceed twenty (20') feet in height, as measured from the mean curb level of the lot upon which it is erected, and shall be set back a minimum distance of five (5') feet from any lot line.

C. A roof sign shall not exceed more than twenty-five (25') feet above the mean roof level of the structure to which it is affixed.

D. A projecting sign shall not extend more than twelve (12') feet above the mean roof level of the structure to which it is affixed, and shall not project more than sixty (60") inches therefrom.

E. In no event shall any sign extend above the height limit established for the zoning district in which a sign is located.

F. No business or outdoor advertising sign shall be located within forty (40') feet of a residential district if visible from such district, and no flashing sign shall be located within 100 feet of an abutting residential district if visible from such district, provided if the districts are separated by a public street, the district shall not be deemed abutting.

G. All signs shall be erected upon private property and shall not encroach upon any public street or walk except as provided by the applicable codes of the City of Cushing. All signs shall not overhang at a height of less than nine (9') feet above walkways and fifteen (15') feet above a drive or alley.

H. An unimproved lot may, as a matter of right, erect outdoor advertising signs without size limitations, if located behind the building setback line, provided that upon the occupancy of any building on the lot, any sign not complying with the display set out above shall be removed within thirty (30) days from such occupancy.

I. The use of red, green or amber illumination in connection with any sign shall not be permitted within one hundred (100') feet of any intersection. Any use of red, green or amber illumination in connection with any sign must be so located that it in no way creates a confusion with any traffic signal or may be interpreted by any motorist as a traffic signaling device.

SECTION 605

PLANNED UNIT DEVELOPMENT SUPPLEMENTAL DISTRICT

605.1 DESCRIPTION

Planned Unit Development is an alternative to conventional development where the particular tract is under common ownership or control, and a detailed plan (outline development plan) for the development of the tract as a unit is proposed and submitted for public review. The supplemental zoning district PUD must be approved by the City Commission as a prerequisite to the planned unit development.

605.2 PURPOSES

The purposes of the Planned Unit Development are to:

A. Permit innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties;

B. Permit flexibility within the development to best utilize the unique physical features of the particular site;

C. Provide and preserve meaningful open space; and

D. Achieve a continuity of function and design within the development.

605.3 GENERAL PROVISIONS

Planned Unit Development is permitted on tracts having the supplemental district designation PUD. In every instance, the PUD is to be reviewed as to the proposed location and character of the uses and the unified treatment of the development of the tract. The regulations of the general zoning district or districts remain applicable except as specifically modified pursuant to the provisions of this Chapter. No modification of use or bulk and area requirements of the applicable general use district or districts shall be permitted unless a subdivision plat incorporating the provisions and requirements of this Chapter is submitted to and approved by the Planning Commission and City Commission and filed of record in the office of the County Clerk.

605.4 USES PERMITTED IN PLANNED UNIT DEVELOPMENTS

605.41 Principal Uses

The development may consist of one or more of the uses permitted by right or by conditional use permit within the general zoning district or districts within which the Planned Unit Development is located; provided: (a) that if any part of the Planned Unit Development is located within a residential district, the permitted uses may additionally include one or more of the following dwelling types: Single-Family

Dwelling, Duplex Dwelling, Multifamily Dwelling, Townhouse and similar uses. The permitted uses may be reallocated within the development irrespective of the general zoning district boundaries, as indicated and approved within the development plan.

605.42 Accessory Uses

Accessory uses customarily incident to the principal uses within the PUD are permitted. Accessory signs shall comply with provisions of the Residential District except as hereinafter provided for accessory commercial uses.

A. Accessory Commercial

In addition to accessory uses customarily incidental to a permitted principal residential use, accessory commercial facilities may be included within the residential portion of a PUD in accordance with the following standards:

(1) The commercial uses shall be limited to Convenience Goods and Services and Eating Places Other Than Drive-Ins.

(2) The aggregate floor area of the commercial facilities shall not exceed 50 square feet per dwelling unit nor a total of 30,000 square feet.

(3) Each commercial establishment shall be limited to a maximum of 3,500 square of floor area.

(4) Commercial signs shall be limited to one name-plate of not more than 16 square feet for each establishment. Name-plates shall be attached flat against a building wall and shall not be animated, flashing, or have other than indirect illumination. Window signs shall not be permitted.

(5) The commercial area shall be designed primarily for the service, convenience, and benefit of the residents of the PUD, and shall be designed and located in such manner as to be compatible with the residential use of the PUD and of adjacent properties.

B. Designated Non-Residential Development Area

(1) The aggregate display surface area for wall or canopy signs shall not exceed two square feet per each lineal foot of the building wall to which the sign or signs are affixed.

(2) In addition to the wall or canopy signs permitted in (1) above, a lot containing one or more business establishments may utilize for business signs an aggregate display surface area of ground signs, as follows:

(a) If not more than one ground sign is erected, 1.0 square foot of display surface area per each lineal foot of street frontage, provided that only arterial street frontage shall be used in the computation of display surface area for lots that abut more than one street.

(b) If more than one ground sign is erected, .5 square feet of display surface area per each lineal foot of street frontage, provided that only arterial street frontage shall be used in the computation of display surface area for lots that abut more than one street.

(3) In addition to the wall or canopy signs permitted in (1) above, and in addition to the business signs permitted in (2) above, a lot containing four or more business establishments may erect one ground sign for each arterial street frontage identifying the commercial complex and individual tenants therein, not exceeding in aggregate display area one square foot per four feet of lineal arterial street frontage.

605.5 BULK AND AREA REQUIREMENTS

605.51 Intensity of Use

It is the intent of this Ordinance that the aggregate intensity of use within the Planned Unit Development remain substantially the same as that which would be permitted if the area were developed conventionally, but that within the development, the intensity may be reallocated irrespective of the general zoning district boundaries.

A. Residential Intensity

The residential intensity shall not exceed a maximum number of dwelling units computed as follows:

Maximum Number of Permitted Dwelling Units	=	Gross area* of property located within a residential district divided by Minimum land area per d.u. permitted in the applicable use district.

The minimum land area per dwelling unit, for the purposes of the above-described computation, shall be the least restrictive minimum land area per dwelling unit permitted in the applicable district as set forth in Sections 602.32, 602.33 and 602.34. Each 600 square feet of a quasi-dwelling, such as a care home, shall constitute a dwelling unit. If the PUD is within two or more residential districts, the

permitted density shall be the sum of the permitted dwelling units computed separately for the gross area within each district. For a PUD located totally within a residential district or districts, the gross area for the purposes of the above-described computation shall be reduced by the area or areas designated for any principal use other than dwelling, quasi-dwellings, residential open space and recreation areas.

B. Non-Residential Intensity

The non-residential intensity shall not exceed a maximum permitted floor area computed, as follows:

Maximum Permitted Floor Area = Gross area* of property within a non-residential district multiplied by a floor area ratio (F.A.R.) as set forth in the Table below for each applicable district.

F.A.R.	.50	.75
Zoning District	C-2 C-4 I-1	C-1 C-3 I-2

*For the purposes of intensity computations, gross area shall mean the lot area plus 1/2 of the right-of-way of any abutting street to which the lot has access.

For the following general use classifications: Residential, Office, Commercial, and Industrial, the density and/or intensity of use within the PUD located within two (2) or more zoning districts shall be separately calculated and allocated within the PUD.

605.52 Lot Width and Lot Area Minimums

Within a PUD, a minimum lot size requirement of 800 square feet shall apply to lots utilized for dwelling purposes. A minimum lot width requirement of 20 feet shall apply to lots utilized for dwelling purposes.

605.53 Building Height and Yards

Within a PUD, the City Commission, upon the recommendation of the Planning Commission, shall prescribe building height limitations and minimum yards, which shall be incorporated within the subdivision plat in compliance with the provisions of Section 605.85.

605.4 Setbacks from Abutting Public Streets

Within a PUD, building setbacks from abutting public streets, for residential use, shall not be less than as prescribed for an R-3 District. Within a PUD, building setbacks from abutting public streets for non-residential uses shall not be less than as prescribed for a C-1 District.

605.5 Perimeter Requirements

The Planning Commission shall prescribe perimeter requirements for screening, landscaping, and setbacks, as are necessary to assure compatibility with adjoining and proximate properties, which shall be incorporated within the subdivision plat in compliance with the provisions of Section 605.8.

605.6 Off-Street Parking and Loading

Off-street parking and loading spaces shall be provided as specified in the applicable use units and in conformance with the requirements of Section 406, Off-Street Parking and Loading. Required spaces may be provided on the lot containing the dwelling units for which it is intended to serve or in common areas. Common parking area shall be designed and located so as to be accessible to the dwelling units it is intended to serve. Provisions for the ownership and maintenance of common parking space as will insure its continuity and conservation shall be incorporated in the subdivision plat, in compliance with the provisions of Section 605.8.

605.8 Administration of Planned Unit Development

605.81 General

Any person, corporation, partnership, association, or combination thereof, owning or possessing a property right or interest in or to a tract of not less than 3 acres in size may make application for the approval of a PUD by filing an application for an outline development plan and a supplemental zoning district designation PUD.

An application for the approval of an outline development plan and the supplemental district designation PUD, may be processed simultaneously with and contingent upon an application for an amendment to the zoning map.

605.82 Application and Outline Development Plans

An application for a Planned Unit Development shall be filed with the Planning Commission. The application shall be accompanied by the payment of a $35.00 fee. Such fee shall not include advertising and sign costs which shall be billed to the applicant. The application shall be in such form and content as the Planning Commission may by resolution establish, provided that three copies of an outline development plan shall accompany the filing of the application. The outline development plan shall consist of maps and/or text which contain:

(1) Existing topographic character of the land.

(2) Proposed land uses, including public uses and open space and the approximate location of buildings and other structures.

(3) The character and approximate density of dwellings. Density shall be expressed in number of dwelling units and quantitative area of each identifiable segment of the PUD.

(4) The approximate location of thoroughfares.

(5) Sufficient surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed.

(6) An explanation of the character of the planned development.

(7) The expected schedule of development.

605.83 Public Hearing and Planning Commission Action

The Planning Commission, upon the filing of an application for the supplemental district designation, PUD shall set the matter for public hearing as set forth in Section 901.3 of this Ordinance. Within 60 days after the filing of an application, the Planning Commission shall conduct the public hearing and shall determine:

(1) Whether the PUD is consistent with the Comprehensive Plan.

(2) Whether the PUD harmonizes with the existing and expected development of surrounding areas.

(3) Whether the PUD is a unified treatment of the development possibilities of the project site.

(4) Whether the PUD is consistent with the stated purposes and standards of this chapter.

When a supplemental district designation, PUD is approved, the Planning Commission shall forward its recommendation, the application and the Outline Development Plan to the City Commission for further hearing as provided in Section 605.84.

605.84 City Commission Action

Upon receipt of the application, outline development plan, and Planning Commission recommendation, the City Commission shall hold a hearing, review the outline development plan, approve, disapprove, modify, or return the outline development plan to the Planning Commission for further consideration. Upon approval, the Zoning Map shall be amended to reflect the supplemental designation PUD, and the applicant shall be authorized to process a subdivision plat incorporating the provisions of the outline development plan.

605.85 Planned Unit Development Subdivision Plat

A Planned Unit Development subdivision plat shall be filed with the Planning Commission and shall be processed in accordance with the Subdivision Regulations, and in addition, to the requirements of the Subdivision Regulations, shall include:

(1) Details as to the location of uses and street arrangement.

(2) Provisions for the ownership and maintenance of the common open space as will reasonably insure its continuity and conservation. Open space may be dedicated to a private association or to the public, provided that a dedication to the public shall not be accepted without the approval of the City Commission.

(3) Such covenants as will reasonably insure the continued compliance with the approved outline development plan. In order that the public interest may be protected, the City of Cushing shall be made beneficiary of the covenants pertaining to such matters as location of uses, height of structures, setbacks, screening, and access. Such covenants shall provide that the City of Cushing may enforce compliance therewith.

605.86 Issuance of Building Permits

No building permits shall be issued on lands within the PUD except in accordance with the approved subdivision plat filed of record with the County Clerk. A building permit for a free-standing or separate commercial structure permitted as Accessory Commercial use under the provisions of 605.42A shall not be issued until building permits have been issued for at least one-half (1/2) of the number of dwelling units on

which the authorization of the commercial use is based, provided, however, that in the case of a PUD providing for more than 600 dwelling units, the City must permit a portion of the proposed commercial development to be constructed prior to the construction of one-half (1/2) of the dwelling units where such improvements bear a reasonable relationship between the number of living units and the staging of commercial development and said relationship is so stated and contained in the approved outline development plan.

605.87 Amendments

Minor changes in the platted PUD may be authorized by the City Commission, upon the recommendation of the Planning Commission, upon a review of a proposed amended subdivision plat, incorporating such changes, so long as substantial compliance is maintained with the outlined development plan and the purposes and standards of the PUD provisions hereof. Changes which would represent a significant departure from the outline development plan shall require formal abandonment and the subsequent filing of a new application for Planned Unit Development.

605.88 Abandonment

Abandonment of a Planned Unit Development shall require the City Commission's approval, after recommendation by the Planning Commission, repealing the supplemental designation of PUD. Upon abandonment, the property shall revert to the original zoning in place at the time of the PUD approval.

SECTION 606

FLOODPLAIN SUPPLEMENTAL DISTRICTS

606.1 PURPOSES OF THE FLOODPLAIN SUPPLEMENTAL DISTRICTS

The Floodplain Supplemental Districts are designed to:

A. Protect life;

B. Reduce and prevent flood damage;

C. Reduce public expenditures in areas subject to flooding;

D. Permit reasonable use of land in areas subject to flooding;

E. Promote the general welfare of the community; and

F. Prevent or reduce flood damage by keeping floodways free of man-made obstructions to permit the free flow and discharge of floodwaters.

606.2 DISTRICT DESIGNATIONS

Lands within a Floodplain shall be identified on the Official Zoning Map by the suffix FD-1 or FD-2 following the general zoning district designation over which the floodplain zone is superimposed.

A. FD-1 District (Floodway)

The FD-1 District is designed to prevent or reduce flood damage by keeping floodways (the channel of a watercourse or drainway and those portions of the adjoining floodplain which are reasonably required to carry and discharge the floodwater of the 100-year frequency flood, as predicted by the U.S. Corps of Engineers or the City Engineer) free of obstruction to permit the free-flow and discharge of floodwaters.

B. FD-2 District (Floodplain Fringe)

The FD-2 District is designed to prevent or reduce flood damage by requiring that buildings located within the floodway fringe (those portions of the floodplain which are not reasonably required to carry and discharge the floodwater of the 100-year frequency flood, as predicted by the U.S. Corps of Engineers or the City Engineer) shall be located or constructed so as to be above expected flood elevations.

606.3 DISTRICT BOUNDARIES

The initial boundaries of the Floodplain Supplemental Districts shall be established only after notice and public hearing before the Planning Commission and by approval of the City Commission. Amendments to the floodplain districts shall be established in the same manner as amendments to any other zoning district as set forth in Article IX including provisions for fees and public notice. The boundaries of the Floodplain Supplemental Districts may be amended so as to maintain uniformity with the purposes of this Ordinance upon a finding that:

A. A flood control project of the federal, state, county or city government, or a private person, has substantially altered the boundaries of the floodplain;

B. Flood data compiled subsequent to the enactment of the district indicates that the boundaries of the district should be adjusted; or,

C. Proposed improvements, such as berms, dikes, channel improvements, or flood retention reservoirs, which will substantially alter the boundaries of the floodplain and the actual construction of said improvements has been assured by the submission and acceptance of bond.

606.4 GENERAL FLOODPLAIN REGULATIONS

The following general regulations apply to the use of land located within an FD Supplemental District:

A. Structures shall be designed and constructed to withstand flood conditions.

B. Materials which in time of flood might float away and lodge against bridge abutments or otherwise serve to restrict the flood discharge capacity of the water channel are prohibited.

606.5 PERMITTED USES

606.51 Floodway District

Within an FD-1 Supplemental District the following uses are permitted as a right:

A. Passive Agricultural Uses such as:
cultivation
forestry
grazing
planting

B. Open Land Uses such as:
arboretum
flood management project
reservoir
wildlife preserve

C. Public Uses such as:
fire alarm
historical marker
street sign
thoroughfare
utility line.

D. Open air recreational uses such as golf courses, driving ranges, parks, picnic grounds, etc.

Certain uses (listed below) may be permitted by the Board of Adjustment, after adherence to the procedural requirements for a special exception, and upon the Board's finding that:

A. The use will not substantially affect or be affected by the flow of waters during times of flood;

B. The use will not impair the appropriate use, present or future, of neighboring property and that the use will be in keeping with the spirit and intent of this Ordinance.

The uses which may be permitted by the Board of Adjustment are:

A. Parking;

B. Temporary outside storage of materials;

C. Temporary amusement enterprises;

D. Other open air uses not requiring the erection of permanent principal structures, but which may require the erection of accessory structures.

All other uses are prohibited within Floodplain Supplemental Districts.

Uses approved by the Board which are not permitted within the applicable general use district, shall abate within one (1) year from the date of amendment to the Official Zoning Map removing the Floodplain Supplemental District designation from the land upon which the use is located.

606.52 Floodplain Fringe District

Within the FD-2 Supplemental District, the permitted uses shall be those uses permitted in the respective general use district to which the Floodplain Fringe District designation is affixed, provided that after the effective date of this Ordinance it shall be unlawful to construct, reconstruct, move or alter any building unless the lowest floor is at least one foot above the elevation of the 100-year frequency flood as predicted by the U.S. Corps of Engineers or the City Engineer.

606.6 NONCONFORMITIES

A structure lawfully existing in a Floodplain or Floodway Supplemental District at the effective date of said Supplemental Zoning and which would be prohibited in said Supplemental District shall be deemed nonconforming and may continue subject to the following provisions:

A. No such nonconforming structure may be enlarged.

B. Should such structure be damaged or partially destroyed by any means to the extent of seventy-five percent (75%) of its current replacement cost at time of damage, said structure shall not be restored.

C. Ordinary repairs may be made on any nonconforming structure provided said structure is not enlarged. If a nonconforming structure becomes physically unsafe or unlawful due to lack of repairs and maintenance and a final order of vacation or demolition is entered by a duly authorized official by reason of physical condition, it shall not thereafter be used, restored, repaired or rebuilt.

No construction of a permanent principal structure shall be allowed on any lot located within a Floodplain or Floodway Supplemental District even though said lot was filed of record or was within a subdivision approved by the City Council prior to the effective date of the Supplemental Zoning in said District.

606.6 RESPONSIBILITY FOR FLOODING

The fact that land or property is not included within a Floodway or Floodplain as authorized by Section 606.3 of this Ordinance shall not constitute assurance that such land or property is not subject to flooding and shall not be so interpreted.

ARTICLE VII

BOARD OF ADJUSTMENT

SECTION 701

CREATION AND PROCEDURES

701.1 BOARD OF ADJUSTMENT ESTABLISHED

There is hereby created a Zoning Board of Adjustment consisting of five (5) members, each to be appointed for a term of three (3) years and removable for cause by the City Commission upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. It is specifically provided, however, that on the effective date of this Ordinance such Board of Adjustment as was legally in existence immediately prior to such date shall be constituted as the Board of Adjustment hereby created, and the terms of the then members of said Board shall expire after a period of three years, or until their successors are duly appointed and qualified. Said Board of Adjustment shall be appointed by the Chairman of the Board of City Commissioners and confirmed by the City Commission.

701.2 ORGANIZATION AND PROCEDURES

The Zoning Board of Adjustment shall elect one (1) of its members as Chairman. The Board shall adopt rules in accordance with the provisions of this Ordinance and Title II, Oklahoma Statutes, Section 44-101 through Section 44-110. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or, in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. The Board of Adjustment shall be subject to the open meeting laws of the State and all meetings, deliberations, and voting of the Board shall be open to the public. The Board shall keep the 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 all official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

701.3 APPEALS TO BOARD OF ADJUSTMENT

Appeals to the Board of Adjustment may be taken by any person aggrieved by any officer of the municipality affected by any administrative decision based on this Zoning Ordinance. Such appeal shall be taken within thirty (30) days of such decision by filing with the City Clerk and the Board of Adjustment a notice of appeal specifying the grounds thereof. The City Clerk shall forthwith transmit to the Board all the papers constituting the record of the action from which the appeal is 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 of Adjustment after the notice of appeal has 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 the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application or notice to the officer from whom the appeal is taken and on due cause shown.

701.4 PUBLIC HEARING REQUIRED

The Zoning Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matters referred to it, and give public notice thereof. Any party may appear and be heard in person or by agent or by attorney at said hearing.

701.5 NOTICE AND MINOR VARIANCE OR EXCEPTIONS

Notice of public hearing before the Board of Adjustment shall be given by publication in a newspaper of general circulation in the City of Cushing by mailing written notice by the Clerk of the Board of Adjustment to all owners of property within a three-hundred (300) foot radius of the exterior boundary of the subject property. A copy of the published notice may be mailed in lieu of written notice; however, the notice by publication and written notice shall be published and mailed at least ten (10) days prior to the hearing. Applicants shall be responsible for providing to the Zoning Administrator a list of all owners of property within a three hundred (300') foot radius of the exterior boundary of the subject property, which list shall be certified as correct according to the records then available in the Office of the County Assessor or County Treasurer, by an Attorney-at-Law, Bonded Abstractor, Registered Land Surveyor, or Registered Professional Engineer.

The notice, whether by publication or mail, or a public hearing before the Board of Adjustment shall contain:

A. Legal description of the property and the street address or approximate location in the municipality;
B. Present zoning classification of the property and the nature of the appeal, variance or exception requested; and
C. Date, time and place of the hearing.

On hearings involving minor variances or exceptions, notice shall be given by the Clerk of the Board of Adjustment by mailing written notice to all owners of property adjacent to the subject property. The notice shall be mailed at least ten (10) days prior to the hearing and shall contain the facts as listed hereinabove. The Board of Adjustment shall set forth in a statement of policy what constitutes minor variances or exceptions, subject to approval or amendment by the municipal governing body.

701.6 FEES

The Zoning Board of Adjustment shall establish a fee for the hearing of appeals, which shall be sufficient to defray the cost of publishing the notice of public hearing and any other costs associated with the hearing; the appellant shall pay such fee upon filing the appeal.

701.7 POWERS

The Zoning Board of Adjustment shall have the following powers:

A. Administrative review. 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, Building Inspector, or other administrative officer in the enforcement of this Ordinance.

B. To authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest where, owning to special conditions, a literal enforcement of the provisions of this Ordinance will, in any individual case, result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured, and substantial justice done. Such variances may be granted in such individual case of unnecessary hardship upon a finding by the Board of Adjustment that:

(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

(2) The application of this Ordinance to this particular piece of property would create an unnecessary hardship, not self-imposed by the owner or developer.

(3) Such conditions are peculiar only to the particular piece of property involved.

(4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Zoning Ordinance or the Comprehensive Plan; provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this Ordinance.

C. To authorize, upon application in specific cases such special exception as hereinafter provided for, provided such exception together with such conditions as may be imposed by the Board of Adjustment is determined to be (a) consistent with purposes and intent of the district within which the property is located; (b) if granted would not tend to encourage further exceptions of a similar nature in the neighborhood which, when taken together, would be inconsistent with the purposes and intent of the district; and (c) that the special exception is necessary to render appropriate relief to the applicant for a fair and reasonable use of his property:

(1) Within the A-1 District, the Board of Adjustment may permit not to exceed one auxiliary single family structure on a lot for the purpose of housing a relative of the owner when it can be shown that such residence is necessary for the health, safety and/or care of the parties involved.

(2) Within the A-1 District, the Board of Adjustment may permit the construction of residential structures without connecting to public water supply, provided it is determined that (a) public water supply is not available and/or will not become available within a reasonable period; and (b) that said approval would not endanger the health, safety and protection of citizens in the area.

701.8 EXTENT OF RELIEF

In exercising the abovementioned powers, the Board of Adjustment may, in conformity with the provisions of the ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, 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. The concurring vote of at least four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement and decision or determination of any such administrative officer, or to decide in favor of the applicant, or to decide any matter upon which it is required to pass under the ordinance or to effect any variation in such ordinance.

SECTION 702

APPEAL TO DISTRICT COURT

702.1 NOTICE OF APPEAL

An appeal from any action, decision, ruling, judgment or order of the Board of Adjustment may be taken by any person or persons, jointly or severally, or any taxpayer, or any officer, department, board or bureau of the City of Cushing to the District Court in Payne County by filing a notice of appeal with the City Clerk and with the Board of Adjustment within sixty (60) days from the filing of the decision of the Board, which notice shall specify the grounds of such appeal. Upon filing of the notice of appeal as herein provided, the said Board shall transmit forthwith to the Court Clerk of Payne County the original or a certified copy of all the papers constituting the record in the case, together with the order, decision or ruling of the Board.

702.2 APPEAL STAYS PROCEEDINGS

An appeal to the District Court from the Board of Adjustment stays all proceedings in furtherance of the action appealed from, unless the Chairman of the Board of Adjustment or the administrative office from which the appeal is taken certifies to the

Court Clerk, after the notice of appeal shall have been filed, that, by reason of the facts stated in the certificate, a stay, in his opinion, would 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 District Court upon application or notice to the administrative officer in charge of the enforcement of the terms and provisions of the Ordinance; and upon notice to the Chairman of the Board of Adjustment from which the appeal is taken, and, upon due cause being shown, the court may reverse or affirm, wholly or partly, or modify the decision brought up for review.

ARTICLE VIII

ADMINISTRATION

RESPONSIBILITY FOR ENFORCEMENT
SECTION 801

801.1 DUTY OF ZONING ADMINISTRATOR

It shall be the duty of the Zoning Administrator to enforce this Ordinance. If the Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, and shall take such other action as is authorized by law to ensure compliance with or to prevent violation of its provisions.

SECTION 802

ZONING CLEARANCE PERMIT REQUIRED

802.1 PURPOSE

The Zoning Clearance Permit is a permit issued by the Zoning Administrator which states that a particular development meets all of the requirements of the Zoning Ordinance. It is not a building permit and does not authorize construction; it certifies that the land and/or structure is in conformance with the terms of this Zoning Ordinance.

802.2 NEW CONSTRUCTION

No building or other structure shall be erected, constructed, enlarged, altered, nor shall the use of any land or building or other structure be changed without a Zoning Clearance Permit being issued authorizing such construction, alteration, or use changes as being in compliance with the provisions of this Ordinance. No Building or other Permit shall be issued for any construction not conforming to a valid Zoning Clearance Permit.

802.3 CHANGE IN USE OF LAND OR BUILDING

No change shall be made in the use of any land or building or structure after the passage of this Ordinance until a Zoning Clearance Permit has been obtained, certifying that all the provisions of this Ordinance have been complied with.

802.4 APPLICATION

An application for a Zoning Clearance Permit shall be made to the Zoning Administrator by the owner or proposed occupant of the building or land to be occupied or used, and said application shall state the location and legal description of said property and set out in detail the character and nature of the use to be conducted thereon. Within three days, the Zoning Administrator shall grant or deny said Zoning Clearance Permit in accordance with the terms of this Ordinance.

802.5 ACCOMPANYING MATERIAL

All applications for Zoning Clearance Permits shall be accompanied by a plot plan, drawn to scale on suitable paper, showing the actual dimensions of the lot to be built upon, the size and location of the building to be erected, and such other information as may be necessary to satisfy the requirements of these regulations.

802.6 FEES

Zoning Clearance Permits shall not be issued until a fee of Five Dollars ($5.00) shall have been paid.

SECTION 803
CONDITIONAL USE PERMIT

803.1 PROCEDURE FOR AUTHORIZING CONDITIONAL USES

Where the letter "p" appears for certain uses in the tables of permitted uses, their use is permitted subject to acquiring a conditional use permit. The uses designated under the various districts herein as "Conditional Uses" are so classified because they more intensely dominate the area in which they are located than do other uses permitted in the district; however, the nature of such uses makes it desirable that they be permitted to locate therein. The following procedure is established to integrate properly the conditional uses with the other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure.

A. An application shall be filed with the City Planning Commission for review. Such application shall show the location and intended use of the site, the names of all the property owners and existing land uses within three hundred feet (300') and any other material pertinent to the request which the Planning Commission may require. The Applicant shall be responsible to provide the list of property owners to the Zoning Administrator, which list shall be certified as correct according to the records then available in the Office of the County Assessor or County Treasurer, by an Attorney-at-Law, Bonded Abstractor, Registered Land Surveyor, or Registered Professional Engineer.

B. The City Planning Commission shall hold one (1) or more public hearings thereon. Such notice shall follow the same procedure as for an amendment as specified in SubSection 901.3. In the event an applicant files an application for an amendment concurrently with an application for a conditional use, the Planning Commission may, upon its option, consider both applications concurrently upon proper notice having been given.

C. The Planning Commission shall within forty-five (45) days of the date of application, transmit to the City Commission its report as to the effect of such proposed building or use upon the character of the neighborhood, traffic condition, public utilities and other matters pertaining to the general welfare, and the recommendation of the Planning Commission concerning use thereon. Thereupon, the City Commission may authorize or deny the issuance of a building permit for the use of land or buildings as requested.

SECTION 804

PLATTING REQUIREMENT

804.1 PROCEDURE

For the purposes of providing a proper arrangement of streets and assuring the adequacy of open spaces for traffic, utilities, and access of emergency vehicles, commensurate with the intensification of land use customarily incident to a change of zoning, a platting requirement is established, as follows:

> For any land which has been rezoned upon application of a private party, no building permit or zoning clearance permit shall be issued until that portion of the tract on which the permit is sought has been included within a subdivision plat or replat, as the case may be, submitted to and approved by the City Commission upon the recommendation of the Planning Commission, and filed of record in the office of the County Clerk where the property is situated. Provided that the City Commission, upon the recommendation of the Planning Commission, may waive the platting requirement upon a determination that the above stated purposes have been achieved by previous platting or could not be achieved by a plat or replat.

SECTION 805

VIOLATIONS AND PENALTIES

805.1 FINES

A violation of this Ordinance shall be deemed a misdemeanor and shall be punishable by fine. Any person, form or corporation who violates or refuses to comply with any of the provisions of this Ordinance shall be fined not less than Thirty-Five Dollars ($35.00) nor more than One Hundred Dollars ($100.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

ARTICLE IX

AMENDMENTS

SECTION 901

PROCEDURES

901.1 PLANNING COMMISSION RECOMMENDATION REQUIRED

The regulations, restrictions, prohibitions and limitations imposed and the Districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the Planning Commission, after notice and public hearing, files with the City Commission a report and recommendation on the proposed change.

901.2 APPLICATION FOR AMENDMENT

An owner, or his duly authorized agent or representative, may make application for the amendment of the zoning restrictions applicable to his property by filing with the Planning Commission a written application in such form and content as the Planning Commission may by resolution establish. An application for amendment shall be accompanied by the payment of a fee of One Hundred Dollars ($100.00) to cover the costs of notice and posting and administrative review. Said fee shall be payable in two parts - Fifty Dollars ($50.00) for the hearing before the Planning Commission and Fifty Dollars ($50.00) for the hearing before the City Commission.

901.3 NOTICE AND PUBLIC HEARING

Upon receipt of an application, the Planning Commission shall set a date for public hearing not less than twenty (20) days nor more than sixty (60) days from the date of filing. Fifteen days' notice of the public hearing shall be given by the Planning Commission by publication in a newspaper of general circulation in Cushing. In addition to the notice required above, notice of a public hearing on any proposed zoning change shall be given twenty (20) days prior to the hearing by mailing written notice by the secretary of the Planning Commission to all owners of property within a three hundred (300') foot radius of the exterior boundary of the subject property. A list of property owners shall be provided by the Applicant to the Zoning Administrator, which list shall be certified as correct according to the records then available in the Office of the County Assessor or County Treasurer, by an Attorney-at-Law, Bonded Abstractor, Registered Land Surveyor, or Registered Professional Engineer. The notice shall contain:

A. Legal description of the property and the street address or approximate location.

B. Present zoning and classification of the property and the classification sought by the applicant; and

C. Date, time and place of the public hearing.

In addition to the notice provided above, notice of public hearing of any zoning change shall be given by a sign or signs as may be required, placed on the property affected by such proposed zoning reclassification. Such sign (or signs) and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces. It shall contain:

A. The date, time and place of the public hearing;

B. By whom the public hearing will be conducted;

C. The desired zoning classification;

D. The proposed use of the property; and

E. Other information as deemed necessary to provide adequate and timely public notice.

901.4 PLANNING COMMISSION ACTION

A. After notice and public hearing, the Planning Commission shall vote to:

(1) Recommend to the City Commission that the application be approved as submitted, or as amended, or be approved subject to such modification as the Planning Commission shall deem appropriate to carry out the comprehensive plan; or

(2) Recommend to the City Commission that the application be denied.

B. An application recommended for approval, or approval subject to modification, shall be transmitted to the City Commission with the report and recommendation of the Planning Commission within fifteen (15) days from the date of Planning Commission action.

C. An application recommended for denial shall not be considered further and Fifty Dollars ($50.00) of the fee required in Article 901.2 application for amendment shall be refunded (if previously paid) to the applicant unless the applicant, within fifteen (15) days from the date of the Planning Commission action, files a written request with the City Commission for a hearing whereupon a fee of Fifty Dollars ($50.00) shall accompany the request for a hearing before the City Commission. Upon notice of such request, and receipt of the required fee, the Planning Commission shall forthwith transmit the

application and its report and recommendation and an approved copy of its minutes on the hearing to the City Commission. The City Clerk shall notify all interested parties of record before the Planning Commission proceedings of the time and place of the consideration of the appeal hereinabove provided for.

901.5 CITY ACTION

The City Commission shall hold a hearing on each application regularly transmitted, or which has been transmitted pursuant to an appeal as provided for in Section 901.4C. The City Commission shall approve the application as submitted and recommended by the Planning Commission, or approve the application subject to modification, or deny the application, or return the application to the Planning Commission for further study.

901.6 PROTEST TO AMENDMENT

If a written protest against an amendment, change or repeal of this Ordinance or any part thereof is presented, duly signed and acknowledged more than three (3) days prior to said public hearing by the owners of twenty percent (20%) or more of the area of the lots included in such proposed change, or by the owners of fifty percent (50%) or more of the area of the lots within a three hundred (300') foot radius of the exterior boundary of the territory included in a proposed change, such amendment shall not become effective except by a three-fifths (3/5) favorable vote of the City Commission.

EMERGENCY CLAUSE

It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this Ordinance shall be in full force and effect from and after its passage and approval.

Approved as to form and legality:

_____
Attorney

Passed and adopted this _____ day of _____, 1979.

_____
Chairman of the Board of City Commissioners

ATTEST:

_____
Clerk