

**ARTICLE XXV
ADDITIONAL HEIGHT, AREA & USE REGULATIONS**

Section 1. Qualifications and Supplementations to District Regulations: The regulations hereinafter set forth in this section qualify or supplement, as the case may be, the district regulations appearing elsewhere in this Ordinance.

- A. In districts where public building, semi-public buildings, public service buildings, hospitals, institutional buildings, and churches and similar places of worship are permitted, one foot (1') of additional height will be permitted for each one foot (1') of additional building setback provided.
- B. Chimneys, cooling towers, elevator head houses, fire towers, grain elevators, monuments, stacks stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, or necessary mechanical appurtenances which do not conflict with airport approach zones, may be erected to a height not to exceed one hundred fifty feet (150').
- C. *Accessory* buildings can be built in a rear yard only, but such *accessory* building shall not be closer than ten feet (10') from the main building or any other *accessory* building. An *accessory* building may be constructed on the rear property line if adjacent to a dedicated alley or easement, except when a garage is entered from the rear property line, a setback of ten feet (10') shall be required. If the rear property line is not adjacent to an alley or easement then an *accessory* building may be constructed no closer than the required side yard.

No *accessory* building in excess of one hundred (100) square feet may have metal exterior.

EXCEPTION: In the use of a pre-engineered wood frame structure with metal exterior covering the following shall apply:

- 1. With minimum of 12-inch overhangs on the roofs with enclosed soffits.
 - 2. Residential type doors and windows.
 - 3. A wainscot around the perimeter of the entire building to break-up the appearance of the continuous vertical siding, using a complementing color.
 - 4. The exterior wall coverings and roof to match the color of the main residential structure upon the lot that the *accessory* building is located.
 - 5. Gutters and down spouts provided.
- D. No *accessory* building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no *accessory* building shall be used for dwelling purposes.

- E. The setback line shall be determined by measuring the horizontal distance from the Lot line to the nearest architectural projection of the building (porches and stoops are included).
- F. Open lattice-enclosed fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the Zoning Administrator for a distance of not more than three and one-half feet (3 ½') and where the same are so placed as not to obstruct light and ventilation.
- G. For the purpose of the side yard regulations, a two-family dwelling, or a multiple family dwelling shall be considered as one (1) building occupying one (1) lot.
- H. Temporary building and temporary signs that are used in conjunction with construction work may be permitted in any district during the period that the building is being constructed, but such temporary building and/or sign shall be removed upon completion of the construction work or not more than thirty (30) days thereafter.
- I. When a lot or tract is used for nonresidential purposes, more than one (1) principal use may be located upon the lot or tract but only when the building or buildings conform to all yard and open space requirements for the district in which the lot or tract is located.
- J. No side yards are required where dwelling units are erected above commercial and industrial structures.
- K. Radio, television and communication towers in any permitted zone shall be placed so the height of said radio or television tower does not conflict with any airport approach or landing zone or with any other ordinance and said radio or television tower is not closer than one and a half times the tower height from any residential dwelling.
- L. No portion of open-air swimming pool outside a building shall be located at a distance less than six feet (6') from the side yard property line, three feet (3') from the rear yard property line and a setback from the main structure is not required.
- M. If forty percent (40%) or more of the existing buildings are less than the required setback, a builder may line up with the existing building line, provided that it is not less than one-half (1/2) of the required setback.
- N. On lots where mobile homes are located, the minimum side lot width required shall be ten feet (10').

- O. The Planning Commission may require a six foot (6') high solid wood fence or similar screening device.

Section 2. Fences: Except as otherwise provided in this Ordinance, fences may be permitted in any required yard after a permit has been obtained from the building department.

- A. District "R-1" to "I-2A" inclusive: All fencing shall be constructed of brick, wood, metal, concrete block, chain link, vinyl, or other material normally intended to be used for Residential fencing. Prohibited fencing materials include Electric, or any fencing material with sharp points.
- B. Barbed wire fences are prohibited in all **residential** districts.
- C. Height of the fence shall not exceed eight feet (8') along the rear lot line and the side lot line. In any required front yard, the height of the fence shall not exceed four feet (4') from the adjacent grade or the top of the curb as designated by the Building Inspector. However, the fence may be uniformly tapered from eight feet (8') at the end of the side yard, to the front yard property line.
- D. In commercial and industrial districts, for security purposes only, barbed wire fencing may be used. The barbed wire shall be at least six (6) feet above grade, and not to exceed seven (7) feet from the immediate adjacent grade, and shall not project beyond the property line.
- E. No fence shall be constructed on any street right-of-way or in such a manner as to be hazardous or dangerous to persons or animals or adversely affect the public health, safety and welfare. (Prohibited materials include barbed wire, sharp points on wrought iron fences, and electrical fences)
- F. No fence or other visual barrier shall be so located and placed that it obstructs the vision of a motor vehicle driver approaching any street or intersection. (Line of sight at intersections shall conform to the sight triangle of the City of Liberal Ordinance.)
- G. No fence shall be erected or maintained which will materially damage the adjacent property by obstructing the view, shut out sunlight or hinder ventilation of the adjoining property owner.
- H. No fence shall be constructed until a "no fee" permit has been obtained from the Building Department.

Section 3. Building Setback Lines: Building setback lines are hereby established for all arterial and collector streets, as shown on the approved Major Street Plan. The setback lines as established in this section, shall be held to the minimum for the purpose of promoting the public health, safety, morals, order, convenience, and economy in the process of development and shall conform with the following requirements:

- A. Arterial Streets: No building or structure which fronts or sides on an arterial street shall be located nearer to the right-of-way line of the arterial street than the sum of the required front yard in feet plus fifty feet (50').
- B. Collector Streets: No building or structure which fronts or sides a collector street shall be located nearer to the right-of-way line of the collector street than the sum of the required front yard in feet plus forty feet (40').

Section 4. Lots of Record: A lot or group of lots which were platted and recorded in the office of the Register of Deeds prior to the Effective date of this Ordinance may be used for any purpose permitted in the district in which it is located; provided, that no residential building permit shall be issued for the construction of a residential structure on a lot or group of lots that do not conform with the minimum yard and height requirements unless specifically authorized by the Board of Zoning Appeals.

Section 5. Canopy and Marquee: A canopy or marquee may be permitted to "overhang a public way" in District "C-3" providing:

- A. The canopy or marquee is constructed and maintained in accordance with the City Building Code and other codes, ordinances and resolutions.
- B. No portion of the canopy or marquee shall be less than eight feet (8') above the level of the sidewalk or other public way.
- C. The canopy or marquee shall not extend beyond a point two feet (2') inside the curb line of a public street.

Section 6. Plans and Approval Required:

- A. Plans showing layout and design of all curb cuts, driveways and off-street parking areas shall be submitted and approved by the Building Official prior to a permit being issued.
- B. Before approving the parking layout, the Building Official shall satisfy himself that the spaces provided are usable and meet standard design criteria. All required off-street parking areas, including access drives, shall be improved with asphalt, concrete or similar dust free surface and all parking spaces shall be clearly marked and provide safety barriers.

Section 7. Sidewalks:

- A. No building or structure shall hereafter be constructed or relocated within the City of Liberal, Kansas, unless said application and permit required herein for said building or structure shall include the construction of sidewalks per City specifications set forth in Chapter 13, Article 2 of the Code of the City of Liberal.
- B. Sidewalk construction shall hereafter be and is a part of all building or structure construction or relocation permits.
- C. All plans, designs and specifications for sidewalks shall conform to existing sidewalks in any given block. The City Street Superintendent or Building Official shall review the plans and determine the type of sidewalk and the grade that is to be constructed.

Section 8. Home Occupations.

- A. Any home occupation that is customarily incidental to the principal use of a building as a dwelling or its' *accessory* building, shall be considered a special use in any residential or agricultural district. The applicant for a home occupation must make application to the Board of Zoning Appeals, as provided in Article XXIX, Section 10 of the Zoning Regulations. Following the requirements set forth in Article XXX, Section 4 notices shall be mailed not less than twenty (20) days prior to the date of the meeting to owners of property within a radius of two hundred feet (200') of the external boundaries of the property described in the application using for this purpose the name and address of such owners as are shown on the latest official tax roll of the County of Seward. Such notice shall contain all pertinent data related to the case.
- B. A home occupation is defined as a business, profession, occupation or trade conducted entirely within a dwelling or its' *accessory* building, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, providing either a service or a product, yet does not change the character thereof, and in connection with which there is no commodity sold upon the premises except that which is produced thereon. The home occupation shall not involve the use of commercial vehicles for delivery of materials to and from the premises.
- C. In addition to all of the Use Limitations applicable to the district in which it is located, no home occupations may be permitted unless it complies with the following restrictions:

1. The primary use of the building or structure in which the occupation is situated is clearly the dwelling or its' *accessory* building used by the person as his or her private residence.
 2. No alteration of the exterior of the principal structure shall be made which changes the character thereof as a residence or its' *accessory* building.
 3. There shall be no use of utilities or community facilities beyond what normal to the use of the property for residential purposes.
 4. No inventory or storage, other than immediate samples, are stored on the premises. All storage of immediate samples must be in an enclosed area concealed from public view.
 5. No more than one (1) person other than a member of the immediate family occupying such dwelling shall be employed.
 6. The home occupation shall not involve the use of advertising signs on the premises or any other local advertising media which calls attention to the fact that the home is being used for business purposes, telephone number listing expected.
 7. No equipment or machinery is used in such activities that is perceptible off the premises by reason of noise, smoke, odor, dust, radiation, electrical interference or vibration.
 8. Parking shall be handled in such a manner as not to impede or hinder traffic on any public right- of-way. Parking must be provided on the property used for the home occupation. No public right-of-way shall be used for Home Occupation parking other than the right-of-way adjacent to the parking being utilized.
- D. Customary home occupations include, but are not limited, to the following list of occupations. However, each listed occupation must also fulfill the requirements of Section 8.
1. Accountant.
 2. Architect and Engineer.
 3. Artist.
 4. Author or Writer.
 5. Clergyman.
 6. Contractor's and Consultants Office Only.
 7. Cosmetologist.
 8. Home Crafts (not to include hobby shops)
 9. Lawyer.
 10. Photographer.

11. Salesman selling no merchandise on premises.
12. Seamstress.
13. Secretary-Typist.
14. Music Teacher.
15. Stables and Kennels (permitted in "A-L" District only).
16. Upholstery Shops.
17. Small Appliance Repair.
18. Bed & Breakfast.

E. Home Occupations shall not include any of the following uses:

1. Dancing Schools.
2. Funeral Homes.
3. Restaurants.
4. Tourist Homes and Boarding Homes.
5. Renting of Trailers.
6. Medical or Dental Offices, Clinics or Hospitals.
7. Animal Hospitals.
8. Antiques - Retail.
9. Auto Body Work.
10. Metal Welding Shops.

F. All persons engaged in the operation of a home occupation prior to the rules of this code, may continue such use provided said usage complied with the definition of "Home Occupation" as defined in Article III, Section 1.

G. The Board of Zoning Appeals may void any Home Occupation for noncompliance with the conditions set forth in approving the permit.

H. Exception to the special use permits for Home Occupation, if the home occupation is online based or office space only with no customers coming to the home and there is no bulk storage of items required to run the home occupation.

Section 9. Child Care Facilities.

A. The following are definitions of day care facilities broken down as to licensing requirements and number of children under an individual's care.

1. **Day Care Home.** A facility providing care for six or less children in a residential structure as a home occupation and which is licensed and regulated by either the Seward County Health Department or the Kansas Social and Rehabilitation Services.
2. **Group Day Care Home.** A Day Care School or Nursery School providing care for a maximum of twelve (12) children in a residential structure as a

home occupation and which is licensed and regulated by the Seward County Health Department or the Kansas Social and Rehabilitation Services.

3. **Child Care Center.** A Child Care facility providing care for thirteen (13) or more children which is licensed and regulated by the Seward County Health Department or the Kansas Social and Rehabilitation Services.
4. **Pre-School.** This shall include educational pre- schools, Montessori Schools, Church sponsored pre-schools, cooperatives and nursery schools providing learning experiences for children in a church building, school or in a hall of a fraternal organization which is licensed and regulated by the Seward County Health Department or the Kansas Social and Rehabilitation Services.

B. Day Care Homes are conditional uses in Districts "A-L", "R-1", "R-2", "R-3".

1. Group Day Care Homes are conditional uses in Districts "A-L", "R-1", "R-2", "R-3".
2. Child Care Centers are conditional uses in Districts "R-3", "C-1", "C-2" and "I-P".
3. Pre-Schools are conditional uses in Districts "A-L", "R-1", "R-2", "R-3", "C-1", "C-2".
3. All persons now engaged in the operation of a Day Care Home and Group Child Day Care Center and Pre-Schools as of May 2, 1983, shall be exempt from the provisions of this Ordinance as long as that activity is continued by the same operator in the same premises and continues to be licensed and regulated by the Seward County Health Department or the Kansas Social and Rehabilitation Services.

Section 10. Row Houses.

Special regulations regarding row houses shall be as follows.

- A. In districts where row house buildings are permitted, and row houses are to be constructed each on its own lot and shall be subject to the minimum requirements in this section.
- B. Minimum lot area for a row house lot shall be not less than 3,000 square feet.
- C. Minimum frontage of a row house lot on a public street shall be not less than 20 feet on a standard lot and not less than 45 feet on each frontage of a corner lot.

- D. No side yard shall be required along any side lot line which is common to two attached row houses, whether they be on interior or exterior row house lots. Side yards not common to that of any other attached row house must conform to set backs as required elsewhere in this code.
- E. Front yard and rear yard requirements as established elsewhere in this code.
- F. A minimum lot width of 20 feet shall be provided for all interior and exterior row house lots.
- G. Row houses shall be developed on subdivided lots with no more than six units per building; nor shall the building exceed 120 feet in width.
- H. The maximum lot coverage for row house lot including driveways shall be 50%.
- I. Exterior treatment of attached row houses shall be integrated. Exterior of buildings shall be maintained in a uniform similar exterior treatment and finish.
- J. An unobstructed easement shall be provided across the side and rear eight feet of each exterior row house lot (triplex), when adjacent to an interior row house lot, for ingress and egress of adjacent interior row house lot owners for maintenance purposes. The access easement shall be unobstructed and physically passable at all times. This easement shall be incorporated into each deed transferring title to the property.
- K. A party wall agreement shall be included in the subdivision covenants for each row house lot setting forth provisions for repair of common walls, repair of common utility service connections, reconstruction of the common building in the event of damage or destruction of one or all of the dwelling units and common maintenance and repair of joint facilities.
- L. Common walls and floor ceiling assemblies shall conform to Section 302 FIRE-RESISTANT CONSTRUCTION of the adopted ICC code and amendments as outlined in the municipal code.

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