

CHAPTER V. BUILDING AND CONSTRUCTION

- Article 1. Building Codes Adopted by Reference, Permits Required, Fees, Applications, Architectural Review Board Review, Hearing Procedure, Findings, Powers, Issuance, Creation of Architectural Review Board
- Article 2. Removal of Structures
- Article 3. Deep and Shallow Excavations
- Article 4. Solar Energy Systems
- Article 5. Parabolic and Dish Type Antennas
- Article 6. Cutting Streets and Excavations
- Article 7. Minimum Standards for Property
- Article 8. Use and Occupancy of the Public Right-of-way
- Article 9. Penalty

ARTICLE 1. BUILDING CODES

- 5-101. BUILDING CODES ADOPTED BY REFERENCE. That certain stated codes known as the:

1994 Uniform Building Code,
1994 Uniform Mechanical Code,
1995 International Plumbing Code,
1993 National Electric Code with Uniform Administration Code Provisions,
1994 Uniform Fire Code,
1994 Uniform Code for the Abatement of Dangerous Buildings,
1994 Uniform Housing Code,
1995 CABO One and Two Family Dwelling Code,

are hereby established as the Building Code, Mechanical Code, Plumbing Code, Electrical Code, Fire Code, Dangerous Buildings Code, Housing Code, and One & Two Family Dwelling Code of and for the city and the above-described codes and their supplements are hereby incorporated herein by reference and made part of this code, save and except such portions that are deleted or amended by ordinance.

- 5-102. MARKED COPIES OF STANDARD CODES FILED. There shall be no fewer than three copies of the standard codes incorporated by reference in section 5-101 of this article kept on file in the office of the city clerk and kept available for inspection by the public at all reasonable business hours. The filed copies of the standard code shall be marked or stamped "Official Copy as incorporated by the Municipal Code." All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. Ref. K.S.A 12-3010, 12-3015

5-103. PERMIT REQUIRED.

A. Exterior.

Except as herein otherwise provided, no

- (a) building,
- (b) structure (including but not limited to decorative structures, garden structures, storage units, pet and animal housing or restraints, flagpoles, light poles, sports or play structures and equipment, signs or antennas);
- (c) appurtenance (including but not limited to exterior siding material, roofing, skylight, house or trim color, decking, courtyard, door, gate, railing, shutter, awning, screen, storm window, guttering, planter box, lighting, fireplace, cooking equipment, sign or mail box);
- (d) fencing or hedge;
- (e) wall (free standing or retaining);
- (f) landscaping, including, but not limited to, man-made elements or non-living elements, rock, stone, irrigation system, artificial turf or changes to the existing grade;
- (g) artwork and sculpture;
- (h) surfacing (including but not limited to, driveways, terraces, steps, sidewalks, pathways, entrance ways and patios);
- (i) water feature (including but not limited to, pools and fountains and swimming pools);
- (j) structure and trim coloring or finish;
- (k) garage, or
- (l) exterior functional equipment (whether or not visible) that is or is associated with any mechanical, electrical, solar, gas, heating and cooling, sewage, telecommunication, water system or other system;

shall be constructed, erected, enlarged, allowed, installed, placed, applied, altered, remodeled, removed, replaced, or repaired on property, except solely to restore the original nature and condition thereof in a manner that does not change the appearance or nature of the then existing features of the property, unless the owner shall first have applied for and received from the City Building Official proper permits therefor as provided herein.

B. Interior.

No interior functional equipment that is or is associated with any mechanical, electrical, solar, gas, heating and cooling, sewage, telecommunication or water system, and no interior structural changes, shall be constructed, erected, enlarged, allowed, installed, placed, applied, altered, remodeled, removed, replaced, or repaired on property, except solely to restore the original nature and condition thereof, unless the owner shall first have applied for and received from the City Building Official proper permits therefor as provided herein.

C. Removal or Relocation.

No removal or relocation, including but not limited to removal of structures, moving of structures, removal of healthy mature trees and shrubbery, or change in grade shall be commenced upon any lot, tract, or parcel of land, unless the owner shall first have applied for and received from the City Building Official proper permits therefor as provided herein.

5-104. **SEPARATE PERMITS.** There shall be separate permits required for each building, structure, or other classes of items to be constructed, erected or altered, except accessory buildings and appurtenances which may be included in the permit for the principal building when construction is simultaneous, and provided, further, that there shall be but one fee required for simultaneous applications for permits on the same property. The City Building Official shall have the authority to determine in each case the type of permit(s) required, the number of permits required and the applicable fees therefor.

5-105. **MINOR ALTERATIONS.** No permit shall be required for minor alterations to restore the original nature and condition of an object or property such as repainting, interior decorating, minor landscaping, patching, maintenance, re-roofing with materials substantially similar to existing materials and which are not otherwise made subject to the provisions of this Chapter 5. The owner shall have the burden of establishing that an alteration or improvement is minor. The City Building Official shall have the authority to determine in each case whether an alteration or improvement is minor.

5-106 **PERMIT FEES.** Permit fees shall be assessed as follows:

A. General permit fees:

| Total Cost of Work | Fee |
|-----------------------------|--|
| \$1.00 to \$500.00 | \$15.00 |
| \$501.00 to \$2,000.00 | \$15.00 for the first \$500.00 plus \$2.00 for each additional \$100.00 or fraction thereof, to and including \$2,000.00 |
| \$2,001.00 to \$25,000.00 | \$45.00 for the first \$2,000.00 plus \$9.00 for each additional \$1,000.00 or fraction thereof, to and including \$25,000.00 |
| \$25,001.00 to \$50,000.00 | \$252.00 for the first \$25,000.00 plus \$6.50 for each additional \$1,000.00 or fraction thereof, to and including \$50,000.00 |
| \$50,001.00 to \$100,000.00 | \$414.50 for the first \$50,000.00 plus \$4.50 for each additional \$1,000.00 or fraction thereof, to and including \$100,000.00 |

| | |
|------------------------------|---|
| \$100,001.00 to \$500,000.00 | \$639.50 for the first \$100,000 plus \$3.50 for each additional \$1,000.00 or fraction thereof |
| \$500,001 to \$1,000,000.00 | \$2,039.50 for the first \$500,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof, to and including \$1,000,000.00 |
| \$1,000,001.00 and up | \$3,539.50 for the first \$1,000,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof. |

B. Mechanical permit fees: Per the applicable mechanical code fee

C. Plumbing permit fees:

Permit Issuance

- 1. For issuing each permit..... \$ 20.00
- 2. For issuing each supplement permit..... \$ 10.00

Unit Fee Schedule (in addition to items 1 and 2 above)

- 1. For each plumbing fixture on one trap or a set of fixtures on one trap (including water, drainage piping and backflow protection therefor) \$ 7.00
- 2. For each building sewer and each trailer park sewer \$ 15.00
- 3. Rainwater system - per drain (inside building) \$ 7.00
- 4. For each cesspool (where permitted) \$ 25.00
- 5. For each private sewage disposal system \$ 40.00
- 6. For each water heater and/or vent \$ 7.00
- 7. For each gas-piping system of one to five outlets \$ 5.00
- 8. For each additional gas piping system outlet, per outlet .. \$ 1.00
- 9. For each industrial waste pretreatment interceptor including its trap and vent, except kitchen-type grease interceptors functioning as fixture traps \$ 7.00
- 10. For each installation, alteration or repair of water piping and/or water treating equipment, each \$ 7.00
- 11. For each repair or alteration of drainage or vent piping, each fixture \$ 7.00
- 12. For each lawn sprinkler system on any one meter including backflow protection devices therefor \$ 7.00
- 13. For atmospheric-type vacuum breakers not included in item 12:
 - 1 to 5 \$ 5.00
 - over 5, each \$ 1.00
- 14. For each backflow protective device other than atmospheric-type vacuum breakers:
 - 2 inch diameter and smaller \$ 7.00

| | | |
|-----|--|-----------|
| | over 2 inch diameter | \$ 15.00 |
| 15. | For each graywater system | \$ 40.00 |
| 16. | For initial installation and testing for reclaimed water system | \$ 30.00* |
| 17. | For each annual cross-connection testing of a reclaimed water system (excluding initial test) | \$ 30.00* |

D. Electrical permit fees: Per the applicable NEC fee schedule.

E. Building demolition permits: \$50.00

(f) Other Inspections and Fees

| | | |
|----|--|-----------|
| 1. | Inspections outside of normal business hours | \$ 30.00* |
| | (minimum charge -- two hours) | |
| 2. | Reinspection fee | \$ 30.00* |
| 3. | Inspections for which no fee is specifically indicated | \$ 30.00* |
| 4. | Additional plan review required by changes or additions or revisions to approved plans (minimum charge -- one-half hour) | \$ 30.00* |

*Per hour for each hour worked or the total hourly cost to the jurisdiction, whichever is greater. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of all the employees involved.

5-107. CONTENTS OF APPLICATIONS FOR PERMITS. The contents of applications for building permits required under Section 5-103 and the additional information required will be determined by the type of improvement or project that is to be undertaken by the applicant, as follows:

A. **Permit Application for Exterior Work.** Applications for a building permit to erect, construct, reconstruct, or alter any structure or other feature, whether temporarily or permanently, that involves any such work on the exterior of the structure, or otherwise on the property, shall be filed by the owner of the property with the City Building Official upon forms prescribed, and unless otherwise specified below, shall set forth or include by attachment thereto, the following:

1. **Owner and Contractor's Name:** The name and signature of the owner of the property on which the work is to be performed and the name and signature of the general contractor doing any work on the property;
2. **Description of Property:** The legal description and street address for the property on which the proposed work is to be performed;
3. **Description of Work:** A general description of the nature and scope of the work to be done;

4. **Material of Construction:** A general description of the principal material of construction;
5. **Cost of Construction:** An estimate of the cost of construction;
6. **Platting Compliance:** A certification that the property on which the proposed work is to be performed is platted, and if required by the City Building Official, additional evidence that the property has been platted;
7. **Liability Insurance and Bonding Capability:** A certification that the person or entity performing the proposed work has liability insurance and can post any bond required;
8. **Registered Boundary Survey:** No less than two (2) copies of a registered boundary survey of the tract or parcel of land upon which the proposed structure or other feature is to be located showing the exact dimensions of the tract or parcel, identification of corner pins, the location and dimensions of any existing structure or other feature, the location and dimensions of the proposed structure or other feature, the distance between the property lines of the tract or parcel and the building lines of any existing or proposed structure or other feature, and the square foot area of the tract or parcel, provided that the City Building Official may waive all or part of this requirement if: (a) the City Building Official determines that the work for which the permit is sought does not increase the amount of lot area covered by any structure or other feature; (b) the work for which the permit is sought is to replace an existing structure or other feature with a like structure or other feature at the same location and the City Building Official determines that the existing structure or other feature was properly located in accordance with a registered boundary survey of the tract or parcel of land in question; or (c) if the City Building Official determines that the proposed structure or other feature is clearly not near any lot line and clearly will not encroach upon any setback requirements. Provided, however, that the City Building Official may not waive this requirement for any fence, wall, retaining, wall, or hedge that is closer than ten (10) feet to any lot line, unless said fence is a fence return;
9. **Architectural Drawings:** If the permit is for a principal building, a detached accessory building or any addition or attachment to either building, no less than two (2) copies of architectural drawings, prepared and signed by an architect, drawn to scale and showing the dimensions, elevations and exterior design of such structure, and if such structure is to be attached to an existing structure, showing the dimensions, elevations and exterior design of the existing structure;
10. **Detailed Drawings:** If the permit is for an accessory structure, no less than two (2) copies of detailed drawings signed by the person preparing

them, prepared to scale, showing the dimensions, elevations and exterior design of the proposed structure and the existing structure, and if such structure is to be attached to an existing structure, showing the dimensions, elevations and exterior design of the existing structure; provided that if the City Building Official deems the nature and scope of the work to be performed to be substantial, the City Building Official may require architectural drawings prepared by an architect or, if the structure involved is a fence, walkway, driveway, flagpole or antenna and the City Building Official determines that the nature and scope of the work to be performed with respect to any such structure is insubstantial, the City Building Official may require such drawings as the City Building Official determines are necessary to ensure compliance with the Zoning Regulations;

11. **Flood Hazard and Sewer Permit:** Whatever information the City Building Official may require as evidence of having obtained a flood hazard and development permit and an outside sanitary sewer construction and connection permit if required by the City Building Official;
 12. **Surface Drainage:** Whatever information the City Building Official may require as evidence that the work for which the permit is required will not cause the surface drainage to change in a manner that would adversely affect surrounding properties, including but not limited to, a drainage study signed by a registered civil engineer so certifying;
 13. **Compliance with all Applicable Laws:** Whatever information the City Building Official may require as evidence of compliance with all relevant laws, ordinances, building codes and regulations as the City Building Official deems appropriate; and
 14. **Additional Information and Drawings:** Any other reasonable relevant information or drawings that the City Building Official may require, including but not limited to information required under the provisions of the Building Codes adopted under Section 5-101 hereof, as amended from time to time and any information required to determine compliance with the provisions of the zoning code of the City.
- B. **Permit Application for Interior of Structures.** When a building permit is required for work on the interior of any structure, applications for such permit shall be filed by the owner of the property with the City Building Official on forms prescribed, and unless otherwise specified below, shall set forth or include by attachment thereto, the following:
1. **Owner and Contractor's Name:** The name and signature of the owner of the property on which the work is to be performed and the name and signature of the general contractor doing any work on the property;

2. **Description of Property:** The street address for the property on which the proposed work is to be performed;
 3. **Description of Work:** A general description of the nature and scope of the work to be done;
 4. **Material of Construction:** A general description of the principal material of construction;
 5. **Cost of Construction:** An estimate of the cost of construction;
 6. **Liability Insurance:** A certification that the person or entity performing the proposed work has liability insurance;
 7. **Engineering Details:** If required by the City Building Official, adequate details of structural, mechanical, plumbing and electrical work, including computations, stress diagrams and other essential technical data, bearing the signature of the architect or registered engineer responsible for the design;
 8. **Compliance with all Applicable Laws:** Whatever information the City Building Official may require as evidence of compliance with all relevant laws, ordinances, building codes and regulations as the City Building Official deems appropriate; and
 9. **Additional Information and Drawings:** Any other information or drawings that the City Building Official may require, including, but not limited to, information required under the provisions of the Building Codes adopted under Section 5-101 hereof, as amended from time to time.
- C. **Permit Application for Demolition or Movement of Any Property or Structures.** Applications for a building permit to demolish, destroy, or move all or any part of any property or structure shall be filed by the owner of the property with the City Building Official upon forms prescribed and unless otherwise specified below shall set forth or include by attachment thereto, the following:
1. **Owner and Contractor's Name:** The name and signature of the owner of the property on which the work is to be performed and the name and signature of the general contractor who will be responsible for implementing the demolition, destruction or movement of the structure;
 2. **Description of Property:** The street address for the property on which the proposed work is to be performed;
 3. **Agreement as to Completion:** A certification that the owner of the property and the general contractor agree that if the proposed activity for

which the permit is sought is not completed within the time for which the permit is granted, the City, by and through its representatives is granted the right to enter upon the property, complete the activity and assess the property owner for all costs associated therewith, including the reasonable costs of administration;

4. **Demolition Plan:** If all or any part of a structure is to be demolished or destroyed, a plan setting forth the schedule of work for any demolition or destruction of a structure, the proposed manner of demolition or destruction, and the manner in which adjoining properties and the general public will be protected from damage or injury during the duration of the permit;
5. **Relocation Plan:** If all or any part of a structure is to be moved onto or from the property, a plan setting forth the schedule of work for moving the structure, the method of transporting the structure, and the manner in which properties, public thoroughfares, utilities and the general public within the City will be protected from damage or injury during the duration of the permit;
6. **Bond:** A duly executed performance bond for the property in question in an amount specified by the City Building Official after the City Building Official has determined the scope and nature of the work to be performed;
7. **Insurance:** Whatever information the City Building Official may require as evidence that the general contractor has obtained general liability, automobile liability, workmen's compensation and employer's liability insurance in the amount specified by the City Building Official and which provides coverage to the property described in the application;
8. **Surface Drainage:** Whatever information the City Building Official may require as evidence that the work for which the permit is required will not cause the surface drainage to change in a manner that would adversely affect surrounding properties, including but not limited to, a drainage study signed by a registered civil engineer so certifying;
9. **Utility Connections:** Whatever information the City Building Official may require as evidence that (a) all sewer connections to the structure have been disconnected and properly capped; (b) that the electrical power to the structure has been disconnected at the pole or at any other similar source of electricity for the property; (c) that any natural gas to the structure has been disconnected and shut off; and (d) that the water supply has been disconnected at the street and shut off.
10. **Compliance with all Applicable Laws:** Whatever information the City Building Official may require as evidence of compliance with all relevant

laws, ordinances, building codes and regulations as the City Building Official deems appropriate; and

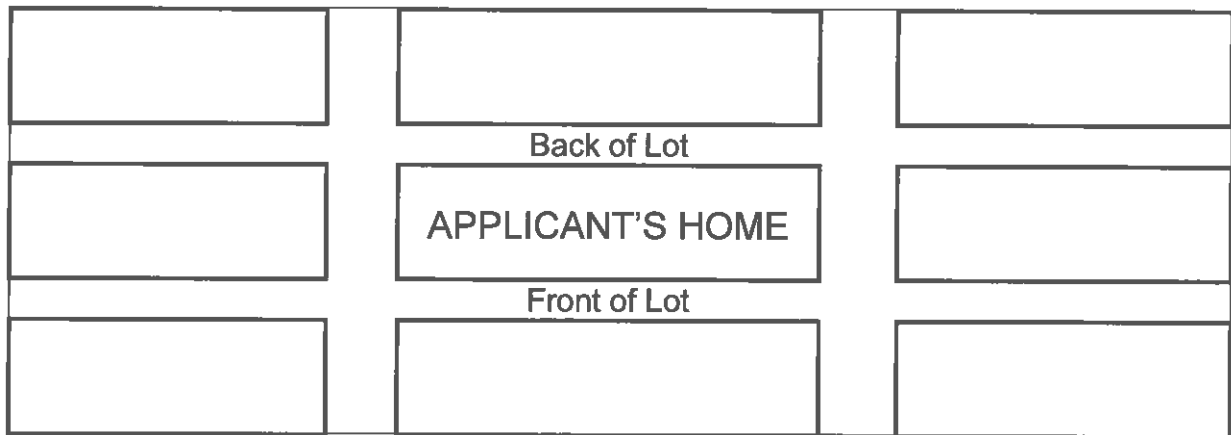
11. **Additional Information and Drawings:** Any other information or drawings which the City Building Official may require, including, but not limited to, information required under the provisions of the Building Codes adopted under Section 5-101 hereof, as amended from time to time, a registered boundary survey, if the structure is to be moved to a location on the same property, and any information required to determine compliance with the provisions of the zoning code of the City.
- 5-108. **WHEN APPLICATION DEEMED FILED.** No application shall be deemed filed until the applicant has submitted to the City Building Official all information required under the applicable paragraphs of Section 5-107 hereof and the building codes adopted in Section 5-101 and paid any permit fees due at such time.
- 5-109. **ISSUANCE OF PERMIT FOR INTERIOR REMODELING.** On applications for permits for interior remodeling involving structural changes or functional equipment but no change in the exterior appearance of the building, the City Building Official after review of the application may issue a building permit upon being satisfied that the proposed construction will be in conformity with existing codes and ordinances of the City.
- 5-110. **ISSUANCE OF PERMIT FOR CERTAIN DEFINED EXTERIOR ADDITIONS OR MODIFICATIONS.** On applications for permits for items described in sub-sections (b) through (l) of Section 5-103 A., if the applicant has obtained the consent of the Adjacent Owners as defined in paragraph B. of Section 5-112 hereof, the Chairman of the Architectural Review Board after review of the application may approve the issuance of building permit by the City Building Official upon being satisfied that the proposed construction will be in conformity with existing codes, ordinances and policies of the City. Provided, however, the Chairman shall not be required to approve the issuance of the permit if he determines that the application should be reviewed by the Architectural Review Board. Upon written approval of the Chairman of the Architectural Review Board, the City Building Official may issue a building permit upon being satisfied that the proposed construction will be in conformity with existing codes, ordinances and policies of the City.
- 5-111. **ARCHITECTURAL REVIEW BOARD APPROVAL.** Except as may otherwise be permitted under Section 5-110, all applications for building permits required to be submitted under Section 5-107 A. (Permit Application for Exterior Work) or Section 5-107 C. (Permit Application for Demolition or Movement of Any Property or Structure) shall require the approval of the Architectural Review Board (ARB). The City Building Official shall submit the application to the ARB and no permit shall be issued unless the approval of the ARB is obtained.

5-112. HEARING AND NOTICE THEREOF. Upon receipt of a complete permit application submitted under Section 5-107

- A. (Permit Application for Exterior Work) or Section 5-107 C. (permit Application for Demolition or Movement of Any Property or Structure), unless the alternative procedure provided in Section 5110 applies, the Architectural Review Board Chairman shall schedule a hearing or hearings to consider the application as soon as practicable, and shall cause to be mailed or otherwise delivered to the applicant and Adjacent Owners, as defined in paragraph B. hereof, a written notice of the time, date and place of such hearing, a reasonable description of the nature of the work for which the permit is sought, and advice as to where and when the complete permit application may be inspected. The ARB Chairman may also cause notice to be given to such other persons as he may deem appropriate.

No hearing shall take place sooner than five (5) days after the mailing or delivery of such notice. If the ARB fails to render a decision on a permit application within one hundred and twenty (120) days after the permit application has been properly completed and filed with the City, the person requesting the permit may deem the permit denied.

- B. Adjacent owners. "Adjacent Owners" as used in paragraph A. hereof means the three (3) lots, tracts or parcels located nearest to the back property line of the property; the three (3) lots, tracts or parcels located nearest to the front property line of the property, and the lots, tracts or parcels adjoining the side property lines of the property, such properties being described in the following diagram:



If the Applicant's property is so situated as to not have properties located near the front, back or side property lines, as shown in the above diagram, the

Chairman of the ARB shall determine what property owners shall be given notice based upon the physical setting on the properties in the area and the nature of the application.

5-113. HEARING PROCEDURE. At a hearing on a permit application, the ARB shall allow the presentation of evidence or information by the applicant for the permit and by any other person determined by the ARB to have any appropriate interest in the application. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the ARB. The ARB may establish a limitation on the time allowed for the presentation of evidence. The ARB may establish such other rules of procedure for conduct of hearings (including continuances) and for consideration and action upon matters presented to the ARB as it shall determine appropriate.

5-114. REQUIRED FINDINGS; FACTORS.

- A. **Required Findings for ARB Approval of Building Permit.** No plans or specifications submitted in connection with applications for a permit for exterior work filed pursuant to Section 5-107 A. shall be approved by the ARB unless it finds:
- (1) That the proposed structure or other feature to be erected or altered does, or will, meet the customary architectural requirements in appearance and design for a structure or other feature of the type proposed, that the proposed structure or other feature is complementary to the prevailing aesthetic standards of the City, and that the proposed structure or other feature is, or will be, in general conformity with the style and design of surrounding structures;
 - (2) That the proposed structure or other feature will not adversely affect the values of surrounding properties, will not adversely affect aesthetic sensibilities, and will not adversely affect the health, safety, and general welfare of the residents of the City; and
 - (3) That the proposed structure or other feature conforms to the principles and objectives of the zoning code of the City even though it may conform to the requirements of the zoning code of the City.
 - (4) That the proposed structure or other feature conforms to the overall plan of the City.
- B. **Factors To Be Examined When Considering Required Findings.** When considering the required findings set forth in Section 5-114 A., the ARB shall, to the extent they are relevant to the application at issue,

examine the following factors:

- (1) The design for the proposed structure or other feature recognizing that the design and style should be in general conformity with the style and design of surrounding structures but giving due consideration for appropriate diversity and individual taste;
- (2) The building materials for the proposed structure or other feature recognizing that the exterior facade or surroundings of a structure or other feature, including siding, roofing material, stone and brick, should be in keeping with the surrounding properties, quality, construction and design so that the proposed structure or other feature does not adversely affect the property values of adjoining properties;
- (3) The height, width and depth of the proposed structure or other feature recognizing that while the proposed structure or other feature may be within allowable limitations established by the zoning code of the City, such structure should bear a reasonable relationship to the neighborhood in which it is located but giving due consideration to allow for reasonable and appropriate development in the neighborhood;
- (4) The location of the proposed structure or other feature on the lot recognizing that the City contains many uniquely shaped lots that on occasion may require modification or relocation of the proposed structure or other feature to ensure proper relationship of such to those on adjoining lots;
- (5) The overall size and configuration of the proposed structure or other feature recognizing that while a proposed structure or other feature may be within allowable setback limitations and may meet minimum or maximum size requirements, the proposed structure or other feature may be too massive or too small for the lot or overall neighborhood in which it is proposed even after allowing for reasonable and appropriate development in the neighborhood; and
- (6) Other factors the ARB is required to consider under the City's zoning code together with such other factors the ARB deems appropriate for consideration under the circumstances.
- (7) In considering applications for a building permit applicable to property other than a single family dwelling, the ARB shall also consider and determine the appropriate height and size limitations and requirements for setbacks and open yards, taking into

consideration the area of the land to be used, numbers of people to be served by the structure, density of the neighborhood, adequacy of streets serving the land and such other factors relating to aesthetic sensibilities and the health, safety and general welfare of the residents of the City.

5-115. POWERS. The ARB may within its power approve or deny a building permit application and in approving an application may attach such requirements and conditions as it deems appropriate under the circumstances even though the proposed structure or other feature otherwise conforms to the requirements of the zoning code of the City, including but not limited to:

- (a) A redesign of the proposed structure or other feature;
- (b) Changes in the materials or finish details for the proposed structure or other feature;
- (c) A reduction or increase in the height, width or depth of the proposed structure or other feature;
- (d) An increase in the required setback requirements for the lot in question;
- (e) Landscaping requirements which may include requiring new trees, shrubs or other landscaping, or replacing existing trees, shrubs or other landscaping; and
- (f) Requirements and conditions that the ARB is authorized to impose under other provisions of the zoning code of the City;
- (g) Requiring public liability insurance and the posting of a bond, of such kinds and in such amounts as it deems appropriate to protect the public;
- (i) Requirements for duration, times and manner of construction of the proposed structure or other feature.

In addition to the foregoing powers, the ARB shall also have such other powers as have been delegated to the ARB under the City's Zoning Code or other ordinances and shall have such additional powers as are necessary or appropriate to ensure that the ARB's responsibilities are fulfilled.

5-116. ISSUANCE OR DENIAL OF PERMIT AND APPEAL.

- A. After hearing said application, the ARB shall enter an order either granting or denying said application and shall direct the City Building Official to do so upon conditions imposed by the ARB in its order. The ARB shall state its reasons therefor at the time.

- B. In the event that said application is approved and no notice of appeal to the City Council, as hereinafter provided, is filed within ten (10) days of such approval, said permit shall issue forthwith and construction or alteration may begin in accordance therewith.
- C. In the event that said application is approved and a notice of appeal to the City Council, as hereinafter provided, is filed within ten (10) days of such approval by either the applicant or by any two landowners in the City, the issuance of such permit shall be stayed pending a hearing by the City Council.
- D. In the event that said application is denied, the ARB's findings and reasons for denial shall be stated in writing to the applicant if written request is made therefor within ten (10) days of said action. If said application is denied, the applicant may appeal the ARB's determination by filing a notice of appeal with the City Council by delivering such notice to the City Clerk within ten (10) days of said denial."

5-117. ARCHITECTURAL REVIEW BOARD.

- A. **Purpose and Creation.** For the purposes of: ensuring that all structures or other features within the City conform to certain minimum architectural and aesthetic standards of appearance and all structures and other features conform with surrounding properties; preventing the erection of structures detrimental to the stability of values of surrounding properties; insuring the conformity to the design principles of the Comprehensive Plan; and, promoting the aesthetic sensibilities, health, safety, and general welfare of the residents of the City, there is hereby established an Architectural Review Board (hereinafter "ARB").
- B. **Membership Terms.** The ARB shall consist of five (5) members who shall be appointed by the Mayor with the approval of the governing body. Members of the ARB shall be residents of the City. Appointment of members to the ARB shall be made at the same time as other officers of the City. Members shall serve at the pleasure of the governing body. Vacancies shall be filled by appointment by the Mayor with the approval of the governing body. All members of the ARB shall serve without compensation. In appointing members to the ARB, the Mayor shall give due consideration to the appointment of members to the ARB who have a background in design, building construction, architecture, engineering and landscape architecture, provided that this consideration shall not be construed to require the appointment of individuals with such backgrounds.
- C. **Officers.** The Mayor with the approval of the governing body shall

appoint from its membership a Chair and a Vice-Chair. The ARB shall also appoint a Secretary who need not be a member of the ARB.

- D. **Minutes.** Minutes shall be kept of the ARB proceedings. The minutes shall accurately reflect the business conducted by the ARB. No minutes need be made of deliberative or executive sessions of the ARB permitted to be closed sessions under the law. The official minutes of the ARB shall be signed by the Secretary and filed at City Hall. If the application for a permit will require a variance or exception from the Board of Zoning Appeals prior to obtaining a building permit, the minutes of the ARB shall be furnished to the Board of Zoning Appeals prior to the hearing held by the Board of Zoning Appeals.
- E. **Meetings and Quorum.** Meetings of the ARB shall be at the call of the Chair and at such other times as the ARB may determine. No meeting of the ARB shall be conducted without a quorum. A quorum of the ARB shall be three (3) members.
- F. **Motions and Voting.** All matters requiring a decision of the ARB shall be determined upon a motion by a member. No motion may be made unless a quorum is in attendance at the time the motion is made. A vote shall be taken on all motions that are made by a member of the ARB and seconded by another member of the ARB. The Chair shall specify the manner in which a vote shall be taken, provided that any member may request and by doing so require a roll call vote. A motion shall fail unless at least three (3) members vote in favor of the motion. No binding action shall be taken by the ARB during any closed, deliberative or executive session.
- G. **ARB Certification of Certain Exterior Work.** From time to time as the ARB may determine, the ARB shall determine what exterior work is or would be routinely approved by the ARB for subdistricts within the City. In so doing the ARB may create such subdistricts of the City in determining what exterior work would be routinely approved within a specific subdistrict. Such exterior work shall be described in adequate detail and certified to the city building official by the ARB that such exterior work is approved for use in specified subdistricts in accordance with the standards set forth in Section 5-114 A. In certifying any exterior work, the ARB may limit the certification to specific subdistricts, and may except from certification corner lots or such other situations as the ARB deems proper. Any property owner having a situation subject to such a limitation or exception may obtain ARB approval after hearing, pursuant to Sections 5-112 through 5-116. The ARB certification of exterior work shall bear the signatures of at least a majority of the entire ARB. If any exterior work has been so certified by the ARB and the exterior work otherwise conforms to the City's zoning code, the permit for such work shall be deemed submitted to the ARB and approved by the ARB, and no ARB hearing or

approval shall be required for the issuance of a permit for the construction of such work. Notwithstanding anything herein contained to the contrary, the City Building Official shall determine whether any proposed exterior work has been certified hereunder by the ARB, or notwithstanding such certification determine that such certification should not apply to a particular application for a permit. If the City Building Official determines that any proposed exterior work has not been certified hereunder by the ARB or that such certification should not apply, the proposed exterior work shall be submitted to the ARB for its consideration pursuant to Section 5-111.

5-118. **PENALTY FOR VIOLATIONS.** Any person, firm or corporation violating any provision of this article or failing or refusing to perform any duty imposed by this article shall be fined in a sum not to exceed \$500 or imprisoned for not more than 180 days or be both fined and imprisoned. A separate offense shall be deemed committed each and every day during which a violation occurs or continues.

5-119. **PERMIT TIME AND TRANSFERABILITY LIMITATION.**

- (a) Permits issued pursuant to this Article shall become invalid unless the work authorized by such permit is commenced within 30 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Permits issued pursuant to this Article are not transferrable. On application by the builder and/or contractor, and for good cause shown, the City may grant up to a 30 day extension for commencement of work.
- (b) All interior remodels requiring a permit must be completed within nine (9) months of the commencement of work. If work is not completed by that time, the applicant(s) must obtain a new permit.
- (c) All exterior remodels requiring a permit must be completed within twelve (12) months of the commencement of work. If work is not completed by that time, the applicant(s) must obtain a new permit.

5-120 **SPECIFIC PROVISIONS REGARDING ADDITIONS AND "TEARDOWNS".**

- a. If an applicant requests a variance regarding setbacks or is tearing down an existing structure to replace it with a new structure, the City will require "story poles" to be installed prior to approval of the permit.
 - a. The story poles shall mark the primary corners of the home, and indicate the proposed eave line.
 - b. The story poles shall stay in place for 10 days prior to the **ARB hearing**

concerning the permit request.

- c. The ARB shall have the right to inspect the story poles prior to the hearing.
 - d. The ARB shall notify adjacent land owners of the timeframe for the story poles prior to the ARB meeting.
 - e. Photographs of the poles shall be submitted to the ARB prior to the hearing date as part of the permit file.
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- b. Placement of generators and air conditioning units shall be at the side or rear of the property and should take into account abutting property in regard to noise and visual clarity. Generators and air conditioning units shall be covered by green scape.
 - c. Erosion control (silt fencing) must be in place for any additions and teardowns.
 - d. For any proposed demolition, destruction or movement of a structure, which in the City's determination will require an unusually long time or pose any danger to the public, the City shall require that a Construction fence be erected around the site prior to the commencement of any activity described in the permit, and such fence shall not be removed until the Applicant or Applicant's agent represents to the City that the site no longer poses a danger to the public, and the City Administrator concurs and authorizes its removal in writing.
 - e. All Construction Fencing surrounding any work site shall utilize "camouflage" or other visual barrier(s) to shield the view of the Work.
 - f. All existing residential properties shall be "grandfathered" with regard to their existing footprint. All new/teardown construction shall comport with the requirements set forth in this Article.