Chapter 17.04 General Provisions

Section 17.04.010 Overview

A. **Title.** These regulations codified as Title 17 of the municipal code, shall be known and cited as the North Kansas City Zoning Ordinance. References to “this title” or “these regulations” shall be considered a reference to the North Kansas City Zoning Ordinance, and references to chapters, sections and sub-sections shall be considered as references to specific portions of the North Kansas City Zoning Ordinance.

B. **Authority and Jurisdiction.** This title is enacted pursuant to the powers granted and limitations imposed by the Constitution and laws of the state of Missouri, including the statutory authority granted in Chapter 89 RSMO, as amended. It applies to all structures and land within the incorporated area of the City of North Kansas City, as depicted on the official zoning map, and other maps accompanying the City’s plans and policies.

C. **Purposes.** This title is adopted to promote the public health, safety, morals and general welfare of the community of the City of North Kansas City. More specifically, these regulations have the following general purposes:

1. Implement the comprehensive Master Plan, and other plans, programs or policies authorized or created under the guidance of the Master Plan;

2. Promote planning and urban design that emphasizes distinct places and unique elements of community character documented throughout North Kansas City;

3. Provide park, civic and open spaces that help organize development and contribute to a valuable public realm;

4. Secure proper arrangement and design of streets to support abutting land uses, provide access and circulation, coordinate with existing and planned streets, and strengthen investment in the public realm of the City;

5. Divide the City into districts and zones that establish the character, relationships, development patterns and places identified of the Master Plan;

6. Promote public and private investments that build value, considering the past, immediate and potential future long-term investments in infrastructure, land and buildings;
7. Regulate and restrict the development and use of buildings and land within each zoning district to create a compatible scale, intensity, design and range of building types and within districts;

8. Secure adequate provisions for water, drainage, sanitary sewer facilities and other public improvements based upon City, State, and Federal requirements; and

9. Provide for coordinated development of North Kansas City consistent with established policies of the City.

D. **Severability.** The several provisions of this title are separable in accordance with the following:

1. If any court of competent jurisdiction declares any part of this title to be invalid that ruling shall not affect any other provisions of this title not specifically included in that ruling.

2. If any court of competent jurisdiction declares that the application of these regulations to a particular property or structure is invalid, that ruling shall not affect the application of the regulations to any other property or structure not included in that ruling, or projects with different circumstances.

**Section 17.04.020. Interpretation**

A. **Rules of Construction.** The following rules shall guide the application and interpretation of these regulations, unless the context clearly indicates otherwise:

1. All words shall have the customary dictionary meaning, unless specifically defined in these regulations.
2. The present tense includes the past and future tenses, and the future tense includes the present tense.
3. The singular includes the plural and the plural includes the singular.
4. Lists of examples prefaced by “including the following,” “such as,” or other similar clauses shall not be construed as exclusive or exhaustive and shall not preclude an interpretation of these lists including other similar and non-mentioned examples.
5. “Shall” or “must” is mandatory; “should” or “may” is permissive, but recommended as a way to best meet the standard or achieve the intent of the standard.
6. A reference to a specific city official shall refer to that official or his or her designee, and may also include any other designee of the City Administrator.
7. Any reference to other official local, state or federal government rules or regulations shall include the current versions of those rules or regulations, provided they remain binding or are consistent with the purposes, intent, and objectives included in these regulations.
8. References to a person shall include individuals, partnerships, agencies, corporations or other legal entities.
9. These regulations are not intended to abrogate any easement, covenant or other private agreement.

B. **Conflicts.** In case of a conflict between these regulations and any other adopted regulation of the City or applicable regulation of another jurisdiction, the more restrictive or higher standard shall apply. In making a determination of which is the more restrictive or higher standard, the official may consider which is more specific; which is more consistent with the Master Plan; which is more consistent with the purposes, intent and objectives of these regulations; and which best promotes the public health, safety and welfare.
C. **Computations of Time.** The following rules apply to any computation of time, unless a specific section of these regulations indicates otherwise:

1. The day of the act that commences a time period shall not be counted.
2. The last day of the time period shall be included, unless it is a Saturday, Sunday or legal City holiday, in which case the next business day shall end the time period.
3. Whenever any time period is expressed for a formal submittal to the City, the time period shall end at 4:00 P.M. on the last day of that time period.
4. Any time period expressed in years shall include a full calendar year from the act that commences the time period.

D. **Interpretation of Zoning Map.** Where uncertainty exists with respect to any boundary on the zoning district map, the following rules shall apply:

1. Where boundaries are indicated to approximately follow streets or other rights of way or water bodies, the centerlines or extension of these centerlines shall be the boundaries.
2. Where the district boundaries are indicated as approximately following property lines, the platted or other official legal line of that property shall be the boundaries, unless the property boundaries on the map have been substantially altered.
3. Where the district boundaries split any platted lots, the lot shall be interpreted in the district designated to 75% or more of the lot. Where the designation splits the lot into portions between 26% and 74%, the regulations for either designation may apply to the entire lot at the owner’s discretion.
4. Where the district boundaries split any unplatted property, any future platting of property may generally follow the zoning boundary and then each resulting property may assume the zoning applicable to the majority of the resulting lot, or where any resulting lots have significant discrepancies with zoning boundaries, rezoning may be required.

E. **Non-regulatory Provisions.** Intent statements, graphics and commentary such as captions to graphics or notes in tables, are an aid to interpretation of the standards. In the event of any conflict or ambiguity between the intent statements, graphics or commentary and a specific standard, the specific standard shall control.

F. **Resources, Guides and Industry Standards.** Resources, guides and industry standards that are recognized as reputable authority in the planning, development and urban design professions, may be used to supplement interpretation of this code. They shall be subject to the approval of the Director upon a determination that the content is consistent with the policies of the Master Plan and the purposes, intent, and design objectives of these regulations. Any resource, guide, or industry standard approved by the Director shall be listed in Appendix A and at least one copy shall be kept on file with the Community Development Department. Use of these guides shall only be to the extent that it is consistent with the purposes, intent and design objectives expressed in these regulations, and shall not be used to otherwise modify, contradict or in any way conflict with any specific standard in these regulations.

**Section 17.04.030. Review Bodies**

A. **Staff.** The following city staff positions are responsible for administering specific aspects of this code.

1. **Community Development Director.** The Community Development Director (Director) is responsible for administration of the development code, and is the principal interpretation and enforcement official of these regulations. The Director may consult with any other department or relevant outside agencies in order to coordinate their plans, policies and programs that impact the Master Plan. The Director shall make all final interpretation decisions and any final administrative decisions referred to the Director under the procedures and standards of these regulations. References to “the Director” shall be
interpreted as the Community Development Director, unless the context of the reference clearly indicates the intent was the Public Works Director or some other director.

2. Public Works Director. The Public Works Director shall be responsible for regulating and reviewing the engineering design, construction, operation and maintenance of all public improvements specified under these regulations. The Public Works Director shall advise the Community Development Director on any technical specifications and engineering designs that impact implementation of the Master Plan, and may make any final administrative decisions referred to the Director of Public Works under the procedures and standards of these regulations.

B. Planning Commission. The Planning Commission (Commission) is the body of the City, appointed subject to Chapter 2.40 of the City Code, responsible for all long-range and comprehensive planning, as well as review, recommendations and decisions on implementation of the Master Plan. In addition to other general planning authority by statute, local ordinance, or bylaws, the Planning Commission shall have the specific review responsibilities and final administrative or appeal decisions referred to the Planning Commission under the procedures and standards of these regulations.

C. City Council. The City Council (Council) is the elected body of the City, and together with the Mayor is the legislative body of the City responsible for all legislative decisions that affect implementation of the Master Plan. In addition to other general authority authorized by law, the City Council shall have the final decision authority and appeals authority referred to the City Council under the procedures and standards of these regulations.

D. Board of Zoning Adjustment. The Board of Zoning Adjustment (Board) is the body of the City, appointed subject to Chapter 2.44 of the City Code, responsible for granting relief from the provisions of these regulations as required by Chapter 89 RSMO. In addition to the specific authority by statute, local ordinance, or bylaws, the Board of Zoning Adjustments shall have the specific review responsibilities and final administrative or quasi-judicial decisions referred to the Board of Zoning Adjustments under the procedures and standards of these regulations.

Section 17.04.040. Administration and Enforcement

A. Permits. It shall be unlawful to conduct any development or use of land and buildings until all applicable development review and approval processes have been followed, all applicable standards have been applied, and all applicable approvals, permits or other authorizations have been issued. The Director shall act upon all applications for permits or other authorizations.

B. Violations. It shall be unlawful for any building, structure, site element or use of land to be constructed, altered, maintained, occupied or otherwise initiated in violation of these regulations. It shall be the duty of the Director, all officers and employees of the City, and of all members of the Police Department to assist the Director by documenting or reporting any clear violation, and to accept reports of violations from the general public.

C. Enforcement. The City may investigate and initiate proper actions or proceedings to prevent or terminate any activity or condition that is in violation of these regulations, including revoke or withhold any permits, prevent the sale or lease of property, correct or abate the nuisance, withhold any public improvements, or penalize and initiate legal proceedings to prevent the continuance of unlawful actions or conditions. Upon presentation of proper credentials, the Director may enter at reasonable times any building, structure, or premises in the City to perform any duty imposed by these regulations, or otherwise inspect property for conformance with these standards. If the owner or occupant shall refuse to allow entry or inspection to the Director, the
Director may apply to a court of competent jurisdiction for a search warrant or take any legal action necessary for the purpose of securing entry.

D. **Penalty.** Any person violating any of the provisions of this title shall be guilty of a misdemeanor, each day constituting a separate offense, and any owner or other person employed in connection with a violation shall be guilty of a separate offense. Each offense shall be punished by a fine of not less than $10 dollars and not more than $250 or by imprisonment for 10 days for each day of the violation, or both, in the discretion of the court. Notwithstanding the provisions of Section 82.300 RSMO, however, for the second and subsequent offenses involving the same violation at the same building or premises, the punishment shall be a fine of not less than $100 or more than $500 or by imprisonment for 10 days for each day of the violation, or both, in the discretion of the court. Any person served with an order to remove a violation and who fails to comply with the order within 10 days, shall also be subject to a civil penalty of $250.

**Section 17.04.050. Nonconformances**

A. **Intent.** The general policy of the City is to allow uses, structures, site conditions and lots that were created legally and in conformance with then-applicable requirements, but that do not conform to the current applicable requirements of these regulations to continue. However, it is also the policy of the City to bring these nonconformances into conformance with current regulations as is reasonably practical. The intent of this section is to balance the interests of property owners in past investments, discourage investment that expands, extends or reinforces nonconforming situations, and promote investment consistent with the Master Plan and these regulations.

B. **Nonconforming Uses.** Uses that were legally initiated prior to the adoption or amendment of this title, but which could not be continued under the current regulations may continue to exist subject to the following:

1. The use may not be expanded beyond any specific area of the site or lot, but may be expanded within any existing building provided no structural changes are needed.
2. Any new activity that triggers specific site design standards shall require full compliance of the site design standards in order for the nonconforming use to continue.
3. A use that is discontinued for six months or more shall lose its nonconforming status, and all future use of the site or building shall comply with these regulations.
4. Any change of use shall be to a conforming use.
5. A non-conforming use may be changed to another non-conforming use by order of the Board of Adjustment finding that:
   a. The new use is more consistent with the intent of the zoning district and the Master Plan.
   b. The new use is more similar to other allowed uses in the zoning district in terms of scale, intensity, development standards, and impacts from operations.
   c. The new use is generally not detrimental to the character of the neighborhood and use of adjacent property.
   d. The new use can otherwise comply with all other standards affecting the site, building and use.
   e. The new use shall still be considered non-conforming, and subject to all other provisions limiting non-conforming uses.

C. **Nonconforming Site Conditions.** Any site condition associated with a use or structure (such as parking, landscape, open space or other non-building site characteristic) in existence prior to these regulations but which are not compliant with the standards of these regulations may continue to exist subject to the following:
1. Any change of use or expansion of use shall require compliance with the new standards, except as specified in C.5.

2. Any site development activity on a portion of a site shall require compliance with the new standards on the portion of the site subject to the development activity.

3. Where any investment is greater than 50% of the fair market value of the total site, or can reasonably be interpreted as impacting more than 50% of any one component of the site, the site or that component shall be brought into full compliance with these standards.

4. When a site has been abandoned for twelve months or more, the site shall not be used, developed or improved until it is brought into full compliance with this title.

5. To promote infill development or adaptive reuse of existing sites and buildings, the Director or Planning Commission, through the site plan applications, may account for nonconforming site conditions and allow uses or investments that bring portions of the site into compliance. The Director or Planning Commission shall consider the following factors:
   a. Whether the compliance required by this section reasonable or practical when considering the level of investment;
   b. The impact of partial compliance on the intent and design objectives of the standards not being fully met;
   c. The potential impacts on the character of the neighborhood or abutting property resulting from continued non-compliance;
   d. Alternative designs or partial compliance that meet the intent of the standards and which are reasonable considering the degree of changes or investments.

D. Nonconforming Lots. Any lots platted legally prior to the adoption or amendment of this title, but which could not be platted under the current requirements of these regulations may continue to exist provided it complies with all other applicable standards.

E. Nonconforming Structures. Structures that were legally constructed prior to the adoption or amendment of this title, but which could not be constructed under the current terms of these regulations, may continue to exist subject to the following:
   1. Rehabilitation or expansion of the structure that increases the degree of nonconformity is prohibited. Other rehabilitation or expansions may occur provided that they comply with all other requirements of this code, are not detrimental to the purposes, intent and objectives of the standards, and do not negatively impact development in conformance with this title on adjacent property.
   2. If destroyed by fire, natural disaster, accident, or any other cause by less than 50% of its replacement costs, the structure may be restored to its original condition if the restoration is started within one year. If destroyed by 50% or more of the replacement costs, or if not restored within one year, then the right to maintain the nonconformance shall terminate. In determining replacement costs, only factors affecting the structure shall be considered at the date of the damage.
   3. If the structure is determined obsolete or substandard by virtue of any applicable code beyond this title, and the cost of improvement or restoration is 50% or more of the fair market value of the structure, then the right to maintain the nonconformance shall terminate.

F. Burden of Proof. The burden shall be on the applicant to establish entitlement to continuation of nonconforming situations or completion of nonconforming projects, which shall be a question of fact decided by the Director. Any non-conformance not proven legally permitted under all prior existing laws and required permits shall be considered illegal. In addition, any non-conformance that is determined by the Director to be a threat to the public health and safety may be considered illegal regardless of its previous legal status.
G. **Certificate.** An applicant establishing proof of a legal non-conforming status may request that the Director issue a Certificate of Nonconforming Status. The Director shall issue a certificate upon proof of legal non-conforming status, and the certificate shall be subject to all limitations of this section.

H. **Conditional Use Permit.** All other continuation or expansion of existing non-conforming situations may only be permitted by the approval of a Conditional Use Permit, subject to the procedures and criteria in Section 17.08.030. In addition to the general Conditional Use Permit criteria, the intent and standards of this section 17.04.050 shall be considered.