

## ARTICLE 3

### RULES AND DEFINITIONS

#### 1. Rules of Construction and Interpretation:

##### A. Rules:

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

##### B. Interpretation:

1. Minimum Requirements: In their interpretation and application, the provision of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
2. Overlapping or Contradictory Regulations: Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by other provision of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern.
3. Private Agreement: These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or imposed higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

2. **Separability:** It is hereby declared to be the intention of the City that the several provisions of these regulations are separable, in accordance with the following rules:
  - A. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
  - B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.
3. **Definitions:** For the purpose of this Zoning Regulation, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

**Accessory Structure:** A subordinate structure which serves a function customarily incidental to that of the main structure. Customary accessory structure includes garages, carports, and small storage sheds.

**Accessory Use:** A subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens, and fireplaces.

**Agricultural Use:** The use of a tract of land of not less than 40 acres for the growing of crops, pasturage or nursery, including the structures necessary for carrying out farming operations and the dwellings of those owning or operating the premises, a member of the family thereof, or persons employed thereon, and the family thereof, but such use shall not include feedlots as defined by State statute.

**Alley:** A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which is twenty (20) feet or less in width.

**Alteration:** Alteration, as applied to a structure, is a change or rearrangement in the structural parts of an existing structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered as an alteration.

**Basement:** That portion of a structure having more than one-half of its height below grade.

**Bed and Breakfast:** A family home, occupied as a permanent dwelling by the proprietor, in which lodging and meals are provided for time-limited durations to not more than four groups of patrons in a 24-hour period.

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

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

**Condominium:** A single dwelling unit under individual ownership within a multiple dwelling unit structure. A multiple-family structure with two condominiums shall be considered a two-family dwelling and a structure with more than two condominiums shall be considered a multiple-family dwelling.

**Day Care Center:** A structure or place where care, supervision, custody or control is provided for more than six (6) unrelated children or adults for any part of a 24-hour day up to twelve (12) hours.

**Day Care Home:** A dwelling or structure in which care, supervision, custody or control is provided for six (6) or fewer unrelated children or adults for any part of a 24-hour day up to twelve (12) hours.

**Day Care Nursery:** A structure or place where care, supervision, custody or control is provided for six (6) or fewer infants for any part of a 24-hour day up to twelve (12) hours.

**Disability:** A physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such an impairment, or being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802); or any person assigned to a community corrections program or diversion program, on parole from a correctional institution or on probation for a felony offense, or in a state mental institution following a finding of not guilty by reason of insanity.

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

**Dog:** Any canine species over twelve (12) months of age.

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

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

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

**Dwelling for the Elderly and/or Handicapped:** A two-family or multiple-family residential structure having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those people who are

at least sixty-two (62) years of age. Handicapped persons are those people having an impairment which is expected to be of long, continuous and indefinite duration, is a substantial limitation to their ability to live independently, and is of a nature that such ability could be improved by more suitable housing.

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

***Earth-Sheltered Dwelling:*** A dwelling designed as a complete structure below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located.

***Easement:*** A permanent or temporary grant of right by a landowner to the public, a corporation or other persons, of the use of a portion of a lot or tract of land for specified purposes where title to said portion of the lot or tract of land remains with the landowner.

***Family:*** One or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit; plus in either case, usual domestic servants. A family shall under no circumstances be construed as a boarding house, fraternity or sorority house, club, lodging house, hotel, motel or commune.

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

***Floor Area:*** For Computing Off-Street Parking Requirements: Shall mean the gross floor area of the structure measured from the exterior faces of the exterior walls or from the centerline of walls separating two structures and shall include the following areas:

- A. The basement floor area.
- B. The area of each floor of the structure.
- C. The attic space having headroom of seven (7) feet or more.

***Foster Home:*** A dwelling or structure in which more than twelve (12) hour care is provided to no more than five (5) children, one or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures, the same as would a family.

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

***Gasoline Service Station:*** A service station shall consist of a structure or group of structures and surfaced area where automotive vehicles may be refueled and serviced. Self-service pumps without structures shall also be included. Such service shall not include tire recapping, body repairs, or major overhaul.

***Governing Body:*** The City Council of Lyndon, Kansas.

**Group Home:** Any dwelling occupied by not more than ten persons, including eight or fewer persons with a disability, as defined in these regulations, who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, and which is licensed by the Department of Social and Rehabilitation Services or the Department of Health and Environment.

**Home Occupation:** A business, profession, service or trade conducted for gain or support entirely within a residential structure.

**Hotel, Motel, or Tourist Court:** A structure which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient guests for periods of not more than 28 consecutive days; and having more than two bedrooms furnished for the accommodation of such guests. A structure or portion thereof, or a group of structures, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.

**Kennel-Boarding:** Any place, area, or structure where dogs (including those under one (1) year of age) are boarded, housed, cared for, fed, or trained by other than the owner.

**Kennel-Breeding:** Any place, area, or structure where more than three (3) dogs are kept for purposes of breeding, raising, or as pets.

**Lawful:** Uses and structures that meet and adhere to all requirements set forth in these regulations. It may include pre-existing, non-conforming uses or structures.

**Lodging or Boarding House:** A structure which meets the definition of a "Hotel", except that such a house shall contain no more than two bedrooms for accommodation of guests.

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

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

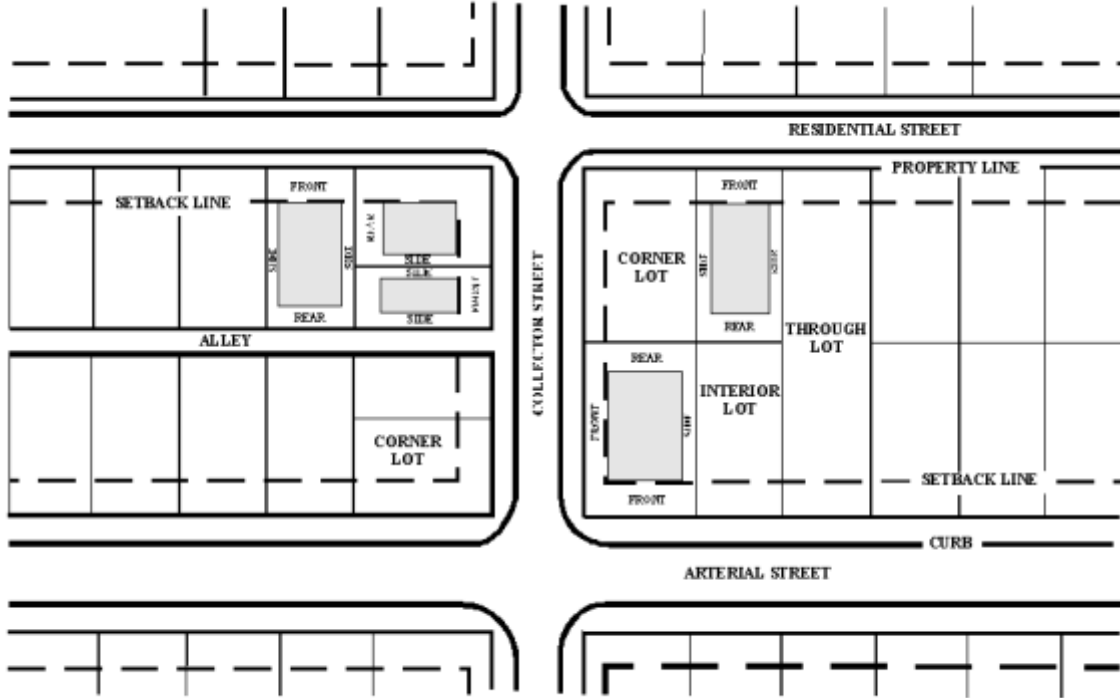
**Lot, Double Frontage:** A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

**Lot of Record:** A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds; or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds prior to the adoption of the various zoning regulations for the City as set out in Article 4 General Provisions.

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

more portions of a lot or lots of record, or any combination thereof; and shall be contiguous parcels.

### Lot Types and Setbacks



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

**Manufactured Home Residential-Design:** A manufactured home which satisfies the following additional criteria:

- A. The manufactured home shall have minimum dimensions of 22 feet in width and 40 feet in length;
- B. The pitch of the roof of the manufactured home shall have a minimum vertical rise of four feet for each 12 feet of horizontal run and the roof finished with a type of shingle that is commonly used in standard residential construction in the City;
- C. All roof structures shall provide an eave projection of no less than 12 inches, exclusive of any guttering;
- D. The exterior siding shall consist of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the City;
- E. The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in

- "Manufactured Home Installations, 1987" (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, or poured concrete wall, un-pierced except for required ventilation and access, is installed under the perimeter of the Residential-Design Manufactured Home;
- F. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground; and
  - G. A Residential Design-Manufactured Home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

***Manufactured Home Park:*** Any area, piece, parcel, tract, or plot of ground equipped as required for support of manufactured homes and offered for use by the owner or representative for manufactured home park purposes and/or ground upon which three or more manufactured homes are parked, whether for compensation or not, including all accessory uses thereof. The term "manufactured home park" does not include sales lots of which unoccupied manufactured homes are parked for the purpose of inspection and sale. See Supplementary District Regulations.

***Medical Clinic:*** Any structure designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include a pharmacy.

***Modular Home:*** A manufactured residential structure built to a nationally-recognized and accepted construction standard published by the Building Officials Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard. A modular home shall have exterior structure materials and appearance similar to the customary single-family structures in the neighborhood and shall be permanently situated on a concrete foundation.

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

***Nonconforming Structure:*** The use of a building or portion thereof lawfully existing at the time of the passage of this zoning ordinance and amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.

***Nonconforming Use:*** Any land lawfully occupied by a use, at the time of the passage of this ordinance or amendments thereto, which does not conform with the provisions of this ordinance or amendments thereto.

***Nursing Homes or Convalescent Homes:*** An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not

including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

**Old Town:** Includes the Original Town addition, Bailey and Gilliland's addition, and Barney's addition.

**Planning Commission:** The Lyndon City Planning Commission.

**Private Club:** A non-profit association of persons who are bona fide members paying annual dues, which owns, hires, or leases a structure or premises, or portion thereof, the use of such structure or premises being restricted to members and their guests. The affairs and management of such private club are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. It shall be permissible to serve goods and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed, provided it is secondary and incidental to the promotion of some other common objective by the organization, and further provided that such sale of alcoholic beverages is in compliance with the applicable Federal, State and Municipal laws.

**Public Utility:** Any business which furnishes the general public (a) telephone service, (b) telegraph service, (c) electricity, (d) natural gas, (e) water and sewer, or (f) cable television.

**Recreational Vehicle:** See Travel Trailer.

**Restaurant:** An establishment whose primary purpose is the sale, dispensing or service of food, refreshments or beverages, other than in automobiles, including those establishments where customers may serve themselves.

**Restaurant--Drive-Through:** An establishment whose primary purpose is the sale, dispensing or service of food, refreshments or beverages, including service and/or consumption of food in automobiles.

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

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

**Sanitary Landfill:** A lot or parcel of land used primarily for the disposal and burial of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or parts thereof, or other waste.

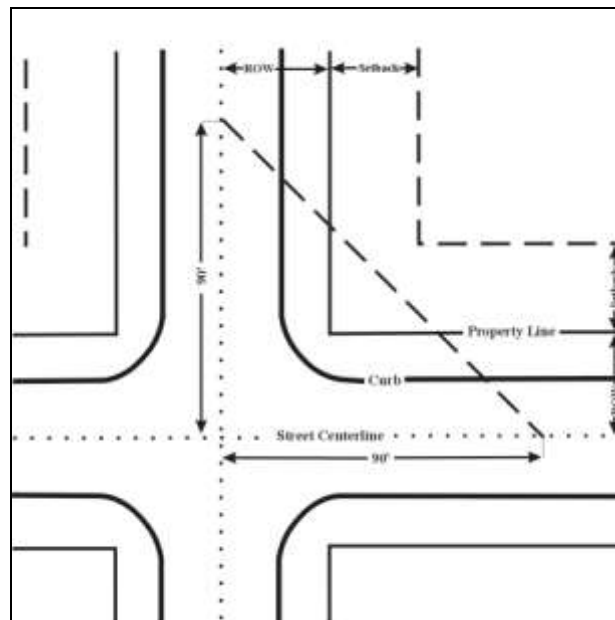


**Setback:** The required minimum horizontal distance between the structure line and the related front, side, or rear property line.

**Sign:** Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of official notice or official flag.

**Sight Triangle:** An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 8 feet above the grades of the outside edge of the street surface of the intersecting streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets. The City Engineer shall establish sight distance triangles based upon standards in the policy manual published by the American Association of State Highway and Transportation Officials (AASHTO).

### Site Triangle



**Special Use Permit:** A special use permit is a permit issued by the Zoning Administrator with the authorization of the City Council. A special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations.

**Street:** A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties.

**Street Line:** A dividing line between a lot, tract, or parcel of land and the contiguous street.

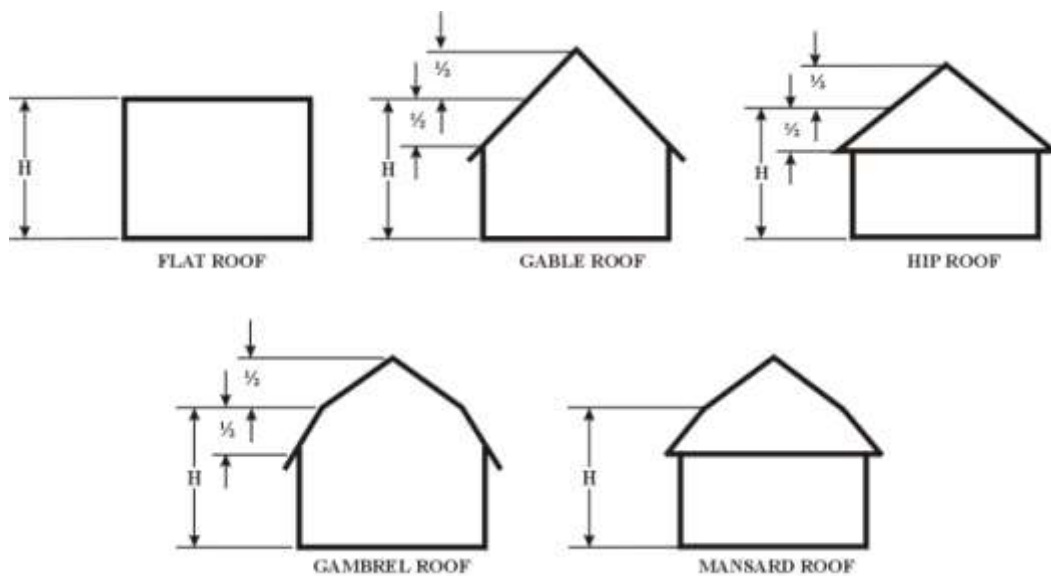
**Street Network:**

- A. Local Street - provides access to properties.
- B. Collectors - conducts traffic from local streets to arterials, with access to properties.
- C. Arterials - carries traffic out of and through the area, subject to certain control of entrances, exits and curb cuts.

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

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

**Vertical Dimensions of Structure Heights**



**Structural Alterations:** Any change in the supporting members of a structure, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

- A. Attachment of a new front facade where structural supports are not changed.
- B. Addition of fire escapes where structural supports are not changed.
- C. New windows where lintels and support walls are not materially changed.
- D. Repair or replacement of non-structural members.

**Tavern:** An establishment in which the primary function is the public sale and serving of alcoholic and cereal malt beverages for consumption on the premises, including establishments commonly known as key clubs, which are open, and in which alcoholic and cereal malt beverages are served only to members and their guests.

**Townhouse:** A dwelling unit located in a group of three or more attached townhouse dwelling units with no other dwelling unit located above or below another and with each dwelling unit having at least one interior common wall and a private exterior entrance.

**Townhouse Structure:** A grouping of three or more townhouses.

**Townhouse Site:** A townhouse, the total land area beneath the townhouse and the facilities associated with the townhouse.

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

**Violation:** See Article 15.

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

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

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

**Yard, Side:** A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

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

**Zoning Administrator:** The person or persons authorized and empowered by the City Manager to administer the requirements of these zoning regulations.

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

**Zoning Regulations:** The term "zoning regulations" or "this or these regulations" shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted zoning ordinances of the City of Lyndon.