

#68

CHAPTER V. ZONING
(as of 9-16-65)

ARTICLE 1

ZONING REGULATIONS

5-101 DEFINITIONS, Section 1. For the purpose of Article 1 of this chapter, certain terms and words are herein defined as follows:

- (a) Building. A structure having a roof, supported by columns or walls, whether or not completely enclosed.
- (b) Structure. Anything constructed or erected, the use of which demands a permanent location on the soil; or attached to something having a permanent location on the soil.
- (c) Appurtenance. A subordinate or accessory building or structure or portion of main building, the use of which is incidental and customary to that of the main building.
- (d) Dwelling. A building designated exclusively for residential occupancy.
- (e) Single Family. A single individual living upon the premises as a separate housekeeping unit or a collective body of persons, the relation between whom is of a permanent and domestic character, subsisting in common and living together upon the premises as a separate housekeeping unit.
- (f) Garage. An appurtenance for storage of motor vehicles.
- (g) Public Building. A building designed exclusively for city purposes.
- (h) Board. The Board of Zoning Appeals as established by Section 5-201.

5-102 USE DISTRICT AND AREA REGULATIONS. In order to regulate and restrict the location of trades, callings, industries, commercial enterprises and the location, erection, alteration and repair of buildings in the two "use and area districts" designated as (a) residential district, and (b) retail district, The City of Westwood Hills is hereby divided into the aforesaid districts, the boundaries of which are shown upon the official city map dated October 9, 1950, the residential district being the entire city except that portion in the retail district and the retail district being comprised of Lot 2, excepting the west 10 feet thereof, and Lots 43, 44, 45 and 46, in Block 5, Westwood Hills, an addition in Johnson County, Kansas. Except as hereinafter provided, no building, structure or appurtenance shall be erected, altered, structurally or otherwise changed, repaired, restored or improved, nor shall any building, structure, appurtenance, lot, plot, tract or premise be used for any purpose, other than is permitted by this article in the use and area district in which said building, structure, appurtenance, lot, plot, tract or premise is located. Ordinance 63.

CHAPTER V ZONING

ARTICLE 1.

ZONING REGULATIONS

5-103 RESIDENTIAL DISTRICT. In a residential district, no building, structure, appurtenance, lot, plot, tract or premise shall be used and no building, structure or appurtenance shall be hereafter erected, altered, structurally or otherwise changed, repaired, restored or improved unless otherwise provided in this article except as a single family dwelling, public playground or park.

No building, structure or appurtenance shall be erected on a lot, tract or parcel of land closer than 30 feet to the front property line, closer than 4 feet to the side property line, nor closer than 15 feet to the rear property line and on corner lots not closer than 20 feet, to the side street or than the majority of the dwellings facing on such side street, whichever provides the greater setback, provided that, in the case of a homesite located upon a lot, tract or parcel of land where ground frontages, building lines or setbacks are set forth or established in a duly recorded plat or declaration of restrictions, or both, the ground frontage, buildings, and setbacks so set forth or established shall be complied with and prevail over the provisions therefor in this paragraph and in lieu thereof.

No fence of any type may be erected on a lot, tract or parcel of land between the street on which the improvement thereon fronts and the front building line thereof nor, as to a corner lot, between the side street and the side building line. A closed fence not exceeding a maximum height of 3 feet or an open fence may be erected inside a front building line or inside a corner side building line on a lot, tract or parcel of land provided that it shall not be erected within 5 feet of any adjoining property without the consent and approval of the board, which consent and approval shall not be given without at least five days' notice to the owner or occupant of such adjoining property and no other fence shall be erected without the consent and approval of the board. An open fence shall be deemed to mean a fence not in excess of 4 feet in height at any point and the solid area of which does not exceed 50 per cent of the face area of the fence; a closed fence is any masonry, concrete or other fence having a solid area exceeding 50 per cent of the total face area of the fence or any hedge. Ordinance 68.

5-104 RETAIL DISTRICT. In a retail district, no building, structure, appurtenance, lot, plot, tract or premise shall be used and no building, structure or appurtenance shall be hereafter erected, or altered unless otherwise provided in this article, except as follows, to wit:

(a) Stores and Professional Offices. Retail stores, stores for custom work, professional offices and banks.

(b) Shops. Bakery, barber, beauty, light dry cleaning, and dyeing, confectionary, dress-making, florist, tailor and shoe repair.

(c) Other Businesses. Architects, advertising agencies, fire and police stations and municipal buildings.

(d) Other Uses. Any and all uses enumerated in Section 5-103.

(e) Height and Architectural Design Requirements. Buildings, structures and appurtenances to be used for any of the purposes enumerated in sub-section (a), (b) and (c) of this section, shall not exceed one story in height, and shall conform to the basic architectural design and construction of permanent buildings, structures and appurtenances presently existing in the said retail district.

CHAPTER V ZONING

ARTICLE 1

ZONING REGULATIONS

(f) Off-Street Parking and Loading Requirements. For all buildings or structures not now constructed on and existing in the said retail district, off-street parking in the said retail district, off-street parking in the form of garages or areas made available exclusively for that purpose shall be provided within the said retail district as follows:

(1) One off-street parking space of at least 8.5 x 20.0 feet in size for each Two Hundred (200) square feet floor area of said building or structure.

(2) Said required off-street parking space shall not include any parking or loading area presently used or dedicated for said use within said retail district.

(3) Said off-street parking space shall be located immediately adjacent to and flush with the said building or structure.

(4) No presently existing street or curbing within said retail district shall be altered in any manner to provide the required off-street parking space or area without the specific approval of the Board of Zoning Appeals. Ordinance 46.

5-105 PROHIBITIONS.

(a) No dwelling shall be constructed or converted or used for occupancy by more than a single family. Ordinance 28.

(b) No business building shall be erected or any dwelling converted to or used for any business purpose nor business of any nature conducted within the City of Westwood Hills except in conformity with the use and area district in which located, as hereinabove set forth. Ordinance 28.

(c) No temporary or incompleated building or structure, nor any automotive equipment, trailer, garage or appurtenance incidental to a family dwelling shall be erected, maintained or used for residential or business purposes, temporarily or permanently. Ordinance 28.

(d) No incompleated building, structure or appurtenance shall be maintained or permitted for a period longer than six months. Ordinance 28.

(e) No building, structure or appurtenance damaged by fire or windstorm shall be permitted to remain in such damaged condition for a period longer than three months. Ordinance 28.

(f) No building material, construction equipment, machinery or refuse shall be maintained or kept in the open upon any lot, plot, tract or premise within a residence district other than during actual construction operations upon said premises or related premises. Ordinance 28.

CHAPTER V. ZONING

ARTICLE 1.

ZONING REGULATIONS

(g) No building, structure or appurtenance or any lot, block, tract or premise shall be used or occupied for any of the following purposes: (1) coal yard, lumber yard, junk yard; (2) tourist cabins, trailer camps; (3) feed store, poultry house, slaughter house, rendering or processing establishment; (4) multiple family residence, duplex, apartment house, lodging house, boarding house or rooming house, hotel, nursing home or hospital; (5) tavern, saloon, liquor store, night club; (6) manufacturing plant of any type or nature; (7) gas station, garage, or auto sales, whether new or used; (8) small animal hospital or kennels. Ordinance 28.

(h) No dams, bridges, obstructions or buildings of any kind may be built in or over the existing creek or stream which runs through the city nor shall any person divert the flow or course of said creek or stream. Ordinance 68.

5-106 NON-CONFORMING USES. No provision of Article 1 of this chapter shall apply to existing buildings, structures, or appurtenances, nor to the existing use of any building, appurtenance, or structure or land at the time of the adoption of such provision, but the provisions of Article 1 of this chapter shall apply to any alteration, change, structural or otherwise, repair or restoration of a building, structure or appurtenance to provide for a purpose or a use in a manner different from the use or purpose to which it was put before such alteration, change, structural or otherwise, repair or restoration; provided, that nothing in Article 1 of this chapter shall prevent the restoration or repair of a building, structure or appurtenance damaged not more than 50% of its value by fire, explosion, act of God or public enemy, or prevent the continuance of the use of such building, structure, or appurtenance, or part thereof, as such use existed at the time of such damage. A non-conforming use changed to a conforming use may not thereafter be changed back to a non-conforming use. When a non-conforming use has been discontinued for a period of six months, it shall not be re-established and future use shall be in conformity with the provisions of Article 1 of this chapter, notwithstanding the purposes for which the premises were erected or used. Ordinance 28.

5-107 PERMITS, LICENSES. No building, structure or appurtenance shall be constructed, erected, added to or materially altered, structurally or otherwise changed, remodeled, or improved or any exterior mechanical equipment installed, nor any such work be commenced upon any lot, tract or parcel of land unless the owner, contractor or the duly authorized agent of either shall have first applied for and received from the City of Westwood Hills, a building permit therefor, as herein provided. Minor alterations, such as painting, decorating, landscaping, patching, maintenance, changes in material or configuration of pavement, reroofing with materials similar to existing materials, and installation of room air conditioners, screens, storm doors and windows shall be considered as minor repairs and no permit therefor shall be required. Applications for building permits shall be filed with the City Clerk of Westwood Hills, setting forth the legal description of the lot, plot, tract or premise, together with a general description of the building, structure or appurtenance to be constructed, erected, materially altered, structurally or otherwise changed, remodeled or improved, including the approximate size and shape, square foot area, principal material of construction, location of

CHAPTER V ZONING

ARTICLE 1

ZONING REGULATIONS

the building, structure or appurtenance upon the lot, plot, tract or premise, the intended use and a set of detailed building plans, including that for landscaping. Upon receiving the application as aforesaid, the City Clerk shall submit same to the duly appointed City Planning Commission, which shall hold a meeting as soon as practical and at said meeting it shall pass upon the application and the applicant shall thereafter be notified in writing of the decision of the Commission. In addition, a notice of such decision shall be sent by mail to all home owners within a two hundred foot radius of the lot or tract involved measuring said radius from the outer boundaries of the lot or tract involved. The applicant or any aggrieved property owner shall have the right to appeal from the decision of the City Planning Commission and such appeal shall be taken by making a written request within fifteen (15) days from the date of said decision, said request to be filed with the City Clerk requesting a hearing before the Board of Zoning Appeals. Upon receiving such request for a hearing, the Board of Zoning Appeals shall hold a hearing as soon as practicable. At the conclusion of such hearing, the Board shall promptly render its decision and such decision shall be final. Ordinance 68.

ARTICLE 2

BOARD OF ZONING APPEALS

5-201 BOARD OF ZONING APPEALS. There is hereby created a Board of Zoning Appeals to be appointed by the Mayor by and with the consent of the Council, consisting of not less than three (3) members, all of whom shall be residents of the City. None of the members shall hold any other public office of the City except that one member may be a member of the Planning Commission. The members first appointed shall serve respectively for terms of one, two and three years; thereafter, members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. The members of such board shall serve without compensation. The board shall annually elect one (1) of its members as chairman, and shall appoint a secretary who may be an officer or an employee of the City. The board shall adopt rules in accordance with the provisions of the ordinance creating the board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

The Board of Zoning Appeals shall administer the application of Article 1 of this chapter and the zoning regulations of the city, hear and determine appeals from the issuance of or refusal to issue a building permit, and have the right and authority, in its discretion to authorize exceptions to any of such regulations by either (1) a special temporary permit for a period not exceeding two (2) years, or (2) a special permit for a specific purpose. Notice of the time, place and subject of the appeal or request for exception to be heard shall be published once in the official city newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice of appeal shall be mailed to each party to the appeal and to the City Planning Commission. A copy of said notice of request for exception shall be mailed to each party to the request, the City Planning Commission, and to all home owners within a two hundred foot radius of the lot or tract involved measuring said radius from the outer boundaries of said lot or tract. Ordinance 68.

CHAPTER V ZONING

ARTICLE 3

PENALTIES

5-301 PENALTIES FOR VIOLATION OF ARTICLE 1. Any person, firm, or corporation violating any of the provisions of Article 1 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00 for such offense. Each and every day that such violation continues shall constitute a separate offense. Ordinance 28.

ARTICLE 4

VALIDITY OF CHAPTER

5-401 VALIDITY OF CHAPTER. Should any section, clause or provision of this chapter be invalid or unconstitutional, the same shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so invalid or unconstitutional. Ordinance 28.

CHAPTER V. ZONING
(as of 9-16-65)

ARTICLE 1

ZONING REGULATIONS

5-101 DEFINITIONS, Section 1. For the purpose of Article 1 of this chapter, certain terms and words are herein defined as follows:

- (a) Building. A structure having a roof, supported by columns or walls, whether or not completely enclosed.
- (b) Structure. Anything constructed or erected, the use of which demands a permanent location on the soil; or attached to something having a permanent location on the soil.
- (c) Appurtenance. A subordinate or accessory building or structure or portion of main building, the use of which is incidental and customary to that of the main building.
- (d) Dwelling. A building designated exclusively for residential occupancy.
- (e) Single Family. A single individual living upon the premises as a separate housekeeping unit or a collective body of persons, the relation between whom is of a permanent and domestic character, subsisting in common and living together upon the premises as a separate housekeeping unit.
- (f) Garage. An appurtenance for storage of motor vehicles.
- (g) Public Building. A building designed exclusively for city purposes.
- (h) Board. The Board of Zoning Appeals as established by Section 5-201.

5-102 USE DISTRICT AND AREA REGULATIONS. In order to regulate and restrict the location of trades, callings, industries, commercial enterprises and the location, erection, alteration and repair of buildings in the two "use and area districts" designated as (a) residential district, and (b) retail district, The City of Westwood Hills is hereby divided into the aforesaid districts, the boundaries of which are shown upon the official city map dated October 9, 1950, the residential district being the entire city except that portion in the retail district and the retail district being comprised of Lot 2, excepting the west 10 feet thereof, and Lots 43, 44, 45 and 46, in Block 5, Westwood Hills, an addition in Johnson County, Kansas. Except as hereinafter provided, no building, structure or appurtenance shall be erected, altered, structurally or otherwise changed, repaired, restored or improved, nor shall any building, structure, appurtenance, lot, plot, tract or premise be used for any purpose, other than is permitted by this article in the use and area district in which said building, structure, appurtenance, lot, plot, tract or premise is located. Ordinance 63.

CHAPTER V ZONING

ARTICLE 1.

ZONING REGULATIONS

5-103 RESIDENTIAL DISTRICT. In a residential district, no building, structure, appurtenance, lot, plot, tract or premise shall be used and no building, structure or appurtenance shall be hereafter erected, altered, structurally or otherwise changed, repaired, restored or improved unless otherwise provided in this article except as a single family dwelling, public playground or park.

No building, structure or appurtenance shall be erected on a lot, tract or parcel of land closer than 30 feet to the front property line, closer than 4 feet to the side property line, nor closer than 15 feet to the rear property line and on corner lots not closer than 20 feet, to the side street or than the majority of the dwellings facing on such side street, whichever provides the greater setback, provided that, in the case of a homesite located upon a lot, tract or parcel of land where ground frontages, building lines or setbacks are set forth or established in a duly recorded plat or declaration of restrictions, or both, the ground frontage, buildings, and setbacks so set forth or established shall be complied with and prevail over the provisions therefor in this paragraph and in lieu thereof.

No fence of any type may be erected on a lot, tract or parcel of land between the street on which the improvement thereon fronts and the front building line thereof nor, as to a corner lot, between the side street and the side building line. A closed fence not exceeding a maximum height of 3 feet or an open fence may be erected inside a front building line or inside a corner side building line on a lot, tract or parcel of land provided that it shall not be erected within 5 feet of any adjoining property without the consent and approval of the board, which consent and approval shall not be given without at least five days' notice to the owner or occupant of such adjoining property and no other fence shall be erected without the consent and approval of the board. An open fence shall be deemed to mean a fence not in excess of 4 feet in height at any point and the solid area of which does not exceed 50 per cent of the face area of the fence; a closed fence is any masonry, concrete or other fence having a solid area exceeding 50 per cent of the total face area of the fence or any hedge. Ordinance 68.

5-104 RETAIL DISTRICT. In a retail district, no building, structure, appurtenance, lot, plot, tract or premise shall be used and no building, structure or appurtenance shall be hereafter erected, or altered unless otherwise provided in this article, except as follows, to wit:

(a) Stores and Professional Offices. Retail stores, stores for custom work, professional offices and banks.

(b) Shops. Bakery, barber, beauty, light dry cleaning, and dyeing, confectionary, dress-making, florist, tailor and shoe repair.

(c) Other Businesses. Architects, advertising agencies, fire and police stations and municipal buildings.

(d) Other Uses. Any and all uses enumerated in Section 5-103.

(e) Height and Architectural Design Requirements. Buildings, structures and appurtenances to be used for any of the purposes enumerated in sub-section (a), (b) and (c) of this section, shall not exceed one story in height, and shall conform to the basic architectural design and construction of permanent buildings, structures and appurtenances presently existing in the said retail district.

(f) Off-Street Parking and Loading Requirements. For all buildings or structures not now constructed on and existing in the said retail district, off-street parking in the said retail district, off-street parking in the form of garages or areas made available exclusively for that purpose shall be provided within the said retail district as follows:

(1) One off-street parking space of at least 8.5 x 20.0 feet in size for each Two Hundred (200) square feet floor area of said building or structure.

(2) Said required off-street parking space shall not include any parking or loading area presently used or dedicated for said use within said retail district.

(3) Said off-street parking space shall be located immediately adjacent to and flush with the said building or structure.

(4) No presently existing street or curbing within said retail district shall be altered in any manner to provide the required off-street parking space or area without the specific approval of the Board of Zoning Appeals. Ordinance 46.

5-105 PROHIBITIONS.

(a) No dwelling shall be constructed or converted or used for occupancy by more than a single family. Ordinance 28.

(b) No business building shall be erected or any dwelling converted to or used for any business purpose nor business of any nature conducted within the City of Westwood Hills except in conformity with the use and area district in which located, as hereinabove set forth. Ordinance 28.

(c) No temporary or incompleated building or structure, nor any automotive equipment, trailer, garage or appurtenance incidental to a family dwelling shall be erected, maintained or used for residential or business purposes, temporarily or permanently. Ordinance 28.

(d) No incompleated building, structure or appurtenance shall be maintained or permitted for a period longer than six months. Ordinance 28.

(e) No building, structure or appurtenance damaged by fire or windstorm shall be permitted to remain in such damaged condition for a period longer than three months. Ordinance 28.

(f) No building material, construction equipment, machinery or refuse shall be maintained or kept in the open upon any lot, plot, tract or premise within a residence district other than during actual construction operations upon said premises or related premises. Ordinance 28.

(g) No building, structure or appurtenance or any lot, block, tract or premise shall be used or occupied for any of the following purposes: (1) coal yard, lumber yard, junk yard; (2) tourist cabins, trailer camps; (3) feed store, poultry house, slaughter house, rendering or processing establishment; (4) multiple family residence, duplex, apartment house, lodging house, boarding house or rooming house, hotel, nursing home or hospital; (5) tavern, saloon, liquor store, night club; (6) manufacturing plant of any type or nature; (7) gas station, garage, or auto sales, whether new or used; (8) small animal hospital or kennels. Ordinance 28.

(h) No dams, bridges, obstructions or buildings of any kind may be built in or over the existing creek or stream which runs through the city nor shall any person divert the flow or course of said creek or stream. Ordinance 68.

5-106 NON-CONFORMING USES. No provision of Article 1 of this chapter shall apply to existing buildings, structures, or appurtenances, nor to the existing use of any building, appurtenance, or structure or land at the time of the adoption of such provision, but the provisions of Article 1 of this chapter shall apply to any alteration, change, structural or otherwise, repair or restoration of a building, structure or appurtenance to provide for a purpose or a use in a manner different from the use or purpose to which it was put before such alteration, change, structural or otherwise, repair or restoration; provided, that nothing in Article 1 of this chapter shall prevent the restoration or repair of a building, structure or appurtenance damaged not more than 50% of its value by fire, explosion, act of God or public enemy, or prevent the continuance of the use of such building, structure, or appurtenance, or part thereof, as such use existed at the time of such damage. A non-conforming use changed to a conforming use may not thereafter be changed back to a non-conforming use. When a non-conforming use has been discontinued for a period of six months, it shall not be re-established and future use shall be in conformity with the provisions of Article 1 of this chapter, notwithstanding the purposes for which the premises were erected or used. Ordinance 28.

5-107 PERMITS, LICENSES. No building, structure or appurtenance shall be constructed, erected, added to or materially altered, structurally or otherwise changed, remodeled, or improved or any exterior mechanical equipment installed, nor any such work be commenced upon any lot, tract or parcel of land unless the owner, contractor or the duly authorized agent of either shall have first applied for and received from the City of Westwood Hills, a building permit therefor, as herein provided. Minor alterations, such as painting, decorating, landscaping, patching, maintenance, changes in material or configuration of pavement, reroofing with materials similar to existing materials, and installation of room air conditioners, screens, storm doors and windows shall be considered as minor repairs and no permit therefor shall be required. Applications for building permits shall be filed with the City Clerk of Westwood Hills, setting forth the legal description of the lot, plot, tract or premise, together with a general description of the building, structure or appurtenance to be constructed, erected, materially altered, structurally or otherwise changed, remodeled or improved, including the approximate size and shape, square foot area, principal material of construction, location of

CHAPTER V ZONING

ARTICLE 1

ZONING REGULATIONS

the building, structure or appurtenance upon the lot, plot, tract or premise, the intended use and a set of detailed building plans, including that for landscaping. Upon receiving the application as aforesaid, the City Clerk shall submit same to the duly appointed City Planning Commission, which shall hold a meeting as soon as practical and at said meeting it shall pass upon the application and the applicant shall thereafter be notified in writing of the decision of the Commission. In addition, a notice of such decision shall be sent by mail to all home owners within a two hundred foot radius of the lot or tract involved measuring said radius from the outer boundaries of the lot or tract involved. The applicant or any aggrieved property owner shall have the right to appeal from the decision of the City Planning Commission and such appeal shall be taken by making a written request within fifteen (15) days from the date of said decision, said request to be filed with the City Clerk requesting a hearing before the Board of Zoning Appeals. Upon receiving such request for a hearing, the Board of Zoning Appeals shall hold a hearing as soon as practicable. At the conclusion of such hearing, the Board shall promptly render its decision and such decision shall be final. Ordinance 68.

ARTICLE 2

BOARD OF ZONING APPEALS

5-201 BOARD OF ZONING APPEALS. There is hereby created a Board of Zoning Appeals to be appointed by the Mayor by and with the consent of the Council, consisting of not less than three (3) members, all of whom shall be residents of the City. None of the members shall hold any other public office of the City except that one member may be a member of the Planning Commission. The members first appointed shall serve respectively for terms of one, two and three years; thereafter, members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. The members of such board shall serve without compensation. The board shall annually elect one (1) of its members as chairman, and shall appoint a secretary who may be an officer or an employee of the City. The board shall adopt rules in accordance with the provisions of the ordinance creating the board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

The Board of Zoning Appeals shall administer the application of Article 1 of this chapter and the zoning regulations of the city, hear and determine appeals from the issuance of or refusal to issue a building permit, and have the right and authority, in its discretion to authorize exceptions to any of such regulations by either (1) a special temporary permit for a period not exceeding two (2) years, or (2) a special permit for a specific purpose. Notice of the time, place and subject of the appeal or request for exception to be heard shall be published once in the official city newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice of appeal shall be mailed to each party to the appeal and to the City Planning Commission. A copy of said notice of request for exception shall be mailed to each party to the request, the City Planning Commission, and to all home owners within a two hundred foot radius of the lot or tract involved measuring said radius from the outer boundaries of said lot or tract. Ordinance 68.

CHAPTER V ZONING

ARTICLE 3

PENALTIES

5-301 PENALTIES FOR VIOLATION OF ARTICLE 1. Any person, firm, or corporation violating any of the provisions of Article 1 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00 for such offense. Each and every day that such violation continues shall constitute a separate offense. Ordinance 28.

ARTICLE 4

VALIDITY OF CHAPTER

5-401 VALIDITY OF CHAPTER. Should any section, clause or provision of this chapter be invalid or unconstitutional, the same shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so invalid or unconstitutional. Ordinance 28.



CITY OF WESTWOOD HILLS
(First Published in Johnson County Herald, Thursday, Sept. 16, 1965)
ORDINANCE NO. 68

An Ordinance Amending the Zoning Ordinance and Regulations.

Be It Ordained by the governing body of the City of Westwood Hills:

Section 1. That Section 5-103 of the Revised Ordinances of this City be amended so as to read as follows:

5-103 RESIDENTIAL DISTRICT. In a residential district, no building, structure, appurtenance, lot, plot, tract or premise shall be used and no building, structure or appurtenance shall be hereafter erected, altered, structurally or otherwise changed, repaired, restored or improved unless otherwise provided in this article except as a single family dwelling, public playground or park.

No building, structure or appurtenance shall be erected on a lot, tract or parcel of land closer than 30 feet to the front property line, closer than 4 feet to the side property line, nor closer than 15 feet to the rear property line and on corner lots not closer than 20 feet, to the side street or than the majority of the dwellings facing on such side street, whichever provides the greater setback, provided that, in the case of a home-site located upon a lot, tract or parcel of land where ground frontages, building lines or setbacks are set forth or established in a duly recorded plat or declaration of restrictions, or both, the ground frontage, buildings, and set backs so set forth or established shall be complied with and prevail over the provisions therefore in this paragraph and in lieu thereof.

No fence of any type may be erected on a lot, tract or parcel of land between the street on which the improvement thereon fronts and the front building line thereof nor, as to a corner lot, between the side street and the side building line. A closed fence not exceeding a maximum height of 3 feet or an open fence may be erected inside a front building line or inside a corner side building line on a lot, tract or parcel of land provided that it shall not be erected within 5 feet of any adjoining property without the consent and approval of the board, which consent and approval shall not be given without at least five days' notice to the owner or occupant of such adjoining property and no other fence shall be erected without the consent and approval of the board. An open fence shall be deemed to mean a fence not in excess of 4 feet in height at any point and the solid area of which does not exceed 50 per cent of the face area of the fence; a closed fence is any masonry, concrete or other fence having a solid area exceeding 50 per cent of the total face area of the fence or any hedge.

Section 2. That Section 5-105 of the

Revised Ordinances of this City be amended so as to read as follows:

5-201 BOARD OF ZONING APPEALS. There is hereby created a Board of Zoning Appeals to be appointed by the Mayor City and with the consent of the Council consisting of not less than three (3) members, all of whom shall be residents of the city. None of the members shall hold any other public office of the City except that one member may be a member of the Planning Commission. The members first appointed shall serve respectively for terms of one, two and three years; thereafter, members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. The members of such board shall serve without compensation. The board shall annually elect one (1) of its members as chairman, and shall appoint a secretary who may be an officer or an employee of the city. The board shall adopt rules in accordance with the provisions of the ordinance creating the board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

The Board of Zoning Appeals shall administer the application of Article 1 of this chapter and the zoning regulations of the city, hear and determine appeals from the issuance of or refusal to issue a building permit, and have the right and authority, in its discretion to authorize exceptions to any of such regulations by either (1) a special temporary permit for a period not exceeding two (2) years, or (2) a special permit for a special purpose. Notice of the time, place and subject of the appeal or request for exception to be heard shall be published once in the official city newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice of appeal shall be mailed to each party to the appeal and to the City Planning Commission. A copy of said notice of request for exception shall be mailed to each party to the request, the City Planning Commission, and to all home owners within a two hundred foot radius of the lot or tract involved measuring said radius from the outer boundaries of said lot or tract.

Section 5. Take Effect. This Ordinance shall take effect and be in force from and after its publication.

Passed the City Council this 13th day of September, 1965.

Approved by the Mayor this 13th day of September, 1965.

/s/Michael Seltzer,
Mayor

Section 5. That Section 5-201 of the Revised Ordinances of this City be amended so as to read as follows:

5-201 BOARD OF ZONING APPEALS. There is hereby created a Board of Zoning Appeals to be appointed by the Mayor City and with the consent of the Council consisting of not less than three (3) members, all of whom shall be residents of the city. None of the members shall hold any other public office of the City except that one member may be a member of the Planning Commission. The members first appointed shall serve respectively for terms of one, two and three years; thereafter, members shall be appointed for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. The members of such board shall serve without compensation. The board shall annually elect one (1) of its members as chairman, and shall appoint a secretary who may be an officer or an employee of the city. The board shall adopt rules in accordance with the provisions of the ordinance creating the board. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decision of the board and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

The Board of Zoning Appeals shall administer the application of Article 1 of this chapter and the zoning regulations of the city, hear and determine appeals from the issuance of or refusal to issue a building permit, and have the right and authority, in its discretion to authorize exceptions to any of such regulations by either (1) a special temporary permit for a period not exceeding two (2) years, or (2) a special permit for a special purpose. Notice of the time, place and subject of the appeal or request for exception to be heard shall be published once in the official city newspaper at least twenty (20) days prior to the date fixed for hearing. A copy of said notice of appeal shall be mailed to each party to the appeal and to the City Planning Commission. A copy of said notice of request for exception shall be mailed to each party to the request, the City Planning Commission, and to all home owners within a two hundred foot radius of the lot or tract involved measuring said radius from the outer boundaries of said lot or tract.

Section 5. Take Effect. This Ordinance shall take effect and be in force from and after its publication.

Passed the City Council this 13th day of September, 1965.

Approved by the Mayor this 13th day of September, 1965.

/s/Michael Seltzer,
Mayor

ATTEST:
/s/Ora M. Amberg,
City Clerk

AFFIDAVIT OF PUBLICATION

State of Kansas, County of Johnson, ss:

LOYD NEFF

of lawful age, being duly sworn upon oath states that he is the Editor of the Johnson County Herald, that said newspaper has been published at least weekly, fifty (50) times a year, and has been so published for at least one year prior to the first publication of the attached notice.

That said paper has a general paid circulation on a semi-weekly basis, was entered as second class matter July 17, 1924 at the postoffice at Overland Park, Kansas, under the Act of March 3, 1897, is not a trade, religious, or fraternal publication, and is printed in Johnson County, Kansas.

The attached notice is a true copy, and was printed and published in the regular and entire issue of the Johnson County Herald for 1 consecutive weeks:

First week: September 16, 1965

Second week: _____

Third week: _____

Fourth week: _____

Fifth week: _____

Sixth week: _____

Lloyd Neff
Lloyd Neff, Editor

Subscribed in my presence and sworn to before me

this 16 day of September, 1965

Charry L. Lawhead
Notary Public in and for
Johnson County, Kansas

My commission expires January 23, 1967

Publication fee - - - - - \$ 29.25

Affidavits, Notary's fee - - - - - \$ _____

Additional copies - - - @ - - - \$ _____

Total publication fee - - - - - \$ 29.25

IN THE _____ COURT OF
JOHNSON COUNTY, KANSAS

State of Kansas, Johnson County, ss:

_____, 19____

The within Proof of Publication approved by

Johnson County Herald—Fully qualified to
publish legal notices

Case No.

Plaintiff.

vs.

Defendant.

PROOF OF PUBLICATION