

CHAPTER XII. ZONING AND PLANNING

Article 1. Lawrence-Douglas County Planning Commission

Article 2. Board of Zoning Appeals

Article 3. Zoning Regulations

ARTICLE 1. LAWRENCE-DOUGLAS COUNTY PLANNING COMMISSION

12-101. JOINT COMMISSION CREATED. There is hereby created the Lawrence-Douglas County Planning Commission as authorized by Chapter 101 of the Session Laws of 1957 (K.S.A. 12-716 through 721), as amended. The term "Planning Commission" as it appears in the following sections shall mean the Lawrence-Douglas County Planning Commission. (Res. 69-8)

12-102. MEMBERSHIP. The planning commission shall consist of ten members, five of whom shall be appointed by the mayor of the City of Lawrence and five by the chairman of the County Board of Commissioners. In each case, appointments shall be made by and with the consent of their respective governing bodies. Initially, the city shall name in the manner provided above, two appointees whose terms shall be for one year; two appointees whose terms shall be for two years; and one appointee whose term shall be for three years. The county shall name, in the manner provided above, one appointee whose term shall be for one year; two appointees whose terms shall be for two years; and two appointees whose terms shall be for three years, thereafter all appointments shall be for terms of three years, except that appointments made to fill a vacancy that occurs before the expiration of a member's term shall be for the remainder of that unexpired term only. The terms of the original members of the planning commission shall commence on the 1st day of June, 1969, and shall expire on the 1st day of June of the year for which the term of office is completed.

Every member of the planning commission shall be a resident of Douglas County and shall hold no salaried or elected office with either city or county government. Members shall serve without compensation, but they may be reimbursed for expenses incurred in the performance of assigned duties. (Res. 69-8)

12-103. MEETINGS; OFFICERS. The planning commission shall convene for its first meeting at such time and place as shall be fixed by the chairman of the Board of County Commissioners and mayor of the City of Lawrence and shall thereupon proceed to organize and elect officers and fix and determine times and places of future meetings, which said meetings shall be not less frequent than once a month. The planning commission shall elect one member as chairman and one member as vice-chairman. The terms of the chairman and vice-chairman shall be for one year or until his successor shall have been elected and qualified. Special meetings of the planning commission may be called by the chairman, or in his absence, by the vice-chairman. A quorum of the Lawrence-Douglas County Planning Commission shall consist of six members. (Res. 69-8)

12-104. POWERS; DUTIES. The planning commission shall have such powers and duties as

are authorized by state law and provided for herein, and it shall take over and perform the powers, duties, and functions heretofore vested in the Lawrence City Planning Commission and the Douglas County Planning Commission, respectively. As a primary function the planning commission shall be responsible for the preparation, adoption, and maintenance of long range comprehensive plans to guide the future development of the Lawrence-Douglas County land area. As such general plans shall consist of a land-use element, a circulation element, a parks and recreation element, and a public facilities element. The planning commission shall cause zoning studies to be made, and subdivision regulations to be prepared; and it shall submit to the governing bodies its recommendations relating to the zoning of lands and the control of subdivisions within their respective jurisdictions. Such studies and recommendations shall take into account the existing zoning and subdivision regulations, the anticipated physical, economic, and population trends, the distribution and density of population and proposed building intensities, as well as classes of use to be authorized. Recommended development plans for public facilities, urban renewal, environmental sanitation, and area beautification shall also be considered.

The planning commission shall see that the comprehensive plans are altered as necessary to serve as a continuous guide to future long range planning, and that statements are prepared annually to show the recent and past growth, development trends and anticipated growth for the succeeding year, and the bearing of such trends upon the comprehensive plan.

The City Commissioners of the city shall exercise legislative authority over zoning, subdivision control, and other planning regulations within the corporate limits of the city and; the Board of County Commissioners shall exercise similar authority over the unincorporated area of Douglas County. However, the planning commission shall inform both governing bodies of recommendations made to either of them, and it may recommend that they meet in joint session to consider matters that appear to call for parallel legislation. (Res. 69-8)

- 12-105. ANNUAL BUDGET. The Board of County Commissioners and the City of Lawrence shall by agreement provide for an annual budget, and pursuant to said agreement shall appropriate funds for the expenses and costs of staff services, office space and equipment, contractual services, and other relevant expenses required to carry out the purposes and functions of the planning commission. The City of Lawrence shall employ the necessary staff personnel and shall provide office space; and except as otherwise agreed upon for any fiscal year the Board of County Commissioners shall direct the county treasurer to pay semiannually to the city finance director one-sixth of the agreed budget: Provided, That either city or county may authorize, on its own initiative or in conjunction with the other, expenditures for special purposes in addition to the amounts specified in the agreed budget. (Res. 69-8)
- 12-106. PRIOR ACTIONS RATIFIED. All planning and zoning actions of every kind or character heretofore taken by the Lawrence City Planning Commission and by the Douglas County Planning Commission shall be continued in full force and effect and shall in no way be affected by this joint resolution and ordinance, except that the advisory functions of the City of Lawrence and the Douglas County Planning Commission as related to planning and zoning activities shall be transferred as of

June 1, 1969, to the planning commission. All petitions for zoning change, petitions for vacation of streets, alleys and other public ways, request for changes in street names, requests for approval of plats and dedications and all other matters pending before either of the above mentioned planning commission upon the effective date of this ordinance shall continue to be processed by such commissions until such matters are concluded or until August 1, 1969, whichever event may be sooner. Any uncompleted and unclosed matter shall on August 1, 1969, be transferred to and become the responsibility of the Lawrence-Douglas County Planning Commission and its planning staff. All records, files, minutes, maps, plats, and other property of the Lawrence City Planning Commission shall be made available to the Lawrence-Douglas County Planning Commission on August 1, 1969, subject only to the annual renewal of the budget agreement.

The planning commission shall have authority to negotiate and enter into agreements with other incorporated areas in Douglas County or with other planning agencies outside Douglas County to provide or receive planning services: Provided, that any such agreement shall become effective upon approval of the Lawrence City Commission and the Douglas County Board of Commissioners, and of the governing authority of the other governments concerned.

Nothing in this article shall be construed to abolish or to affect the authority of the County Board of Zoning Appeals or the Lawrence City Board of Zoning Appeals. (Res. 69-8)

- 12-107. JOINT AGREEMENT. This joint resolution and ordinance shall constitute an agreement between the City of Lawrence and Douglas County as contemplated in Section 101, Session Laws of 1957 and shall also constitute a resolution of the Board of County Commissioners and an ordinance of the City of Lawrence. (Res. 69-8)
- 12-108. SEPARABILITY. If this joint resolution and ordinance, or any part thereof shall be held or determined to be unconstitutional, illegal, ultravires, or void, the same shall not be held or construed to change or annual any provisions hereof which may be legal or lawful; and in the event this joint resolution and ordinance or any part thereof, shall be held unconstitutional, illegal, ultravires, or void, the same shall not affect any action heretofore taken by the City planning commission or the Douglas County planning commission as heretofore established and constituted. (Res. 69-8)
- 12-109. PREVIOUS COMMISSION ABOLISHED. The city planning commission of the City of Lawrence and the Douglas County planning commission are hereby abolished in the manner and at the time hereinabove provided for. (Res. 69-8)
- 12-110. JOINT HEARINGS WITH OTHER CITY PLANNING COMMISSIONS. The Board of County Commissioners of Douglas County, Kansas, hereby establishes the following policy for review of zoning and subdivision requests within three miles of a corporate city's limits:
Whenever a development proposal requiring zoning and subdivision review is located in the unincorporated portion of Douglas County and within three miles of the corporate city limits of the cities of Baldwin City, Eudora, or Lecompton, it shall be the responsibility of the Lawrence-Douglas County Planning Commission to notify the affected city and arrange a joint hearing of both planning commissions to review

said development proposal. Said hearing shall be held at the Douglas County Courthouse following proper notice to the public. Following said hearing, the Board of County Commissioners shall receive a recommendation from each planning commission for their consideration during the final review process. (Res. 80-5)

ARTICLE 2. BOARD OF ZONING APPEALS

12-201. **BOARD OF ZONING APPEALS; MEMBERS.** The Board of Zoning Appeals is hereby created. The board shall consist of five members, all of whom shall be residents of that portion of the county within the jurisdiction of the resolution and one member may be a member of the Planning Commission. Members are to be appointed by the Board of County Commissioners and shall serve without compensation. Of the members first appointed, one shall serve for one year, two for two years, and two for three years. Thereafter, members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term. The board shall adopt rules for the conduct of its business, such rules to be made available to the public. An affirmative vote of a majority of the Board shall be required to overrule any decision, ruling or determination of the official charged with enforcement of this resolution, or to approve any special exception or variance. (Res. 92-2, Sec. 10)

12-202. **SAME; MEETINGS.** The Board of Zoning Appeals shall annually elect one of its members as chairperson. The Board shall appoint a secretary who may be an officer or an employee of the governing authority, and shall adopt rules in accordance with the provisions of any ordinance or resolution adopted pursuant to this act. Meetings of the Board shall be held at the call of the chairperson, and at such other times as the Board may determine. The chairperson, or in his or her absence the acting chairperson, may administer oaths. The Board shall keep minutes of its proceedings, showing evidence presented, the findings of fact by the Board, the decision of the board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board, and shall be a public record. The Board of County Commissioners may establish a scale of reasonable fees to be paid in advance by the party appealing.

The Board of Zoning Appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning resolution as hereinafter provided. The board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official county newspaper at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal and to the appropriate planning commission. Upon the hearing any party may appear in person or by agent or by attorney. (Res. 92-2, Sec. 13; Code 1990)

12-203. **SAME; POWERS.** The Board of Zoning Appeals shall have such powers as are established and set forth in the county Zoning Regulations. (Res. 85-46, Sec. 23-2; Code 1990)

ZONING REGULATIONS

for the Unincorporated Territory



of Douglas County, Kansas

FIRST ADOPTED BY THE BOARD OF COUNTY COMMISSIONER, SEPTEMBER 23, 1966

**Chapter XII, Article 3 of the Douglas County Code
CONTAINING ALL AMENDMENTS THROUGH**

September 2010

OFFICIAL COPY

INCORPORATED INTO THE DOUGLAS COUNTY CODE BY RESOLUTION No. 09-11

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12-301 TITLE AND APPLICABILITY

12-301-1. TITLE

This Resolution shall be known as the Douglas County Zoning Resolution.

12-301-2. APPLICABILITY

This Resolution shall apply to the unincorporated territory of Douglas County, Kansas.

12-302 PURPOSE

The zoning regulations and districts as herein established have been made in accordance with a land use study plan, to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Douglas County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for good civic design and arrangement, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use. They have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the unincorporated territory of Douglas County, Kansas.

12-303 DEFINITIONS

12-303-1.

For the purpose of this Resolution, certain terms and words are hereby defined. Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning.

12-303-1.01. ACCESSORY BUILDING. An accessory building is a subordinate building or a portion of the main building, the use of which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Resolution) located on the same lot as the main building or principal use of the land.

12-303-1.02. ACCESSORY USE. An accessory use is one, which is clearly incidental to or customarily found in connection with, and (except as otherwise provided in this Resolution) on the same lot as the principal use of the premises. "Accessory Use" includes, but is not limited to, the following:

- a. Residential accommodations for domestics or guests and not rented or otherwise used as a separate domicile and containing no kitchen facilities or separate utility meters.
- b. Residential accommodations for caretakers or proprietors on the same lot with any use listed in Section 12-309-2. When "accessory" is used in the text, it shall have the same meaning as "Accessory Use".

12-303-1.03. ADULT ENTERTAINMENT BUSINESS. Adult Entertainment Business uses for the purposes of these regulations shall be broadly interpreted to include the following types of uses and activities:

- a. Adult arcade means any place to which the public is permitted or invited, wherein there are coin-operated, slug-operated, electronically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices which are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "certain sexual activities" or "specified anatomical areas."
- b. Adult Media Outlet means a commercial establishment which offers for sale or for rental, or another form of consideration, "adult media" and which meets at least one of the following tests:
 - 1) More than thirty of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public);
 - 2) More than thirty percent of the gross sales (including rentals) result from the sale or rental of adult media;
 - 3) More than thirty percent of the dollar value of all merchandise displayed at any time is attributable to adult media;
 - 4) More than thirty percent of all inventory consists of adult media at any time;
 - 5) More than thirty percent of the merchandise displayed for sale consists of adult media; or
 - 6) More than thirty percent of the stock in trade consists of such items at any time.
- c. Adult cabaret means a nightclub, bar, restaurant, or similar commercial where a significant and substantial portion of its business is featuring:
 - 1) Persons who appear in a state of nudity; or
 - 2) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - 3) Films, motion pictures, videocassettes, slides, or other photographic reproductions, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".
- d. Adult Encounter Parlor – An establishment where a significant and substantial portion of its business is the provision of premises where customers either congregate, associate, or consort with employees who engage in "specified sexual activities" with or in the presence of such customers, or who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.
- e. Adult Media means books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".
- f. Adult motel means a hotel, motel or similar commercial establishment which:
 - 1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way

which advertises the availability of this adult type of photographic reproductions,
or

- 2) Offers a sleeping room for rent for a period of time that is less than 10 hours, or
 - 3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- g.** Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- h.** Adult live theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".
- i.** Adult Retail Establishment means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with "specified sexual activities", clothing that graphically depicts "specified anatomical areas" or any of the material sold or rented in an adult media outlet, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." For purposes of this subsection, the presumptions relative to what constitute "substantial or significant" portion of business set forth in the definition of "adult media outlet" shall apply here. In determining whether an item is "designed or marketed for use" in connection with specified sexual activities, the following guidelines may be considered:
- 1) Expert testimony as to the principle use of the item;
 - 2) Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
 - 3) National and local advertising concerning the use of the item;
 - 4) Evidence of advertising concerning the nature of the business establishment;
 - 5) Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
 - 6) The physical or structural characteristics of the item; and
 - 7) The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.
- j.** Escort means a person whom, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers privately to model lingerie or privately to perform a striptease for another person.
- k.** Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish, escorts as one of its primary business purposes for a fee, tip, or other consideration.
- l.** Establishment means and includes any of the following:
- 1) The opening or commencement of any sexually oriented business as a new business;
 - 2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - 3) The addition(s) of any sexually oriented business to any other existing sexually oriented business; or
 - 4) The relocation of any sexually oriented business.

- m.** Permittee and/or licensee means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application, for a permit and/or license.
- n.** Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.
- o.** Nudity or a state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.
- p.** Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.
- q.** Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.
- r.** Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
 - 1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - 2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.
- s.** Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.
- t.** Specified anatomical areas means
 - 1) Less than completely and opaque covered: human genitals, pubic region, buttocks and female breast a point immediately above the top of the areola; and
 - 2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- u.** Specified sexual activities means and includes any of the following:
 - 1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - 2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
 - 3) Masturbation, actual or simulated, or
 - 4) Excretory functions as part of or in connection with any of the activities set forth in 1) through 3) above.
- v.** Massage Parlor - An establishment whose business, or a portion thereof, is the act or art of treating the human body by rubbing, kneading, compression, vibration, or other like activities, whether by manual or mechanical means, to stimulate circulation, increase suppleness or other effects on the various portions of the human body, excluding those acts and/or services provided to patients by a licensed health care provider or licensed physicians, chiropractors, or licensed massage therapists.
- w.** Substantial enlargement (substantially enlarge) a non-conforming, sexually oriented business that is altered or enlarged as an expansion of a non-conforming use [as defined in section 12-320, Non-Conforming uses].
- x.** Transfer of ownership or control of a sexually oriented business means and includes any of the following:
 - 1) The sale, leases, or subleases of the business,
 - 2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

- 3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

12-303-1.04. AIRPORT HAZARD DISTRICT. An area so designated on the Official District Zoning Map in which special controls on height of buildings, generation of smoke, etc., shall be imposed on any use of the land or structures situated in the land district. All such special controls shall be expressed in terms or rules and regulations and shall be kept on file in the office of the administrative officer.

12-303-1.05. AGGREGATE AREA OR WIDTH. The sum of two or more designated areas or widths to be measured, limited, or determined under the provisions of this Resolution.

12-303-1.06. AGRICULTURAL BUILDING. A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. Such structure shall not be a place of human habitation or a year-round place of employment where agricultural products are processed, treated or packaged; nor shall it be a building or structure open year-round for use by the public. A "farmer's market" building will be considered an agricultural building so long as it is located on the farmstead where the products are grown.

12-303-1.07. ALLEY. A narrow public thoroughfare not exceeding sixteen feet in width which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

12-303-1.08. APARTMENT. A part of a building containing cooking and housekeeping facilities, consisting of a room or suite of rooms intended, designed, and used as a residence by an individual or a single family.

12-303-1.09. BASEMENT. That portion of a building which is partially or wholly below ground level. This portion is not a completed structure and serves as a substructure or foundation for a building.

12-303-1.10. BASE SETBACK LINE. The line from which all required setbacks are measured, which line corresponds to the established ultimate street right-of-way line as set forth in section 12-305.

12-303-1.11. BOARD. The Board of Zoning Appeals of Douglas County.

12-303-1.12. BREEZEWAY. A structure entirely open except for roof and supporting columns which connects a residence and an accessory building on the same lot.

12-303-1.13. BUILDABLE WIDTH. The width of that part of a lot not included within the open spaces herein required.

12-303-1.14. BUILDING. Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

12-303-1.15. BUILDING, COMPLETELY ENCLOSED. Any building having no outside openings other than ordinary doors, windows, and ventilators.

12-303-1.16. BUILDING, MAIN. Any building which is not an accessory building.

12-303-1.17. CHILD CARE HOME, NON-OCCUPANT PRIMARY PROVIDER CHILD CARE HOME, CHILD CARE CENTER. A home, center, nursery, pre-school, or school in which care is provided for less than 24 hours per day for children under the age of 16 meeting one of the following three definitions:

- a. Child care Home for 12 or fewer Children. "Child Care Home" means the care of 12 or fewer children as an accessory use to an occupied residence in which the occupant(s) shall be the primary provider(s) of childcare for children other than his or her own family and the children of close relatives. The primary provider(s) may have an employee(s) to assist with childcare services. "Primary provider" means the licensee who has the ongoing responsibility for the health, safety and well-being of children in care.
- b. Non-Occupant Primary Provider Child Care Home for 12 or fewer children. "Non-Occupant Primary Provider Child Care Home" means the care of 12 or fewer children as an accessory use to an occupied residence in which the occupant(s) is (are) not the primary provider(s) of childcare for children other than his or her own family and the children of close relatives. "Primary provider" means the licensee who has the ongoing responsibility for the health, safety and well-being of children in care. The Primary provider(s) may have an employee(s) to assist with childcare services.
- c. Child Care Center for 13 or more children. "Child Care Center" means the care of 13 or more children, for less than 24 hours, away from the home of the parent or legal guardian; and includes but not limited to child care facilities, preschools, play groups, kindergartens and before and after school programs not operated by the public schools, and other establishments offering care to groups for children for less than 24 hours for more than two consecutive weeks, with specific exclusion of temporary or seasonal religious instructional schools, including summer Bible school and church school classes. Centers for infants and toddlers or for children with disabilities may have fewer than thirteen children but be licensed as a center because the program meets childcare center regulations.

12-303-1.18. CLINIC. An office building or a group of offices for one or more physicians, surgeons, or dentists, engaged in treating the sick or injured but not including rooms for abiding patients.

12-303-1.19. CLUB. Buildings and facilities owned or operated by a corporation, association, person or persons for a social educational, or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.

12-303-1.20. COMMERICAL GREENHOUSE. An agricultural enterprise using a controlled environment [temperature and humidity] for the commercial cultivation and production of plants.

12-303-1.21. COMMISSION. The Lawrence-Douglas County Planning Commission.

12-303-1.22. CONVALESCENT HOME. A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.

12-303-1.23. COURT. An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

12-303-1.24. COVERAGE. The percentage of the lot covered by buildings and structures.

12-303-1.25. DISTRICT. Any section of Douglas County within which the zoning regulations are uniform.

12-303-1.26. DOG KENNEL, COMMERCIAL. Any place where more than two adult dogs are kept for a boarding or other fee, or any place where more than five adult dogs are kept for any purpose.

12-303-1.27. DRIVE-IN. A term used to describe an establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

12-303-1.28. DWELLING. Any building or portion thereof designed or used for residential purposes. This shall include structure designed as underground structures but shall not include trailers or mobile homes.

12-303-1.29. DWELLING, SINGLE-FAMILY. A building designed for use, or occupied exclusively by one family.

12-303-1.30. DWELLING, RESIDENTIAL-DESIGN MANUFACTURED HOME. A manufactured home on permanent foundation which has (a) minimum dimensions of 22 body feet in width; (b) a pitched roof; and, (c) siding and roofing materials which are customarily used on site-built homes.

12-303-1.31. DWELLING, TWO-FAMILY. A building designed for or occupied exclusively by two families living independently of each other.

12-303-1.32. DWELLING, MULTIPLE-FAMILY. A building designed for or occupied exclusively by three or more families living independently of each other.

12-303-1.33. DWELLING UNIT. A room or group of rooms occupied or intended to be occupied as separate living quarters by a single family or other group of persons living together as a household or by a person living alone.

12-303-1.34. FAMILY. One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that unless all members are related by blood or marriage, no such family shall contain over four (4) persons.

12-303-1.35. FARMERS MARKET. A place with or without buildings or structures, where fruit, vegetables, produce, dairy products, and the like are sold from more than one fruit or vegetable stand operated partially or wholly by persons who do not reside on the property.

12-303-1.36. FILLING STATION. Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels, oils, or accessories, including lubricating or washing of automobiles and replacement or installation of minor parts and accessories, but not including major repair work such as motor replacement, body and fender repair or spray painting.

12-303-1.37. FLOOR AREA.

- a. Commercial business and industrial buildings or buildings containing mixed uses: the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including:
- 1) attic space providing headroom of less than seven feet;
 - 2) basement space not used for retailing;
 - 3) uncovered steps or fire escapes;
 - 4) accessory water towers or cooling towers;
 - 5) accessory off - street parking spaces; and
 - 6) accessory off - street loading berths.
- b. Residential buildings: the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

12-303-1.38. FRONTAGE.

- a. Street frontage: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead - ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
- b. Lot frontage: the distance for which the front boundary line of the lot and the street line are coincident.

12-303-1.39. FRUIT AND VEGETABLE STAND. A place, with or without buildings or structures, where fruit, vegetables, produce, dairy products, and the like are sold from one fruit or vegetable stand.

12-303-1.40. GARAGE, PRIVATE. A garage used for storage purposes only and having a capacity of not more than four automobiles or not more than two automobiles per family housed in the building to which the garage is accessory, whichever is greater. Space therein may be used for not more than one commercial vehicle, and that one of not more than two-ton capacity, and space may be rented for not more than two vehicles of other than occupants of the buildings to which such garage is accessory.

12-303-1.41. GARAGE, PUBLIC. A building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

12-303-1.42. GARAGE, STORAGE. A building or portion thereof, designed or used exclusively for storage or motor-driven vehicles and at which motor fuels and oils may be sold without exterior advertising and where motor-driven vehicles are not equipped, repaired, hired, or sold.

12-303-1.43. GRADE.

- a. For buildings having a wall or walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- b. For buildings having a wall or walls adjoining more than one street, the average elevation of the sidewalk at the centers of all walls adjoining the streets.
- c. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

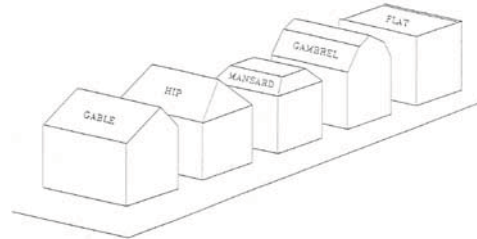
Any wall parallel to or within ten degrees of being parallel to, and not more than 15 feet from a street line, is to be considered as adjoining the street. Sidewalk grades shall be established by the County Engineer.

12-303-1.44. GUEST HOUSE. Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters, and not rented or otherwise used as a separate dwelling.

12-303-1.45. HEIGHT OF BUILDING.

The vertical distance from the grade to

- a. the highest point of the coping of a flat roof;
- b. the deck line of a mansard roof;
- c. to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.



12-303-1.46. HOME OCCUPATION. Any occupation or activity which is clearly incidental and secondary to use of the premises for living purposes, which consist of either a Rural Home Occupation, Rural Home Business Occupation, or Transitional Home Occupation, as the context requires. The operator of a home occupation must reside on the site of the home occupation.

A home occupation is distinguished from a hobby by the fact that a hobby is not operated as a business; is clearly incidental to the primary use of the premises for living purposes; is pursued for the recreation and enjoyment of the occupant(s); and does not involve sales on the premises or employees. A hobby is not regulated by the home occupation provisions unless both the definition of hobby and home occupation are applicable to the work performed on-site.

12-303-1.47. HOSPITAL. A building or group of buildings, having room facilities for one or more abiding patients, used for providing services for the inpatient, medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, outpatient department, training facilities, central service facilities, and staff offices; provided, however, that such related facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

12-303-1.48. HOTEL. A building in which lodging or boarding and lodging are provided for more than 20 persons, primarily transient and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment which are herein separately defined. A hotel may include restaurants, taverns, or clubrooms, public banquet halls, ballrooms, and meeting rooms.

12-303-1.49. JUNK YARD/SALVAGE YARD. An area of land with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded materials such as but not limited to waste paper, rags or scrap material; used building materials, house furnishings, machinery, motor vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. A deposit or the storage on a plot of two or more wrecked or broken down motor vehicles, a

12-303-1.62. MOBILE HOME PARK. That the area of land on which two or more mobile homes, being used for living purposes are parked. No new mobile home park shall be located in the floodway (F-W) or floodway fringe (F-F) overlay. Mobile homes existing at the date of adoption of the Floodplain Management Regulations within the floodway or floodway fringe overlay districts shall be required to meet the following regulations in addition to the other requirements of this section:

- a. Mobile homes shall be anchored to resist floatation, collapse, or lateral movement by providing over-the-top and frame ties in accordance with the state requirements cited in K.S.A. 75-1226 through 1234.
- b. Any reconstruction or repair of existing mobile homes be required to meet the following regulations:
 - 1) Stands or lots be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the regulatory flood elevation;
 - 2) Adequate surface drainage and access for a hauler are provided; and,
 - 3) In the instance of elevation on pilings:
 - a) lots be large enough to permit steps;
 - b) piling foundations be placed in stable soil no more than ten feet apart; and,
 - c) reinforcement be provided for pilings more than six feet above the ground level.

12-303-1.63. MOTEL, MOTOR COURT, MOTOR HOTEL, LODGE OR INN. Same as "Hotel", except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or office.

12-303-1.64. NONCONFORMING USE. Any building or land lawfully occupied by a use at the time of passage of this Resolution or amendment thereto which does not conform after the passage of this Resolution or amendment thereto with the use regulations of the district in which it is located.

12-303-1.65. NONRESIDENT EMPLOYEE. A person engaged to perform duties on behalf of a Home Occupation; where such person's duties require the person to report to the premises of the Home Occupation on a daily basis during a standard five day workweek. For the purposes of these regulations, a full time equivalent employee shall be equated to 1,000 hours of work performed in any 6-month period of a year. A person shall not be excluded from the definition of a nonresident employee simply because such person is allowed to perform some of such person's duties off the premises if such person is generally required to report to the premises of the Home Occupation at least one time each work day.

12-303-1.66. PARKING SPACE, OFF-STREET. An all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles.

12-303-1.67. PLACE. An open, unoccupied space other than a street or alley permanently established or dedicated as the principal means of access to property abutting thereof.

12-303-1.68. PREMISES. A lot, together with all buildings and structures thereon.

12-303-1.69. RURAL HOME BUSINESS OCCUPATION. A Home Occupation referred to in section 12-319-6.02.

12-303-1.70. RURAL HOME OCCUPATION. A Home Occupation referred to in section 12-319-6.01.

12-303-1.71. SERVANTS' QUARTERS. An accessory building or portion of the main building located on the same lot as the main building and used as living quarters for servants employed on the premises and not rented or otherwise used as a separate domicile and containing no kitchen facilities or separate utility meters.

12-303-1.72. SIGN. A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building, fence, or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, insignia, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device. A sign shall not include a similar structure or device located within a building except illuminated signs within show windows. A sign includes any billboard, but does not include the flag or pennant, or insignia of any nation or association of nations, or of any state, city, or other political unit, or of any political, charitable, educational, philanthropic, civic, or like campaign, drive, movement or event.

12-303-1.73. SIGN AREA. That area within a line including the outer extremities of all letters, figures, characters and delineations or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included in the sign area.

12-303-1.74. SIGN, FLASHING. Any illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

12-303-1.75. SIGN, ILLUMINATED. Any sign designed to give forth artificial light or designed to reflect light from one or more sources of artificial light erected to provide light for the sign.

12-303-1.76. STORY. That portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it; or if there be no floor above it, then the space between such floor and the ceiling next above it.

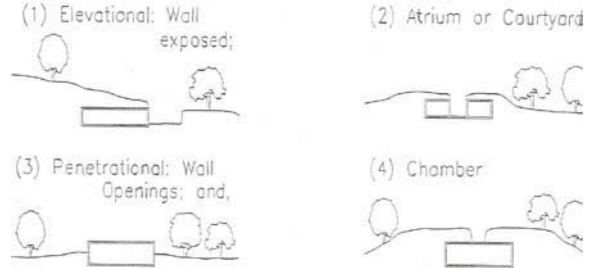
12-303-1.77. STORY, HALF. A space under a sloping roof at the top of the building, the floor of which is not more than two feet below the plate, shall be counted as a half-story when not more than sixty percent of said floor area is used for rooms, baths, or toilets. A half-story containing an independent apartment or living quarters shall be counted as a full story.

12-303-1.78. STREET. A public thoroughfare which affords the principal means of access to property abutting thereon.

12-303-1.79. STREET LINE. A dividing line between a lot, tract, or parcel of land and a contiguous street.

12-303-1.80. STRUCTURE. Anything, other than a fence or retaining wall constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, poster boards, and mobile homes.

12-303-1.81. UNDERGROUND STRUCTURES. Any completed building that was designed to be built partially or wholly underground. A completed structure which was not intended to serve as a substructure or foundation for a building. Four types of underground structures are recognized by this resolution; they are:



12-303-1.81. STRUCTURAL ALTERATIONS. Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

12-303-1.82. TOURIST COURT, AUTO COURT. Same as "Motel".

12-303-1.83. TRAILER OR TRAILER HOUSE. Same as "Mobile Home".

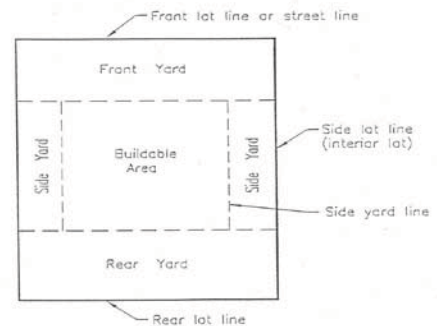
12-303-1.84. TRAILER PARK OR MOBILE HOME COURT. That area of land on which two or more trailers or mobile homes being used for living purposes are parked. (Same as "Mobile Home Park".)

12-303-1.85. TRANSITIONAL HOME OCCUPATION. A Home Occupation referred to in section 12-319-6.03 existing on August 16, 2000, which is allowed temporarily to continue its use for a transitional period pursuant to section 12-319-6.03.

12-303-1.86. TRANSITIONAL USE. A use intended to permit a more gradual change of the character of uses at or near the boundaries of districts which have different use regulations and which may be permitted by the Board of Zoning Appeals in accordance with the provisions of Section 12-323.

12-303-1.87. YARD. An open space other than a court, on a lot unoccupied and unobstructed from the ground upward, except as otherwise provided in this Resolution.

12-303-1.88. YARD, FRONT. A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projections thereof other than the projections of uncovered steps, uncovered balconies, terraces, or uncovered porches. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.



12-303-1.89. YARD, REAR. A yard extending across the rear of the lot between the side lot

lines and measured between the rear lot line and the rear of the main building or any projection other than steps, unenclosed porches or entrance ways.

12-303-1.90. YARD, SIDE. A yard between the main building and the side line of the lot and extending from the front yard to the rear yard and being the minimum horizontal distance between the side lot line and side of the main buildings or any projections thereof.

12-303-1.91. ZONING ADMINISTRATOR. The Zoning Administrator shall be the Director of the County Zoning and Codes Office.

12-304 GENERAL PROVISION, DISTRICTS, AND DISTRICT MAPS**12-304-1. DISTRICTS ESTABLISHED**

In order to regulate and restrict the location of trades, industries, and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the unincorporated territory of Douglas County is hereby divided into districts of which there shall be thirteen in number, known as:

"A"	Agricultural District
"A-1"	Suburban Home District
"R-1"	Single-Family Residential District
"B-1"	Neighborhood Business District
"B-2"	General Business District
"B-3"	Limited Business District
"I-1"	Limited Industrial District
"1-2"	Light Industrial District
"1-3" & "1-4"	Heavy Industrial District
"V-C"	Valley Channel District
"F-W"	Floodway Overlay District
"F-F"	Floodway Fringe Overlay District

12-304-2. DISTRICT MAP ESTABLISHED

Such land and the district classification thereof, shall be as shown on the map designated as the "Zoning District Map of Douglas County, Kansas", dated and signed by the Chairperson of the Board of County Commissioners and the Clerk of Douglas County, upon adoption. Such map or maps shall be marked official copy of zoning district map incorporated into zoning regulations by adoption of a resolution of the Board of County Commissioners on the ___ day of _____, 19___," and filed in the office of the County Clerk or such other public office as may be designated by the Board of County Commissioners.

This Zoning District Map, and all notations, dimensions, references, and symbols shown thereon, pertaining to such districts shall be as much a part of this Resolution as if fully described herein. Said Map shall be available for public inspection in the Office of the County Clerk or such other public office as may be designated by the Board of County Commissioners, and any later alterations of this Map adopted by amendment as provided in this Resolution shall be similarly dated, filed, promptly noted on the Map, and made available for public reference.

The "Floodplain Overlay Districts Map" established in Section 12-328 shall be read in conjunction with the "Zoning District Map". The development standards established by the Floodplain Management Regulations shall apply in addition to the underlying zoning district restrictions for land within the regulatory floodplain.

The "F-W" Floodway and "F-F" Floodway Fringe Overlay District Boundaries are established in Section 12-328.

12-304-3. REVISION OF DISTRICT MAP

No later than March 31 of the year following adoption of this Resolution, prints of the official Zoning District Map, clearly showing the zoning district boundaries and zoning district names and designations for Douglas County, shall be made available to the public. In each calendar year thereafter, any changes in the permitted uses, zoning district boundaries, zoning regulations, and classifications affecting such map, the official map shall be revised to show such changes once the resolution adopting the change has been published in the official newspaper.

Any person desiring a copy of said official Zoning District Map shall pay Five Dollars (\$5.00) for each copy thereof, to the appropriate county official. Such fees shall be applied to defray the cost of revising and printing the District Map.

12-304-4. REPLACEMENT OF DISTRICT MAP

In the event that the Official Zoning District Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Board of County Commissioners may by resolution adopt a new Official Zoning District Map which shall supersede the prior Official Zoning Map. The new Map may correct drafting or other errors or omissions in the prior Map, but no such correction shall have the effect of amending the original Zoning Resolution or any subsequent amendment thereof. The new Official Zoning District Map shall be identified by the signature of the Chairman of the Board of County Commissioners, attested by the County Clerk, and bear the following words: "This is to certify that this Official Zoning District Map supersedes and replaces the official zoning district map adopted (date of adoption of map being replaced) as part of Resolution No. ___ of Douglas County, Kansas."

12-304-5. INTERPRETATION OF DISTRICT BOUNDARIES

A district name or letter-number combination shown on the District Maps indicates that the regulations pertaining to the district designated by that name or letter-number combination extend throughout the whole area in the unincorporated territory of the county within the jurisdiction of this Resolution bounded by the district boundary lines within which such name or letter-number combination is shown or indicated, except as otherwise provided by this section.

12-304-5.01. Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning District Map or Floodplain Overlay Districts Map, both incorporated and made a part of this Resolution, the following rules shall apply:

- a. In cases where a boundary line is given a position within a street or alley, navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream, and if the actual location of such street, alley, or stream varies slightly from the location as shown on the District Map, then the actual location shall control.
- b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
- c. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way. Distances shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way. Distances shown as measured from a railroad shall be measured from the center of the designated track.
- d. In cases where the floodway or floodway fringe overlay district boundaries are in

dispute, the County Zoning Administrator shall make the necessary interpretation. In cases where the interpretation is contested, the Board of Zoning Appeals, upon written application, shall resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land.

- e. In unsubdivided property, unless otherwise indicated, the district boundary line on the Maps accompanying and made a part of this Resolution shall be determined by the use of the scale contained on such Map.

12-304-6. GENERAL PROVISIONS

Except as hereinafter provided:

12-304-6.01. No land may be used except for a purpose permitted in the district in which it is located, provided, however, that no regulations shall apply to the use of land for agricultural purposes nor for the erections or maintenance of buildings thereon as long as such buildings are used for strictly agricultural purposes.

12-304-6.02. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.

12-304-6.03. No building shall be erected, converted, enlarged, reconstructed, or structurally altered to exceed the height limit herein established for the district in which the building is located.

12-304-6.04. No building shall be erected, converted, enlarged, reconstructed, or structurally altered except in conformity with the area regulations of the district in which the building is located.

12-304-6.05. No building shall be erected, enlarged, or structurally altered to the extent of increasing the floor area by 50 percent or more, except in conformity with the off-street parking and loading regulations of the district in which the building is located.

12-304-6.06. No building shall be erected, enlarged or reconstructed to increase the floor area by 50 percent or more, or moved, to occupy land within the planned right-of-way of any existing or future street shown on the officially adopted major thoroughfare plan having jurisdiction in the area in question.

12-304-6.07. The minimum yards, parking space, open spaces, including lot area per family, required by this Resolution for each and every building existing at the time of the passage of this Resolution, or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of this Resolution.

12-304-6.08. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.

12-304-6.09. No accessory building shall be constructed upon a lot until the construction

of the main building has been actually commenced. No accessory building shall be used unless the main building on the lot is also being used. A cellar or basement may be used as a dwelling for 12 months prior to completion of the dwelling of which it is a part.

12-304-6.10. Sanitation and water supply. Those areas not served by approved public utilities shall adhere to the following provisions:

12-304-6.10.01. DEFINITIONS.

- a. Sewage: Any liquid waste containing animal or vegetable matter in suspension or solution, including all household wastes from toilets, sinks, showers, washing facilities and floor drains, and may include liquids from laboratories, businesses or industrial operations, containing minerals in solution.
- b. Available Sewer: Any public sewer within 200 feet of a building.
- c. Lagoon Or Sewage Lagoon: An artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer, for biological decomposition.
- d. Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property.
- e. Health Authority: The Lawrence-Douglas County Health officer or an authorized representative.
- f. Health Hazard: Any condition which, in the opinion of the Health authority, is capable of producing acute or chronic illness in humans. Such conditions include, but are not limited to: sewage on the surface of the ground; rat, fly and mosquito breeding; the proliferation of toxic plants; and the release of toxic or infectious gases, aerosols, sprays, liquids or dusts.
- g. Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.
- h. Rubbish: Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, cardboard, cans, yard clippings, leaves, wood, glass, rags, bedding, crockery and similar materials.
- i. Refuse: All putrescible and non-putrescible wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles or parts, abandoned farm machinery and solid market and industrial wastes.
- j. Litter: Is "garbage", "refuse" and "rubbish" as defined herein and all other waste material which is discarded or deposited as herein prohibited or in a manner which creates a health hazard to the public.
- k. Private Water Supply: A water system serving a single family residence and not ordinarily available to the public.

I. Public Water Supply: Any system not meeting the definition above.

12-304-6.10.02. SEWAGE DISPOSAL SYSTEMS: The discharge of sewage into seepage pits, abandoned wells, or cisterns, streams or upon the surface of the ground shall be prohibited. Individual sewage lagoons meeting the requirements of the State Department of Health are permitted. Individual on-lot septic tank lateral systems may not be constructed upon lots of less than one acre. Plans for a proposed Septic lateral system shall be approved by the Health Authority. Standards are available at the Lawrence-Douglas County Health Department in a manual form.

In no case shall treated or untreated sewage, or the effluent from a septic tank or laterals system be permitted to drain directly or indirectly into a ditch or stream, nor shall it be allowed to surface or run or drain across any other adjacent land owner. The system may be inspected by the Health Authority at any stage in construction.

12-304-6.10.03. DISPOSAL OF GARBAGE, RUBBISH AND REFUSE

- a. Disposal of garbage, rubbish and refuse shall be permitted only in designated public or private dump which is located and maintained in compliance with County Zoning Regulations and in such a manner that health hazards and offensive odors are not produced. Provided that no dead animals be disposed in any Public dump.
- b. Discarding in ditches, streams, roadsides, etc., prohibited: The discarding, dropping or throwing or storing of litter in roads, ditches, streams, or other bodies of water whether on public or private property shall be prohibited. Provided, however that rubbish may be utilized on private property for control of soil erosion if such use does not constitute a health hazard to the public.

12-304-6.10.04. PUBLIC WATER SUPPLIES

All public water supply systems shall be subject to inspection and sampling by the Health Authority at any reasonable time and shall be constructed, maintained and operated in a manner which does not constitute a health hazard. Water systems yielding samples containing coli-form bacterial or other demonstrable surface contaminants shall be considered unsafe for drinking purposes and a health hazard to the public.

12-304-6.10.05. PRIVATE WATER SUPPLIES

Where connection is not to be made to municipal or approved communal potable water system, no residence shall be built unless provision is made for a safe and adequate supply of drinking water.

12-305 BUILDING LOCATION – RELATION TO ESTABLISHED ULTIMATE STREET RIGHT-OF-WAY

12-305-1. SETBACKS

The proximity of a portion of a building or structure to a public street or way is regulated by setback provisions.

12-305-1.01. Base Setback Lines are hereby established parallel to the center line of all public highways, roads, streets and ways as follows:

- a.** On all Federal, State and County highways, as designated on the Zoning Map of Douglas County, the Base Setback Line shall be located at a distance of sixty feet from the center line of the highway, plus the front yard requirements of Section 12-318-1 unless the right-of-way is in excess of 120 feet. In cases where the established right-of-way is in excess of one hundred and twenty feet, the Base Setback Line shall be one-half of the established right-of-way plus the requirements of Section 12-318-2.
- b.** On all Township Roads and Section Line Roads, as designated on the Zoning Map of Douglas County, the Base Setback Line shall be located at a distance of forty feet from the centerline of the Road.
- c.** On all other streets, which shall be designated local streets and roads on the Zoning Ordinance Map of Douglas County, the Base Setback Line shall be located thirty-five feet from the centerline of such street or seventy feet from the center point of a cul-de-sac, unless specifically designated otherwise by action of the Board of County Commissioners.

12-306 "A" AGRICULTURAL DISTRICT REGULATIONS

12-306-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "A" Agricultural District. The purpose of this district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses. The district is also intended for purposes of protecting watersheds and water supplies to provide for spacious development, to protect forest areas, and scenic areas, and to conserve fish and wildlife, to promote forestry, the growing of natural crops and grazing, and to prevent untimely scattering of more dense urban development. For the purpose of restricting outdoor advertising signs, the area within this district shall be considered as defined for residential purposes only.

12-306-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-306-2.01. Agricultural uses, including farms, truck gardens, orchards, or nurseries for growing or propagation of plants, trees and shrubs, and including raising for sale of birds, bees, rabbits, or other animals, fish, or other creatures, and including temporary stands for seasonal sale of products raised on the premises, provided:

- a.** Commercial slaughtering and processing of large animals such as horses, cows, pigs, sheep, or goats shall not be conducted on the premises.

12-306-2.02. Hospital or clinic for large or small animals; provided:

- a.** Such hospital or clinic shall be located on a tract of land of five acres or more and that all buildings, structures, or pens for large animals shall be located at least 100 feet from any lot lines and open pens, runs, cages or kennels for small animals shall be located at least 100 feet from any side or rear lot lines.
- b.** A separate on lot sewage disposal system shall be required for hospital or clinic and for a single-family residence.

12-306-2.03. Hospital or clinic for small animals (dogs, cats, birds, and the like); provided:

- a.** That such hospital or clinic and any treatment rooms, cages, pens, or kennels be maintained within a completely enclosed building with soundproof walls, and that such hospital or clinic be operated such a way as to produce no objectionable odors outside its walls.
- b.** A separate on lot sewage disposal system shall be required for hospital or clinic and for a single-family residence. One acre minimum for each.

12-306-2.04. Commercial dog kennel; provided:

- a.** That any open pens, runs, cages, or kennels shall be located at least 200 feet from any side or rear lot lines.

12-306-2.05. Commercial greenhouse.

12-306-2.06. Commercial riding stable; provided:

- a. That any buildings for keeping of animals shall be located at least 200 feet from any side or rear lot lines.

12-306-2.07. Grain storage structures.

12-306-2.08. Residential Detached Dwelling provided:

- a. The dwelling is on a division of land that was created in conformance with the Subdivision Regulations adopted on December 20, 2006; or,
- b. The dwelling is on a division of land that was created in conformance with the exemption section of the Subdivision Regulations that were in effect prior to December 20, 2006 and said division was filed and recorded as a plat of survey, deed, or affidavit of equitable interest identifying the division as a separate tract of real estate at the Register of Deeds office (i) on or before June 1, 2005; or (ii) after June 1, 2005 and as of December 31, 2006, provided a division of land made after June 1, 2005, met the 10 acre requirement and other requirements for a residential building permit pursuant to Douglas County Resolution HR-05-6-5 and resolutions extending such Resolution.

12-306-2.09. Residentially designed manufactured home, provided that, pursuant to section 12-306-2.08 a residential detached dwelling would be permitted on the division of land on which the home is to be placed, a building permit has been issued and the manufactured home complies with the following standards:

- a. minimum dimensions of body width shall be 22 feet;
- b. minimum roof pitch shall be 2.5" in height to 12 running inches;
- c. siding material shall be wood, masonry, composition board or finished aluminum lap siding or is of another material normally found on site built homes;
- d. roofing materials shall be wood shingles, composition shingles or fiberglass shingles, asphalt shingles, clay or concrete tile or slate;
- e. on level sites the main floor shall be no greater than 20" above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20" above finished grade at the foundation; and,
- f. the home shall be permanently mounted on a foundation or basement which meet the provisions of the Building Code.

12-306-2.10. Churches and parish halls, temples, convents, and monasteries.

12-306-2.11. Colleges and schools, public or private, having a curriculum and conditions under which teaching is conducted equivalent to a public school, and institutions of higher learning.

12-306-2.12. Country club.

12-306-2.13. Rural Home Occupations, subject to the provisions in section 12-319-6.01; Rural Home Business Occupations, subject to the provisions of section 12-319-6.02; and Transitional Home Occupations, subject to the provisions of section 12-319-6.03.

12-306-2.14. Public parks, playgrounds, golf courses (public or private, except miniature golf courses, putting greens, driving ranges, and similar activities operated as a business), non-profit, non-governmental, public recreation facilities, and community buildings.

12-306-2.15. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, power houses, interlocking towers, and fueling, sanding, and watering stations.

12-306-2.16. Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.

12-306-2.17. One or more mobile homes shall be allowed as an accessory use to a farm so long as they are occupied by a family related by blood, or marriage, to the occupant of the main dwelling, or by a person or persons employed on the farm. This mobile home must be at least 150 feet from another dwelling, and must be provided with a water supply and sanitary sewerage facilities, and may not be used as a rental income property. Mobile homes shall not be located within the "F-W" or "F-F" Overlay Districts.

12-306-2.18. Accessory identification sign for a permitted use or sign advertising products raised on the premises; provided sign area shall not exceed 30 square feet in area.

- a.** No outdoor advertising structures shall be allowed along County or Township roads in "A" Agricultural District except as heretofore mentioned. Outdoor advertising along Federal and State roads shall be in compliance with all Federal and Kansas laws and regulations governing and concerning such signs, and shall comply with the conditions as set forth herein.
- b.** Outdoor advertising signs or structures shall not have a maximum area exceeding 300 square feet. Both sides of the sign structure may be used for advertising purposes. Any advertising sign or structure erected shall be set back a minimum distance of 25 feet from any public right-of-way line, and shall not be closer than 100 feet to any road, highway or street intersection. Each such sign shall be mounted on a single ground pole. There shall be a minimum ground clearance of 12 feet between ground level and the bottom of the sign structure. In no case shall the sign structure exceed 30 feet in height. Such signs shall be serviced by underground electrical wiring. Advertising signs shall observe a minimum interval of 1500 feet in all directions between signs.

12-306-2.19. Accessory open or enclosed storage of farm materials, products, or equipment, accessory farm buildings, including barns, stables, sheds, tool rooms, shops, bins, tanks, and silos, and other accessory buildings and uses, including but not limited to, accessory private garages, servants' quarters, guest houses, swimming pools, home barbecue grills, customary church bulletin boards or identification signs not exceeding 30 square feet in area for permitted public and semi-public uses, accessory storage, and accessory off-street parking and loading spaces.

12-306-2.20. Utilities approved by the County Commissioners.

12-306-2.21. Water wells and pumping of sand and water.

12-306-2.22. A retail fireworks stand only as authorized by permit issued and operated pursuant to applicable resolutions of the Board of County Commissioners.

12-306-2.23. Child care home - occupant primary provider.

12-306-2.24. Child care home - non-occupant primary provider, subject to conditions in section 12-319-1.

12-306-2.25. Child care center - subject to conditions in section 12-319-1.

12-306-3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-306-4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-306-5. HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of section 12-318, which chart, and all notations and requirements shown therein shall be a part of this Resolution and have the same force and effect as if all the notations and requirements set forth therein were fully set forth or described herein.

12-306-6. Supplementary use regulations are contained in section 12-319.

12-306-7. Supplementary height, area, and bulk regulations are contained in section 12-321.

12-307 "A-1" SUBURBAN HOME RESIDENTIAL DISTRICT REGULATIONS**12-307-1.**

The regulations set forth in this section or set forth elsewhere in this Resolution, when referred to in this section as the regulation in the "A-1" Suburban Home District. The purpose of this district is to provide for single family residential development of a suburban character together with appropriate public and semi-public buildings, public recreational facilities and accessory uses normally compatible with residential development of this type, where due to a lack of readily accessible municipal service facilities it is desirable to prevent premature uncontrolled residential development. This district is located to insure development of land not served by approved public sewer facilities will be on a low density basis.

12-307-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-307-2.01. Farm, truck garden, orchard, or nursery for growing or propagation of plants, trees, or shrubs, including the temporary stands for the seasonal sale of products raised on the premises, provided that no retail or wholesale business office or store is permanently maintained on the property. Keeping and raising of birds, bees, rabbits, or other animals, fish or other creatures in the same way as would be allowed in the agriculture zoning will be permitted upon lots containing five acres or more except as may be limited by subdivision restrictive covenants. *(Any subdivision platted prior to the adoption of this amendment shall be exempt from the minimum lot size requirement for the raising of animals as described; provided, that the keeping or raising of such animals shall not be permitted on any lot whose area is reduced to less than five acres by lot split or replat). *Published 5/6/78

12-307-2.02. Single Family Dwellings.

12-307-2.03. Residential-design manufactured homes, provided the following standards apply:

- a. Minimum dimensions of body width shall be 22 feet;
- b. Minimum roof pitch shall be 2.5" in height to 12 running inches;
- c. Siding material shall be wood, masonry, composition board or finished aluminum lap siding or other materials normally found on site built homes;
- d. Roofing materials shall be wood shingles, composition shingles or fiberglass shingles, asphalt shingles, clay or concrete tile or slate;
- e. On level sites the main floor shall be no greater than 20" above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20" above finished grade at the foundation;
- f. The home shall be permanently mounted on a foundation or basement which meets the provisions of the Building Code.

12-307-2.04. Churches and Parish Halls, temples, convents and monasteries, provided that churches or temples erected after the date of passage of this resolution shall have their principal means of access from a major thoroughfare or collector street and shall be located on a lot of at least three acres or more in area with minimum frontage of 350 feet.

12-307-2.05. Colleges and schools, public or private, having a curriculum and conditions under which teaching is conducted equivalent to a public school, and institutions of higher learning.

12-307-2.06. Rural Home Occupations, subject to the provisions of section 12-319-6.01; and Transitional Home Occupations, subject to the provisions of section 12-319-6.03.

12-307-2.07. Non-profit libraries or museums, art galleries, and community buildings owned or operated by public agencies.

12-307-2.08. Public parks, playgrounds, golf courses and country clubs, except solely for commercial purposes.

12-307-2.09. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.

12-307-2.10. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-307-2.11. Temporary signs pertaining to the lease, hire or sale of a building or premises on which such signs are located.

12-307-2.12. Accessory buildings and uses including, but not limited to accessory private garages, servants' quarters, guest houses, private boat houses, provided no living quarters are included other than for guests as provided for guest houses, swimming pools, home barbecue grills, customary church bulletin boards, or identification signs not exceeding thirty square feet in area for permitted public and semi-public uses, accessory storage and accessory off-street parking and loading spaces.

12-307-2.13. Utilities approved by the County Commissioners.

12-307-2.14. Child care home - occupant primary provider.

12-307-2.15. Child care home - non-occupant primary provider, subject to conditions in section 12-319-1.

12-307-2.16. Child care center, subject to conditions in section 12-319-1.

12-307-3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-307-4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317 of this Resolution.

12-307-5. HEIGHT, AREA AND BULK REGULATIONS

Height, area and bulk requirements shall be as set forth in the chart of section 12-318, and in addition, the following regulations shall apply:

12-307-5.01. The minimum side yard requirement for any church, temple, college, building, school, library, museum, art gallery or any public building or any main building other than a single-family dwelling shall be thirty feet. The minimum side street yard requirement for any

building shall comply with the "Road Classification and Entrance Spacing Standards" adopted by Douglas County Resolution No. HR-06-10-7, as amended (codified at Article 5 of Chapter IX of the Douglas County Code).

12-307-6. Supplementary use regulations are contained in section 12-319.

12-307-7. Supplementary height, area and bulk regulations are contained in section 12-321.

12-308 "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

12-308-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "R-1" Single-Family Residential District. The purpose of this district is to provide for single-family residential development of relatively more spacious character together with such public buildings, schools, churches, public recreational facilities accessory uses, as may be necessary or are normally compatible with residential surroundings. The district is located to protect existing development of high character and contains vacant land considered appropriate for such development in the future.

12-308-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-308-2.01. Farm, truck garden, orchard, or nursery for growing or propagation of plants, trees, and shrubs, including temporary stands for seasonal sales of products raised on the premises, but not including the raising for sale of birds, bees, rabbits, or other animals, fish, or other creatures to such an extent as to be objectionable to surrounding residences by reason of odor, dust, noise, or other factors, and provided no retail or wholesale business office or store is permanently maintained on the premises.

12-308-2.02. Single-family dwellings.

12-308-2.03. Residential-design manufactured homes, provided the following standards apply:

- a. minimum dimensions of body width shall be 22 feet;
- b. minimum roof pitch shall be 2.5" in height to 12 running inches;
- c. siding material shall be wood, masonry, composition board or finished aluminum lap siding or other materials normally found on site built homes;
- d. roofing materials shall be wood shingles, composition shingles or fiberglass shingles, asphalt shingles, clay or concrete tile or slate;
- e. on level sites the main floor shall be no greater than 20" above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20" above finished grade at the foundation.
- f. the home shall be permanently mounted on a foundation or basement which meets the provisions of the Building Code.

12-308-2.04. Churches and parish halls, temples, convents, and monasteries, provided that churches or temples erected after the date of passage of this resolution shall have their principal means of access from a major thoroughfare or collector street and shall be located on a lot of at least 30,000 square feet in area.

12-308-2.05. Colleges and schools, public or private, having a curriculum and conditions under which teaching is conducted equivalent to a public school, and institutions of higher learning.

12-308-2.06. Rural Home occupations, subject to the provisions of section 12-319-6.01; and Transitional Home Occupations, subject to the provisions of section 12-319-6.03.

12-308-2.07. Nonprofit libraries or museums, art galleries, utility installations for sewer, water,

gas, electric and telephone mains and incidental appurtenances.

12-308-2.08. Public parks, playgrounds, golf courses (public or private except miniature golf courses, putting greens, driving ranges and similar activities operated as a business), nonprofit, non-governmental public recreation, and community buildings.

12-308-2.09. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, power houses, interlocking towers, and fueling, sanding, and watering stations.

12-308-2.10. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-308-2.11. Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.

12-308-2.12. Accessory buildings and uses including, but not limited to accessory private garages, servants' quarters, guest houses, swimming pools, home barbecue grills, customary church bulletin boards or identification signs not exceeding 30 square feet in area for permitted public and semi-public uses, accessory storage, and accessory off-street parking and loading spaces.

12-308-2.13. Child care home - occupant primary provider.

12-308-2.14. Child care home - non-occupant primary provider, subject to conditions in section 12-319-1.

12-308-2.15. Child care center, subject to conditions in section 12-319-1.

12-308-3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-308-4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-308-5. HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of Section 12-318, and in addition the following regulations shall apply:

12-308-5.01. The minimum side yard requirement for any church, temple, college building, school, library, museum, art gallery or any public building or any main building other than a single-family dwelling shall be twenty-five feet.

12-308-6. Supplementary use regulations are contained in section 12-319.

12-308-7. Supplementary height, area, and bulk regulations are contained in section 12-321.

12-309 "B-1" NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS

12-309-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section, are the regulations in the "B-1" Neighborhood Business District. This district provides primarily for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

12-309-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-309-2.01. Any use permitted in the "R-1" Single-Family Residential District.

12-309-2.02. Automobile parking lots and storage garages.

12-309-2.03. Display room for merchandise to be sold on order where merchandise sold is stored elsewhere.

12-309-2.04. Dressmaking, tailoring, decorating, shoe repairing, repair of household appliances and bicycles, dry cleaning and pressing and bakery, with sale of bakery products on the premises and other uses of a similar character; provided that no use permitted in this item shall occupy more than 2,500 square feet of floor area.

12-309-2.05. Filling stations, so long as bulk storage of inflammable liquids is underground.

12-309-2.06. Frozen food lockers for individual or family use.

12-309-2.07. Hospital or clinic for large or small animals, such as cattle, horses, dogs, cats, birds and the like, provided that such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed building with soundproof walls and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls and located on a sewer.

12-309-2.08. Offices and office buildings, including clinics.

12-309-2.09. Outdoor advertising structure or non-flashing sign pertaining only to a use conducted within the building, and any sign or display in excess of 30 square feet in area shall be attached flat against a wall of the building, and in no case shall any sign or display attached to a building project above the roof line. The permitted 30 square feet of sign area for projecting or free-standing signs may be in one sign or the aggregate area of several signs.

12-309-2.10. Personal service uses including barber shops, banks, beauty parlors, photographic or artists' studios, messengers, taxicabs, newspaper or telegraphic service stations, dry cleaning receiving stations, restaurants, (but not drive-in restaurants), taverns, undertaking establishments and other personal service uses of a similar character.

12-309-2.11. Retail stores, including florist shops and greenhouses in connection with such shops, but there shall be no slaughtering of animals or poultry on the premises of any retail store.

12-309-2.12. Self-service laundry or self-service dry cleaning establishment.

12-309-2.13. Accessory buildings and uses.

12-309-2.14. A retail fireworks stand only as authorized by permit issued and operated pursuant to applicable resolutions of the Board of County Commissioners.

12-309-3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-309-4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-309-5. HEIGHT AND AREA REGULATIONS

Height and area requirements shall be as set forth in the chart of section 12-318.

12-309-6. Supplementary use regulations are contained in section 12-319.

12-309-7. Supplementary height and area regulations are contained in section 12-321.

Section 309A "B-3" LIMITED BUSINESS DISTRICT REGULATIONS

12-309A-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "B-3", Limited Business District. This district is designed to permit and encourage the grouping, in areas defined by comprehensive plans, of certain retail activities and services intended primarily to serve, and dependent upon, the motoring public.

12-309A-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-309A-2.01. Automobile Service Stations, excluding bodywork, painting or major engine repair.

12-309A-2.02. Antique Sales.

12-309A-2.03. Art Supplies.

12-309A-2.04. Bicycle Sales, Rental, or Repair.

12-309A-2.05. Boat and Equipment Sales and Repair.

12-309A-2.06. Boat Storage, open or enclosed.

12-309A-2.07. Camera or Photographic Supply Sales.

12-309A-2.08. Drug Store.

12-309A-2.09. Equestrian Equipment Sales.

- 12-309A-2.10.** Fishing and Camping Equipment and Supplies.
- 12-309A-2.11.** Florist Shop, Greenhouse, and Garden Supplies.
- 12-309A-2.12.** Gift, Novelty, and Souvenir Sales.
- 12-309A-2.13.** Grocery Store.
- 12-309A-2.14.** Hardware, excluding lumber and industrial hardware.
- 12-309A-2.15.** Restaurant, not providing service in automobiles.
- 12-309A-2.16.** Accessory buildings and uses to include accessory residential uses.
- 12-309A-2.17.** Open storage must meet the minimum front, side, and rear yard requirements, and be screened by a view reducing wall, fence, or landscaping material from adjacent public roads or residentially zoned property.
- 12-309A-2.18.** Motels and motor hotels.
- 12-309A-2.19.** Overnight camper trailer grounds.
- 12-309A-3. PARKING REGULATIONS**
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.
- 12-309A-4. OFF-STREET LOADING REGULATIONS**
The off-street loading regulations for permitted uses are contained in section 12-317 of this Resolution.
- 12-309A-5. HEIGHT AND AREA REGULATIONS**
Height and area regulations shall be set forth in the chart of section 12-318.
- 12-309A-6.** Supplementary use regulations are contained in section 12-319.
- 12-309A-7.** Supplementary height, area, and bulk requirements are contained in section 12-321.
- 12-309A-8. SIGN REGULATIONS**
- 12-309A-8-01.** Only one non-flashing unanimated area marker designating or identifying a commercial development area is permitted. The area marker shall not exceed four feet in height from the ground and shall be limited to 15 sq. ft. in area. It shall be located a minimum of ten feet from a road right-of-way unless along a Federal or State Highway for which it will then comply with the conditions set forth by the Kansas Department of Transportation, but in no case shall it be less than the conditions set forth herein.
- 12-309A-8.02** Each business may have one non-flashing unanimated sign attached flat to the face of the building. The sign shall not exceed 30 sq. ft.

Section 309B 'R-T' RURAL-TOURISM BUSINESS DISTRICT REGULATIONS

12-309B-1. The regulations set forth in this section, or elsewhere in these Regulations, when referred to in this section, are the regulations in the 'R-T' Rural-Tourism Business District. This district is designed to provide a suitable zoning exclusively for uses associated with Rural-Tourism, such as recreation and conference uses. These uses are typically more intense and larger in scale than similar uses that may be permitted by right or with a Conditional Use Permit in the Agricultural Zoning District.

12-309B-2. DEFINITION OF RURAL-TOURISM

Rural-Tourism showcases the rural life and heritage at rural locations. Rural-Tourism can take many forms including: nature; adventure; historical; cultural; agricultural; and, ecological (eco-) tourism. Rural-Tourism is typically experience-oriented; is located predominantly in a natural environment in areas of low population; and, contributes to the preservation of the character of the area.

12-309B-3. CRITERIA THAT APPLY TO RURAL-TOURISM USES

12-309B-3.01 Rural-Tourism uses may exist alone, may be several uses combined and may include accessory uses. For instance, a corporate retreat may have meeting rooms, recreational facilities and a restaurant. Uses that are associated with the Rural-Tourism use but do not constitute a Rural-Tourism use themselves, are permitted as accessory uses and may be located (operate) on the site only when the Rural-Tourism use is present and active.

12-309B-3.02 The following site design criteria apply to Rural-Tourism uses:

- a. Rural-Tourism uses shall integrate with and maintain or enhance the rural character of the area;
- b. Facilities shall be designed to preserve natural resources and integrate with the rural environment through appropriate land use, site design, buffering, or other methods; and
- c. A site-specific site plan shall be submitted with rezoning applications to demonstrate that the site design criteria noted above have been met. The following items are required on all site plans for Rural-Tourism areas:
 - 1) A minimum 200 ft buffer area provided around the perimeter of the site; and,
 - 2) Uses permitted within this buffer area shall be limited to agriculture or other low-impact uses. These uses shall be noted on the site plan along with the party or entity responsible for maintenance of the buffer area.

12-309B-4 USE REGULATIONS

The only uses permitted in the R-T District are uses that have been determined to constitute Rural-Tourism Uses as defined in Section 12-309B-2 and their accessory uses.

The site plans submitted for the project, including the concept plan submitted with the rezoning request, must identify clearly uses that are Accessory uses and those uses that constitute the 'Rural-Tourism' as defined in Section 12-309B-2.

Accessory uses may occur on the property only when the 'Rural-Tourism' use is active.

The following list has been divided into two categories: those that are typically considered 'Rural-Tourism'; and, those that are typically considered 'Accessory uses'.

Typical Rural-Tourism uses:

- 12-309B-4.01** Primary outdoor recreation, including parks, areas for picnicking, camping in tents, bike paths, hiking trails and other similar uses.
- 12-309B-4.02** Open air theatre (excluding drive-ins).
- 12-309B-4.03** Reception hall, conference center, or other places of social assembly.
- 12-309B-4.04** Lodging that includes hotels, motels, bed and breakfasts, or campgrounds.
- 12-309B-4.05** Libraries, cultural center, exhibit hall, museums, art galleries and other similar uses.
- 12-309B-4.06** Agricultural uses.

Typical Rural-Tourism Accessory uses:

- 12-309B-4.07** Secondary outdoor recreational uses such as playgrounds, swimming pools, skating rinks, and other similar uses.
- 12-309B-4.08** Personal service uses including barber shops, beauty parlors, spas, photographic or artists' studios, and other personal service uses of a similar character.
- 12-309B-4.09** Restaurants, (excluding drive-in or drive-thru restaurants), and taverns.
- 12-309B-4.10** Retail stores, but there shall be no slaughtering of animals or poultry on the premises of any retail store. Retail stores are limited individually to a maximum area of 10,000 sq ft.
- 12-309B-4.11** Amusement places, skating rinks, and dance halls; all in a completely enclosed building, auditorium or theater.
- 12-309B-4.12** Indoor sports or recreation, including bowling alleys, billiard parlors, swimming pools, physical fitness centers, and other similar uses.
- 12-309B-4.13** Commercial riding stable.
- 12-309B-4.14** Commercial greenhouse.
- 12-309B-4.15** Residential dwellings when associated with the tourism use as caretaker, manager, or as part of a living museum.
- 12-309B-4.16** Religious institutions such as a convent, church, temple or mosque.
- 12-309B-4.17** Community buildings.
- 12-309B-4.18** Child care center
- 12-309B-4.19** Animal hospital or clinic when accessory to a tourism use; provided that such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed building with soundproof walls and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls and located on a sewer (have it's own sewage management system). Accessory buildings and uses.

- 12-309B-4.20** Outdoor advertising signage, with the requirement than any outdoor advertising structure or sign in excess of 100 square feet in area shall be attached flat against a wall or building. See Section 12-306-2.18 for requirements pertaining to the height and location of signage.
- 12-309B-4.21** Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.
- 12-309B-4.22** Utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.
- 12-309B-4.23** Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations and passenger stations.
- 12-309B-4.24** Temporary buildings, the uses of that are incidental to construction operations and that shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-309B-5. PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-316.

12-309B-6. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-317.

12-309B-7. HEIGHT, AREA AND BULK REGULATIONS

Height and area regulations shall be as set forth in the chart of Section 12-318.

12-309B-8. SUPPLEMENTARY USE REGULATIONS

Supplementary use regulations are contained in Section 12-319.

12-309B-9. SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-321.

12-310 "B-2" GENERAL BUSINESS DISTRICT REGULATIONS

12-310-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "B-2" General Business District. The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and miscellaneous service activities, particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing.

12-310-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-310-2.01. Any use permitted in the "B-1" Neighborhood Business District.

12-310-2.02. Amusement place, skating rink, swimming pool or dance hall in a completely enclosed building, auditorium or theater, except open-air drive-in theaters. (See section 12-319-4)

12-310-2.03. Bottling works, dyeing and cleaning works or laundry, plumbing and heating shop, painting shop, upholstering shop not involving furniture manufacture, tinsmithing shop, tire sales and service including vulcanizing but no manufacturing, appliance repairs, and general service and repair establishments, similar in character to those listed in this item; provided that no outside storage of material is permitted, and further provided that no use permitted in this item shall occupy more than 6,000 square feet of floor area.

12-310-2.04. Bowling alleys and billiard parlors.

12-310-2.05. Drive-in restaurants.

12-310-2.06. Food storage lockers.

12-310-2.07. Hotels, motels, or motor hotels.

12-310-2.08. Material storage yards, in connection with retail sales of products where storage is incidental to the approved occupancy of a store, provided all products and materials used or stored are in a completely enclosed building, or enclosed by a masonry wall, fence, or hedge, not less than six feet in height. Storage of all materials and equipment shall not exceed the height of the wall. Storage of cars and trucks used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment, such as road-building or excavating equipment.

12-310-2.09. Outdoor advertising structure or sign and any sign or display in excess of 100 square feet in area shall be attached flat against a wall of a building. See section 12-306-2.18 for height and location of sign requirements.

12-310-2.10. Printing, publishing, and engraving establishments.

12-310-2.11. Public garage.

12-310-2.12. Wholesale establishment or warehouse in a completely enclosed building so long as floor area devoted to such uses shall not exceed 20,000 square feet.

12-310-2.13. Used car lot.

12-310-2.14. Accessory buildings and uses.

12-310-3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-310-4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-310-5. HEIGHT AND AREA

Height and area regulations shall be as set forth in the chart of section 12-318, and in addition, the following regulations shall apply:

12-310-5.01. Apartments may be constructed in buildings designed primarily for commercial use so long as there is compliance with the minimum lot area per family requirements of the "R-1" Single-Family Residential District.

12-310-6. Supplementary use regulations are contained in section 12-319.

12-310-7. Supplementary height, area, and bulk regulations are contained in section 12-321.

12-311 "I-1" LIMITED INDUSTRIAL DISTRICT REGULATIONS

12-311-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "I-1" Limited Industrial District. The purpose of this district is to provide sufficient space in appropriate locations, usually in planned industrial subdivisions, for certain types of business and manufacturing, relatively free from offense, in modern, landscaped buildings, to make available more attractive locations for these businesses and factories, and to provide opportunities for employment closer to residence with corresponding reduction of travel time from home to work.

12-311-2. USE REGULATIONS

A building or premises shall be used only for the following purposes, but subject to the special conditions as enumerated in section 12-311-3 below:

12-311-2.01. Laboratories, research, experimental, or testing.

12-311-2.02. Offices and office buildings.

12-311-2.03. Wholesale merchandising or storage warehouses with floor area devoted to warehousing and handling of merchandise.

12-311-2.04. Compounding of cosmetics, toiletries, drugs, and pharmaceutical products.

12-311-2.05. Photographic processing or blueprinting.

12-311-2.06. Printing and publishing.

12-311-2.07. Manufacture or assembly of medical and dental equipment drafting, optical, and musical instruments, watches, clocks, toys, games, and electrical or electronic apparatus.

12-311-2.08. Manufacture or assembly of boats, bolts, nuts, screws, and rivets, ornamental iron products, firearms, electrical appliances, tools, dies, machinery, and hardware products, sheetmetal products, and vitreous enameled metal products.

12-311-2.09. Manufacture of food products, including beverage blending or bottling, bakery products, candy manufacture, dairy products and ice cream, fruit and vegetable processing and canning, packing and processing of meat and poultry products, but not distilling of beverages, slaughtering of poultry or animals, or processing of bulk storage of grain or feeds for animals or poultry.

12-311-2.10. Manufacture of rugs, mattresses, pillows, quilts, millinery, hosiery, clothing and fabrics, and printing and finishing of textiles and fibers into fabric goods.

12-311-2.11. Manufacture of boxes, crates, furniture, baskets, veneer, and other wood products of a similar nature.

12-311-2.12. Moving picture production.

12-311-2.13. Generally those light manufacturing uses similar to those listed in items 04 through 12 above, which do not create any more danger to health and safety in surrounding

areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors, heat, or glare than that which is generally associated with light industries of the type specifically permitted.

- 12-311-2.14.** Bank, drive-in or otherwise.
- 12-311-2.15.** Restaurant, but not a drive-in restaurant.
- 12-311-2.16.** Filling station, if located in a district of 20 acres or more.
- 12-311-2.17.** Hotel, motel, or motor lodge, if located in a district of 20 acres or more.
- 12-311-2.18.** Dwellings for resident watchmen and caretakers employed on the premises.
- 12-311-2.19.** Accessory farm dwellings on a farm of 10 acres or more.
- 12-311-2.20.** Railroad siding.
- 12-311-2.21.** Accessory buildings and uses including accessory signs and advertising structures related to the activity conducted on the premises.
- 12-311-2.22.** Animal hospital or clinic as described in "B-1", section 12-309-2.07.

12-311-3. SPECIAL CONDITIONS

The uses enumerated above shall be subject to the following special conditions:

- 12-311-3.01.** All uses shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished material and supplies or waste material. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from streets by landscaping, fences, or walls.
- 12-311-3.02.** All main plant buildings shall be of concrete, structural steel, or masonry construction and limited to 45 feet in height, unless otherwise approved by the Board of Zoning Appeals.
- 12-311-3.03.** Adequate parking and loading space shall be provided off the street for all employees and traffic to the plant.
- 12-311-3.04.** Loading operations shall be conducted at the side or rear of buildings.
- 12-311-3.05.** No parking or storage of material or products shall be permitted in the required from yard.
- 12-311-3.06.** The front yard shall be landscaped with trees, grass, shrubs, or pedestrian walks and maintained in a neat and attractive condition.
- 12-311-3.07.** All fencing shall have a uniform and durable character and shall be properly maintained.
- 12-311-3.08.** Accessory signs in excess of 60 square feet in area shall be attached flat

against a building.

12-311-4. PARKING REGULATIONS

Additional parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-311-5. OFF-STREET LOADING REGULATIONS

Additional off-street loading regulations for permitted uses are contained in section 12-317.

12-311-6. HEIGHT, AREA, AND BULK REGULATIONS

Additional height, area, and bulk regulations shall be as set forth in the chart of section 12-318.

12-311-7. Supplementary use regulations are contained in section 12-319.

12-311-8. Supplementary height, area, and bulk regulations are contained in section 12-321.

12-312 "I-2" LIGHT INDUSTRIAL DISTRICT REGULATIONS

12-312-1.

The regulations set forth in this section or set forth elsewhere in this Resolution when referred to in this section, are the regulations in the "I-2" Light Industrial District. This district is intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees and with access by major thoroughfares or railroads in either central or outlying locations.

12-312-2. USE REGULATIONS

A building or premises shall be used only for the following purposes:

12-312-2.01. Any use permitted in the "B-1" Neighborhood Business District or "B-2" General Business District, without limitation on floor area.

12-312-2.02. Hospital or clinic for large or small animals such as cattle, horses, dogs, cats and birds, provided that such hospital or clinic and any treatment rooms, cages and kennels be maintained in an enclosed building with soundproof walls, located on a sewer and that such hospital or clinic be operated in such a way as to produce no objectionable odors. Outside unloading pens will be permitted, provided that overnight housing shall be maintained for all animals.

12-312-2.03. The following uses and any similar uses which are not likely to create any more offensive noise, vibration, dust, heat, smoke, odors, glare, or other objectionable influences than the minimum amount normally resulting from other uses permitted, such as permitted uses being generally wholesale and retail trade, service industries, and light industries that manufacture, process, store, and distribute goods and materials, and are, in general dependent on raw materials refined elsewhere, and manufacturing, compounding, processing, packaging, or treatment, as specified, or the following products or similar products:

CHEMICAL, PETROLEUM, COAL AND ALLIED PRODUCTS

- Cosmetics and toiletries
- Ice manufacture, including dry ice
- Ink manufacturing (mixing only)
- Insecticides, fungicides, disinfectants, and related industrial and household chemical compounds (blending only)
- Laboratories
- Perfumes and perfumed soap (compounding only)
- Pharmaceutical products
- Soap, washing or cleaning, powder or soda (compounding only)

CLAY, STONE, AND GLASS PRODUCTS

- Clay, stone and glass products
- Concrete products (except central mixing and proportioning plant)
- Pottery and porcelain products (electric or gas fired)

FOOD AND BEVERAGE

- Bakery products, wholesale (manufacturing permitted)
- Beverage, blending, bottling (all types)
- Candy, wholesale (manufacturing permitted)

Chewing gum
Chocolate, cocoa, and cocoa products
Coffee, tea, and spices, processing and packaging
Condensed and evaporate milk processing and canning
Creamery and dairy operations
Dairy products
Fish, shrimp, oysters, and other sea food, processing packing, and storing, except fish curing
Flour, feed and grain (packaging, blending, and storage-only)
Fruit and vegetable processing (including canning, preserving, drying, and freezing)
Gelatin products
Glucose and dextrin
Grain blending and packaging, but not milling
Ice cream, wholesale (manufacturing permitted)
Macaroni and noodle manufacture
Malt products, manufacture (except breweries)
Meat products, packing and processing (no slaughtering)
Oleomargarine (compounding and packaging only)
Poultry packing and slaughtering (wholesale)
Yeast

METALS AND METAL PRODUCTS

Agricultural or farm implements
Aircraft and aircraft parts
Aluminum extrusion, rolling, fabrication, and forming
Automobile, truck trailer, mobile home, motorcycle, and bicycle assembly
Blacksmith or welding shops
Boat manufacture (vessels less than five tons)
Bolts, nuts, screws, washers, and rivets
Container (metal)
Culvert
Firearms
Foundry products manufacture (electrical only)
Heating, ventilating, cooking, and refrigeration supplies and appliances
Iron (ornamental) fabrication
Machinery, manufacture
Nails, brads, tacks, spikes, and staples
Needles and pins
Plating, electrolytic process
Plumbing supplies
Scale and vault
Sheetmetal products
Silverware and plated ware
Stove and range
Structural iron and steel fabrication
Tool, die, gauge, and machine shops
Tools and hardware products
Vitreous enameled products

TEXTILES, FIBERS, AND BEDDING

Bedding (mattress, pillow, and quilt)
Carpet, rug and mat, including cleaning
Hat bodies of fur and wool felt, (including men's hats)-manufacture
Hosiery mill
Knitting, weaving, printing, finishing of textiles and fibers into fabric goods
Rubber and synthetic treated fabrics (excluding all rubber and synthetic processing)
Yarn, threads, and cordage

WOOD AND PAPER PRODUCTS

Basket and hamper (wood, reed, rattan, etc.)
Box and crate
Cooperage works (except cooperage stock mill)
Furniture (wood, reed, rattan, etc.)
Lumber yard
Pencils
Planing and millwork
Pulp goods, pressed or molded (including paper mache products)
Shipping container (corrugated board, fiber, or wire bound)
Trailer, carriage, and wagon
Veneer
Wood products

UNCLASSIFIED USES

Animal pound or hospital
Animal, poultry and bird raising, commercial
Building materials (cement, lime in bags, or containers, sand, gravel, shell, lumber and the like), storage and sales
Bus garage and repair shop
Button manufacture
Carbon paper and inked ribbons manufacture
Cigar and cigarette manufacture
Circus grounds
Cleaning and dyeing of garments, hats and rugs
Coal and coke storage and sales
Contractor's shop and storage yard
Exposition building or center
Fairgrounds
Fur finishing
Greenhouses, wholesale
Industrial vocational training school, including internal combustion engines
Kennels, commercial
Laboratories, research, experimental, including combustion type motor testing
Leather goods manufacture, but not including tanning operations
Laundries
Livery stables and riding academy
Market, wholesale
Moving, transfer or storage
Outdoor advertising structure or sign subject to section 12-306-2.17
Printing, publishing, and engraving
Produce and storage warehouse

Railroad switching yard, primarily for railroad service in the district
Sign painting or fabrication
Theater, including a drive-in or outdoor theater
Tire re-treading and vulcanizing shop
Truck or transfer terminal, freight
Wholesale houses and distributors
Accessory uses

12-312-3. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-312-4. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-312-5. HEIGHT AND AREA REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of section 12-318, and, in addition, the following regulations shall apply:

12-312-5.01. Whenever any building in the "I-2" Light Industrial District adjoins or abuts upon a residential district such building shall not exceed two stories or 35 feet in height, unless it is set back one foot from all required yard lines for each foot of additional height above 35 feet.

12-312-6. Supplementary use regulations are contained in section 12-319.

12-312-7. Supplementary height, area, and bulk regulations are contained in section 12-321.

12-313 "I-3" & "I-4" HEAVY INDUSTRIAL DISTRICT REGULATIONS

12-313-1.

The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "I-3" and "I-4" Heavy Industrial District. These districts provide for industrial operations of all types. The districts in general would be protected from intrusion by commercial uses, signs, and dwellings.

12-313-2. USE REGULATIONS IN "I-3" DISTRICT

In the "I-3" District, a building or premises shall be used only for the following purposes:

12-313-2.01. Any manufacturing, processing, storing, or distributing use permitted in the "I-2" Light Industrial District.

12-313-2.02. Dwellings for resident watchmen and caretakers employed on the premises.

12-313-2.03. Accessory farm dwellings on a farm of ten acres or more.

12-313-2.04. Farm, truck garden, orchard, or nursery for growing or propagation of plants, trees, and shrubs, including temporary stands for seasonal sales of products raised on the premises.

12-313-2.05. The following uses and any similar industrial uses:

CHEMICALS, PETROLEUM, COAL, AND ALLIED PRODUCTS

- Adhesives
- Alcohol, industrial
- Bleaching products
- Bluing
- Calcimine
- Candle
- Cleaning and polishing preparations (non-soap), dressings and blackings
- Dyestuff
- Essential oils
- Exterminating agents and poisons
- Fertilizers (non-organic)
- Fuel briquettes
- Glue and size (vegetable)
- Ink manufacture from primary raw materials (including colors and pigments)
- Soap and soap products

CLAY, STONE, AND GLASS PRODUCTS

- Abrasive wheels, stones, paper, cloth, and related products
- Asbestos products
- Brick, firebrick and clay products
- Concrete central mixing and proportioning plant
- Glass and glass products
- Graphite and graphite products
- Monument and architectural stone
- Pottery and porcelain products (coal fired)

Refractories (other than coal fired)
Sand-lime products
Stone products
Wallboard and plaster, building, insulation, and composition flooring

FOOD AND BEVERAGE

Casein
Cider and vinegar
Distilleries (alcoholic), breweries, and alcoholic spirits (non-industrial)
Flour, feed, and grain milling storage
Molasses
Oils, shortenings, and fats (edible) and storage
Pickles, vegetable relish, and sauces
Rice cleaning and polishing
Sauerkraut
Sugar Refining

METAL AND METAL PRODUCTS

Boat manufacture (over five tons)
Boiler manufacture
Brass and bronze foundries
Forge plant, pneumatic, drop and forging hammering
Foundries
Galvanizing or plating (hot dip)
Lead oxide
Locomotive and railroad car building and repair
Motor testing (internal combustion motors)
Ore dumps and elevators
Shipyards
Wire rope and cable

TEXTILES, FIBERS, AND BEDDING

Bleachery
Cotton wadding and linter
Hair and felt products, washing, curing, dyeing
Jute, hemp, and sisal products
Linoleum and other hard surface floor covering
Nylon
Oilcloth, oil-treated products, and artificial leather
Rayon
Shoddy
Wool, pulling or scouring

WOOD AND PAPER PRODUCTS

Charcoal and pulverizing
Excelsior
Paper and paperboard (from paper machine only)
Sawmill (including cooperage stock mill)
Wallboard
Wood preserving treatment

UNCLASSIFIED INDUSTRIES

Leather tanning and curing
Rubber (natural or synthetic), gutta percha, chicle, and balata processing
Rubber tire and tube
Shell grinding
Storage battery (wet cell)

UNCLASSIFIED USES

Accessory advertising device giving the name of the industry or advertising products manufacture on the premises
Bag cleaning
Railroad switching and classification yard, roundhouse, repair and overhaul shops
Oils, vegetable, and animal (non-edible) and storage
Paint, lacquer, shellac, and varnish (including colors and pigments, thinners, and removers)
Roofing materials, building paper, and felt (including asphalt and composition)
Salt tanning materials and allied products
Tar products (except distillation)

12-313-3. USE REGULATIONS IN "I-4" DISTRICT

In the "I-4" District, a building or premises shall be used only for the following purposes:

12-313-3.01. Those uses permitted in the "I-3" District.

12-313-3.02. Any industry conforming to applicable regulations of the State of Kansas concerning health, safety, and industrial hazard, so long as it is not maintained as a nuisance.

12-313-3.03. Any industrial use established in the "I-4" District may be enlarged, remodeled, or extended to the extent of not to exceed five percent of its assessed value in any one year without obtaining a permit from the Administrative office as herein required in Section 12-326.

12-313-4. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-313-5. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-313-6. HEIGHT AND AREA REGULATIONS

Height and area requirements shall be as set forth in the chart of section 12-318, and, in addition, the following regulations shall apply:

12-313-6.01. On the side of a lot adjoining a residential district, there shall be a side yard of not less than 25 feet.

12-313-6.02. When a lot abuts upon a residential district, a rear yard of not less than 25 feet is required.

12-313-6.03. Grain elevators, gas holders, coal bunkers, oil cracking towers, and other similar structures may exceed 125 feet in height, but whenever any building or structure in the "I-3" Heavy Industrial District adjoins or abuts upon a residential district, such building or structure shall not exceed 50 feet in height unless set back one foot from all required yard lines

for each foot of additional height above 50 feet.

12-313-7. Supplementary use regulations are contained in section 12-319.

12-313-8. Supplementary height, area, and bulk regulations are contained in section 12-321.

12-314 "V-C" VALLEY CHANNEL DISTRICT REGULATIONS

12-314-1. The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "V-C" Valley Channel District. The purpose of this district is to prevent, in those areas subject to periodic or potential flooding, such development as would result in a hazard to health or safety, and to insure the general public will not be forced to expend exorbitant funds to remedy flood problems.

12-314-2. Premises in the Valley Channel District shall not be filled with any material nor shall any structure be built that will cause an obstruction to the conveyance of a flow of 220,000 cubic feet per second in the Kansas River, measured at Lecompton, Kansas; and to the conveyance of a flow of 36,000 cubic feet per second in the Wakarusa River measured at U.S. Highway 59, that are necessary to insure said flows in the respective rivers, and such areas shall be designated as lying within encroachment limits, and only those uses specified in section 12-314-3 shall be permitted. (Where this section conflicts with the Floodplain Management Regulations, section 12-328, the more restrictive standards shall apply.)

12-314-3. USE REGULATIONS

12-314-3.01. Farm, truck garden, orchard, plant nurseries, provided that no farm shall be operated publicly or privately for the disposal of garbage, rubbish, or offal.

12-314-3.02. Grazing.

12-314-3.03. Hunting and fishing unless prohibited by other ordinances or laws.

12-314-3.04. Public or private commercial recreational facilities and structures, provided such structures conform to the requirements of sections 12-314-2 and 12-319 of this Resolution.

12-314-3.05. Preserves, reservations and other similar open uses.

12-314-3.06. Any use accessory to those permitted by right on the balance of a lot, a portion of which is zoned in the Valley Channel District.

12-314-3.07. No building for human habitation shall be permitted in any case. This regulation shall not apply to any structure used as a farm dwelling, provided a minimum area of 5 acres per dwelling unit is provided.

12-314-3.08. The removal of top soil, or damming or relocating of any water course shall not be permitted except with the approval of the Planning Commission.

12-314-4. PARKING REGULATIONS

The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-314-5. OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in section 12-317.

12-314-6. HEIGHT, AREA AND BULK REGULATIONS

Height and area requirements shall be as set forth in the chart of section 12-318.

12-314-7. Supplementary use regulations are contained in section 12-319.

12-314-8. Supplementary use regulations are contained in section 12-321.

12-315 RESERVED

12-316 PARKING REGULATIONS

12-316-1. Except as otherwise provided in this Resolution, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart below, accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent subsections of this section.

Column 1 Use or Use Category	Column 2 Spaces Required per Basic Measuring Unit	Column 3 Additional Requirements
Single-family dwelling	1 per dwelling unit	
Church or temple, auditorium or place of assembly	1 per 5 seats or bench seating spaces	(Seats in main auditorium only)
College or high school	1 per 5 seats in the main auditorium	Or 8 per classroom, whichever is greater
Elementary or nursery school	1 per 10 seats in main assembly room	Or 1 per classroom, whichever is greater
Country club or golf club	1 per 5 members	
Public library, museum, art gallery or community center	10 per use	Plus 1 additional space for each 300 square feet of floor area in excess of 1,000 sq. ft.
Private clubs, fraternities, sororities and lodges with sleeping rooms	2 per 3 sleeping rooms or suite	Or 1 per 5 active members, whichever is greater
Private clubs, fraternities, sororities and lodges with no sleeping rooms	1 per 10 active members	
Sanitarium, convalescent home, home for the aged or similar institution	1 per 5 patient beds	
Hotel	1 per 2 guest rooms or suites	
Tourist court, motel, motor hotel, or motor lodge	1 per sleeping room or suite	
Rooming, boarding or lodging house	1 per 2 sleeping rooms	
Hospital	1 per 3 patient beds	
Office or office building, studio, or clinic	1 per 400 sq. ft. of floor area	3 spaces minimum. None if less than 1,500 square feet.
Funeral home	5 per parlor or chapel	
Restaurant or other establishment for consumption of food or beverages on the premises	1 per 100 square feet of floor area	
Retail store or personal service establishment and banks	1 per 200 square feet of floor area	Retail food stores over 4,000 square feet. 1 per 100 square feet of floor area.

Column 1 Use or Use Category	Column 2 Spaces Required per Basic Measuring Unit	Column 3 Additional Requirements
Furniture or appliance store, machinery, equipment and automobile and boat sales and service.	1 per 300 square feet of floor area.	2 spaces minimum. Automobile sales and service 10 minimum.
Auditorium, theatre, gymnasium, stadium, arena, or convention hall	1 per 5 seats or seating spaces	
Bowling alley	10 per alley	
Food storage locker	1 per 200 sq. ft. customer service area	
Amusement place, dance hall, skating rink, swimming pool, natatorium, or exhibition hall without fixed seats	1 per 100 square feet of floor area	Does not apply to accessory uses
General service or repair establishment, printing, publishing, plumbing, heating, broadcasting	1 per 3 employees on premises	Auditorium for broadcasting station requires spaces as above.
Animal hospital	1 per 400 square feet of floor area	4 spaces minimum
Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, wholesale, warehouse or similar establishment	1 per 2 employees on maximum working shift.	Plus space for storage of trucks or other vehicles used in connection with the business or industry.

12-316-1.01

- a. The following table shall be used to determine the number of accessible parking spaces to be provided for persons with disabilities:

TOTAL PARKING SPACES IN LOT	MINIMUM REQUIRED NUMBER OF ACCESSIBLE SPACES
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
310-400	8
401-500	9
501-1000	2% of total spaces
OVER 1000	20 spaces plus 1 space for every 100 spaces over 1000

- b.** Facilities providing medical care and other services for persons with mobility impairments shall provide accessible parking spaces as follows:
 - 1)** Outpatient units and facilities shall provide 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility.
 - 2)** Units and facilities that specialize in treatment or services for persons with mobility impairments shall provide 20 percent of the total number of parking spaces provided serving each such unit or facility.
- c.** The County Commission may require additional accessible parking stalls based upon the land use and the size of the facility.
- d.** Single-family, duplex or triplex residential dwellings are exempt from the requirements to provide accessible parking spaces. However, accessible parking spaces shall be provided on request of residents with disabilities.

12-316-1.02. The location and minimum stall size of such an accessible parking space, a passenger loading zone or valet parking facilities, when provided, shall meet the standards adopted in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities, appendix A to 28 CFR part 36.

Accessible parking spaces for persons with disabilities shall also be signed in accordance with said standards under the ADAAG of 1990 and State Statutes. Curb ramps shall be provided wherever an accessible route crosses a curb in the parking lot in accordance with said standards under the ADAAG of 1990.

12-316-2. INTERPRETATION OF THE CHART

12-316-2.01. The use regulations for each district are not affected by arrangement of uses in the chart.

12-316-2.02. The parking requirements in this section do not limit other requirements in this Resolution for parking contained in the district regulations, particularly in the "I-1" Light Industrial District, where special requirements may be imposed.

12-316-2.03. The parking requirements in this section do not limit special requirements which may be imposed in connection with Conditional Uses (section 12-319) or Special Use Exceptions (section 12-323-3).

12-316-2.04. Floor area as used in the chart shall be as defined in section 12-303-1.37.

12-316-2.05. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

12-316-2.06. The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.

12-316-2.07. In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

12-316-2.08. Whenever a building or use, constructed or established after the effective

date of the Resolution, is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

12-316-3. JOINT USE AND OFF-SITE FACILITIES

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served.

12-316-3.01. Up to 50 percent of the parking spaces required for:

- a. theaters, public auditoriums, bowling alleys, dancehalls, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by
- b. banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used, or operated during the same hours as those listed in a.; provided, however, that written agreement thereto is properly executed and filed as specified below.

12-316-3.02. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the County Attorney and shall be filed with the application for a building permit.

12-316-4. DESIGN STANDARDS

12-316-4.01. As defined in section 303-1.66, an off-street parking space is an all-weather surfaced area not in a street or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all weather surfaced driveway which affords satisfactory ingress and egress for automobiles.

12-316-4.02. Entrances or exits for all parking facilities shall comply with existing or future Resolutions of Douglas County.

12-317 OFF-STREET LOADING REGULATIONS

12-317-1. Except as otherwise provided in this Resolution, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or any building is hereafter converted for the uses listed in Column 1 of the chart below, when such buildings contain the floor areas specified in Column 2, accessory off-street loading spaces shall be provided as required in Column 3, or as required in subsequent sections of this section.

Use or Use Category	Floor Area as Defined in Sec. 3-1 In Square Feet	Loading Spaces Required
Retail store, department store, restaurant, wholesale house, warehouse, repair, general service, manufacturing or industrial establishment.	2,000-10,000	One
	10,000-20,000	Two
	20,000-40,000	Three
	40,000-60,000	Four
	Each 50,000 over 60,000	One Additional
Apartment building, apartment hotel, hotel, offices or office building, hospital or similar institution, places of public	5,000-10,000	One
	10,000-100,000	Two
	100,000-200,000	Three
	Each 100,000 over 200,000	One Additional
Funeral home or mortuary	2,500-4,000	One
	4,000-6,000	Two
	Each 10,000 over 6,000	One Additional

12-317-2. INTERPRETATION OF THE CHART

12-317-2.01. The loading space requirements apply to all districts except the "I-1" Limited Industrial District, where special requirements may be imposed.

12-317-2.02. The loading requirements in this section do not limit special requirements which may be imposed in connection with Conditional Uses (section 12-319) or Special Use Exceptions (section 12-323-3).

12-317-3. MIXED USES IN ONE BUILDING

Where a building is used for more than one use or for different uses and where the floor area used for each use for which loading space is required is below the minimum for required loading spaces but the aggregate floor area used is greater than such minimum, then off-street loading space shall be provided as if the entire building were used for that use in the building for which the most spaces are required.

12-317-4. DESIGN STANDARDS

12-317-4.01. As defined in section 12-303-1.50, a loading space is a space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

12-317-4.02. Loading spaces for a funeral home may be reduced in size to 10 by 25 feet and vertical clearance reduced to eight feet.

12-317-4.03. No unenclosed loading platform, space or area shall be constructed on any side of a building that is adjacent to a single family, two-family, or multiple family dwelling district or area.

12-318 HEIGHT, AREA AND BULK REQUIREMENTS TABLE

12-318 HEIGHT, AREA AND BULK REQUIREMENTS

12-318-1. Height, area and bulk requirements for the various districts shall be indicated in the chart below, together with other height, area, and build requirements contained in this Resolution.

12-318-2. The minimum lot sizes listed in any Zoning District of less than one acre are applicable only where an approved sanitary sewer system is available.

A r t i c l e	District	Max. Feet in Height	Max. Height in Stories	Min. Depth of Front yard in Ft.	Min. Width of Side yard in Ft. (2 required)	Min. Depth of Rear Yard in Ft.	Min. Lot / Parcel Area in Sq. Ft.	Min. Lot / Parcel Width at road right-of-way or road easement line (in Feet) ¹	90% of Min. Lot / Parcel Width (in feet)	Min. Depth of Lot / Parcel in Feet
6	"A" Agricultural	35	2 1/2	50* 75** 100*** 150****	10	30	3 acres* 3 acres** 5 acres*** 10 acres****	250* 330** 500-660*** 1320****	225 297 450-594 1188	250 250 250 300
7	"A-1" Suburban Home Residential	35	2 1/2	50* 75** 100*** 150****	10	30	3 acres* 3 acres** 5 acres*** 10 acres****	250* 330** 500-660*** 1320****	225 297 450-594 1188	250 250 250 300
8	"R-1" Single Family Residential	35	2 1/2	25	10	30	10,000	75	N/A	120
9	"B-1" Neighborhood Business	35	2 1/2	40	Dwellings: 10 Other bldgs: 20	30	15,000	75	N/A	125
9A	"B-3" Limited Business	25	2	50	50	50	87,120	150	N/A	125
10	"B-2" General Business	45	3	40	Dwellings: 10 Other bldgs: 20	30	15,000	75	N/A	75
11	"I-1" Limited Industrial	45	2	50	20	30	--	150	N/A	200
12	"I-2" Light Industrial	55	4	25	10	Dwellings: 30 Other bldgs: 20	15,000	75	N/A	125
13	"I-3" & "I-4" Heavy Industrial	--	--	25	10	20	--	75	N/A	100
14	"V-C" Valley Channel	35	2 1/2	50	15	50	5 Acres	300	N/A	300
28	"F-W" Floodway									
	"F-F" Floodway Fringe									
*	Property which takes access from and has the required frontage on a Local road									
**	Property which takes access from and has the required frontage on a Minor Collector road									
***	Property which takes access from and has the required frontage on a Major Collector or Minor Arterial road									
****	Property which takes access from and has the required frontage on a Principal Arterial road									

¹ When an Access Restriction Agreement has been approved by the County Engineer the Minimum Lot Width/Parcel Width Requirement may be reduced per that executed agreement upon the filing of the Agreement at the Register of Deeds.

**12-319 SUPPLEMENTAL USE REGULATIONS – CONDITIONAL USES –
TEMPORARY USES**

12-319-1. CONDITIONAL USES AND CONDITIONAL USE PERMITS

12-319-1.01. Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district, certain conditional uses listed in section 12-319-4 below, when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified, in any district from which they are prohibited.

12-319-1.02. Before the establishment of, or before any changes in a conditional use, the application shall be filed with the Planning Commission requesting such establishment or change. The Planning Commission shall hold a public hearing as provided for in section 12-324, and shall review such plans and statements and shall, after a careful study thereof, and the effect that such buildings, structures, or uses will have upon the surrounding territory, submit a recommendation with findings of fact to the Board of County Commissioners within thirty days following said hearing, which shall include, but not be limited to, the following criteria:

- a. Zoning and Uses of Properties Nearby;
- b. Character of the Area;
- c. Suitability of Subject Property for the Uses to Which It has been Restricted
- d. Length of Time Subject Property has Remained Vacant as Zoned;
- e. Extent to Which Removal of Restrictions will detrimentally affect Nearby Property;
- f. Relative Gain to the Public Health, Safety, and Welfare by the Destruction of the Value of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners;
- g. Conformance with the Comprehensive Plan; and,
- h. Professional Staff recommendation.

Following receipt of the Planning Commission's recommendation and Findings of Fact, the Board of County Commissioners may within the specifications herein provided, permit such buildings, structures, or uses, with or without conditions, provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, and that necessary safeguards will be provided for the protection of surrounding property, persons, and neighborhood valued.

12-319-1.03. Application for a Conditional Use Permit shall be made to the Planning Commission upon appropriate forms available from the Director of Planning. Such application shall be made at least forty-five days prior to a regularly scheduled Planning Commission meeting.

12-319-1.04. Each application for a Conditional Use Permit shall be accompanied by twenty-eight copies of such plans and accompanying data as to demonstrate its conformance with the requirements of the Zoning Regulations.

12-319-1.05. Regardless of whether or not the Planning Commission approves or disapproves a Conditional Use Permit, if a protest petition against such amendment is filed in the office of the County Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed for a Conditional Use Permit or by the owners of record of 20% or more of the total

area required to be notified by this act of the proposed Conditional Use Permit for a specific property, excluding streets and public ways, the Conditional Use Permit shall not be approved except by at least a 3/4 vote of all the members of the Board of County Commissioners.

12-319-1.06. The proposed use shall meet all applicable State and Federal regulations.

12-319-2. TIME LIMITATIONS.

If no building permit is issued for the site within one year from the date of the Conditional Use Permit (CUP) approval by the Board of County Commissioners, the CUP shall be and becomes null and void. Applicants may request approval of a one-year time extension if the request is submitted to the Planning Office prior to the original expiration date.

12-319-3. AMENDMENT OR REVOCATION OF CONDITIONAL USE PERMIT

The County Commission shall have the authority to amend or revoke an approved Conditional Use Permit pursuant to this Section:

12-319-3.01. Upon its own initiative, or upon the recommendation of County staff or the Planning Commission, the County Commission may establish a public hearing date to consider the proposed amendment or revocation of an approved Conditional Use Permit. Notices of the public hearing shall be mailed to the property owner of record and the tenant for the property with the Conditional Use Permit by certified mail, return-receipt requested, no less than twenty days prior to the public hearing date. One notice of the public hearing shall be published in the official county newspaper no less than twenty days prior to the date of the public hearing.

12-319-3.02. At the public hearing, the County Commission shall receive and consider all relevant information and evidence concerning the Conditional Use Permit. The County Commission may continue the public hearing and retain jurisdiction over the proposed amendment or revocation as it deems appropriate.

12-319-3.03. After the closing of the public hearing, the County Commission shall consider all relevant evidence and information. The County Commission may amend or revoke the Conditional Use Permit if it finds, based upon a preponderance of the information and evidence, that such action is supportable in fact.

12-319-3.04. Any motion for the amendment or revocation of a Conditional Use Permit shall clearly state the grounds for revocation, which may include incorporation of findings presented by County staff. Any motion for the amendment of a Conditional Use Permit shall clearly state the terms and conditions of such change and at what time further review shall be appropriate. Any motion for the amendment of a Conditional Use Permit shall also clearly state the terms and conditions of the amendment to the Conditional Use Permit.

12-319-3.05. The County Commission shall make one or more of the following findings if it seeks to amend or revoke the Conditional Use Permit:

- a.** A condition of the Conditional Use Permit has been violated;
- b.** Violation of County Code provisions governing zoning regulations;
- c.** Violation of any other applicable Code provisions or any state or federal law or regulation by the property owner or agents of the property owner, provided that such violations relate to the conduct or activity authorized by the Conditional Use Permit or the qualifications of the property owner or agents of the property owner to engage in such conduct or activity.

12-319-4. CONDITIONAL USES ENUMERATED

The following conditional uses may be approved by the Board of County Commissioners as provided in this section:

12-319-4.01. Airports and Landing Fields.

12-319-4.02. Athletic Field or Baseball Field.

12-319-4.03. Drive-In Theater in a Floodplain Overlay District, Business, or Industrial District and extension into an Agricultural District.

12-319-4.04. Single-family Dwellings in an Industrial District if there is compliance with the minimum lot area requirement of the "A" Agricultural District.

12-319-4.05. Mining and Excavation. To assure that the continued development of all natural resources will be made possible through inclusion of known mineral deposits within zones reserved for their development and production, to guarantee that these sources will not be forever lost for the benefit of Douglas County, Kansas:

- a. Mining excavation and extraction of mineral or raw materials including but not limited to stone, sand, gravel or the other building materials and the manufacturing, processing, storage and selling of said minerals and materials shall be permitted to continue in operation in "A" Agricultural District, "VC" Valley Channel District and Floodway and Floodway Fringe Overlay Districts (only on those areas under lease and on record at the time this resolution goes into effect.)
- b. Mining, extraction and excavation of raw materials at new locations within Agricultural, Valley Channel districts, in Douglas County, shall require that an approved plan of restoration of land be submitted to the Planning Board for its recommendation to the Board of County Commissioners. This plan shall show that all excavated material will be returned to a level no higher than the elevation of surrounding land, and that proper drainage is provided. All shafts or tunnels must be left in a safe condition when abandoned.

12-319-4.06. Fairgrounds.

12-319-4.07. Hospitals.

12-319-4.08. Non-Profit, Religious, Educational And Philanthropic Institutions.

12-319-4.09. Public or Government Buildings.

12-319-4.10. Public Utilities; construction, maintenance and repair businesses that provide services primarily to utility companies; or public service uses, buildings, structures or appurtenances thereto.

12-319-4.11. Recreation Facility, privately or commercially operated, such as a fishing or boating lake, picnic grounds, ski lodge and ski slope, commercial hunting or shooting area, or dude ranch, and accessory facilities, including sale of food, beverages, bait, incidentals, supplies and equipment.

12-319-4.12. Sanitary Landfill.

12-319-4.13. Sports Arena or Stadium.

12-319-4.14. Stripping of Top Soil For Sale or for use other than on the premises, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto.

12-319-4.15. Private Swimming Pools and recreation facilities, (exclusive of family pools and pools which are accessory uses to hotels, motels, and apartments.) Provided:

- a. Facilities shall be limited to those for games and outdoor uses such as swimming pool, shuffleboard, croquet or tennis and locker rooms. Games and building locations shall not be located within twenty-five feet of the side lot lines, twenty-five feet of the rear lot line.
- b. Appropriate fencing and screening from abutting property of all outdoor activity area shall be required. If parking areas are outside this fencing, then appropriate screening of at least three and one-half feet in height shall be constructed around parking area to protect adjoining property from headlights. The Board of County Commissioners may require the applicant to file with the County Clerk a performance bond during the period of construction, reconstruction, or alteration, such bond to be in an amount determined by the Commissioners to be sufficient to insure completion of landscaping and parking plans as submitted.
- c. Any pumps and filters, which are located above ground, shall be at least fifty feet from abutting properties.
- d. Dispensing of food, beverages, candy, tobacco, ice cream and sandwiches shall be from coin-operated vending machines or small snack bar, concession stand, or dining facility operated on the premises for the benefit of authorized persons only and not open to the public generally. The dispensing of food shall be considered a privilege subject to review and subject to revocation by the County Commissioners if said use becomes in nature a general business rather than for the convenience of patrons of the facility. No outside advertising concerning the promotion of foods is allowed; however, facilities will be permitted if they are to be located such as to cause the facilities to appear to be commercial in nature.
- e. All lights shall be shielded to reflect or direct light away from adjoining property.
- f. The required off-street parking space shall be computed on the basis of one (a) space, two hundred square feet, for each seventy square feet of pool area. The parking layout and surfacing shall be approved by the County Engineer.

12-319-4.16. Race track.

12-319-4.17. Mobile Home Parks.

- a. In any approved district the wheels or any similar transporting devices of any mobile home or camping trailer shall not be removed except for repairs, nor shall such mobile home or camping trailer be otherwise permanently fixed to the ground or permanently fastened to another Mobile Home Unit in a manner that would prevent ready removal of said Mobile Home or camping trailer. Tires and rims may be removed for storage purposes.
- b. Mobile Home Park Regulations. The purpose of these regulations is to insure and promote acceptable living environment for occupants of Mobile Home Parks with Mobile Home spaces offered for rental or lease. Every Mobile Home Park shall comply with all other pertinent City and/or State regulations, together with all amendments thereto subsequently adopted. No use shall be allowed other than those uses considered as an integral part of the planned Mobile Home Park as shown on the Development Plan.

- 1) Location. A Mobile Home Park may be located upon any tract of land held under single ownership within any residential zoning district that is not in the "F-W" or "F-F" overlay districts.
- 2) Size Of Park. The minimum size of a Mobile Home Park shall be five acres with all Mobile Homes fronting upon a private roadway within the park.
- 3) Gross Density. The average gross density of a Mobile Home Park (including streets and sidewalks) shall not exceed eight mobile homes spaces per acre.
- 4) Access. A Mobile Home Park shall have access to arterial or major collector streets and no Mobile Home Space shall have direct access to a local residential public street.
- 5) A minimum of at least one off-street parking space shall be provided for and be located on each Mobile Home space. Parking will be allowed on one side of each roadway having a width of thirty feet or greater.
- 6) Mobile Home Park Plan. A site plan on a scale of one inch equals fifty feet shall be submitted as part of the Conditional Use Permit Application. The Site Plan shall show roads, buildings, land-use zoning, and other features outside the park within three hundred feet of the exterior boundaries. The Site Plan shall
 - a) Drainage. The park shall be properly drained, to insure rapid runoff, and freedom from stagnant pools of water or flooding.
 - b) Natural Features. The design of the park shall preserve natural features, such as large trees, outcroppings, etc., when feasible.
 - c) Spaces. Each Mobile Home Park shall clearly define the Mobile Home spaces, and such spaces shall not have an area of less than thirty-six hundred square feet. There shall be a minimum distance of twenty feet between Mobile Homes.
 - d) Circulation. The interior circulation and access driveways to public streets shall be so designed as to promote the public safety. A minimum fifty foot radius turn around shall be provided at the terminus of dead end roadways, sufficient to accommodate emergency vehicles on the scale of ambulances and pumper trucks.
 - e) Roadways. Internal roadways shall be provided and all Mobile Home spaces shall face or abut on a roadway having at least twenty-two feet of unencumbered travel way. Such roadways shall be surfaced with four inches of Portland cement concrete or five inches of rock with two inches of Asphaltic Concrete.
 - f) Sidewalks. Sidewalks of at least three feet wide shall be provided conform to the following design requirements: leading from Mobile Home spaces to service and recreational areas.
 - g) Lighting. Both roadways and sidewalks shall be adequately lighted. Roadways shall be lighted with a minimum of one street light at each roadway intersection and one street light at the end of each cul-de-sac which is three hundred feet or more from a roadway intersection. These lights shall be a minimum of one thousand lumens.
 - h) Setbacks and Landscaping. Mobile homes shall be set back a minimum of fifty feet along the street frontage of a major thoroughfare and a minimum of twenty-five feet of all other property lines. This setback or buffer zone shall be planted with a mixture of grass, trees, and shrubs to provide a dust deterrent shaded park like atmosphere.
 - i) Office and Management. An area near the main entrance of the park shall be for office and management use only, with accessory off-street

- parking.
- j) Design. The design of the Mobile Home Park shall provide for and promote the public safety, convenience, and general welfare in a manner that will provide an enjoyable environment.
 - k) Facilities. Adequate provisions shall be made for public water supply, sanitary sewers, fire protection, refuse collection, and other necessary facilities to satisfy State and Local Codes, Ordinance, and specifications.
 - l) Recreational Space. One or more recreational areas shall be provided and equipped with suitable play equipment and other recreational facilities. There shall be at least two hundred square feet of developed area per Mobile Home space. Calculations of recreational space shall not include the setback requirements as specified in section 12-319-4-17b.6) h) of these regulations.
 - m) Boat and Trailer Storage. Each Mobile Home Park shall provide screened areas for the storage of boats and trailers (travel, horse, or utility) with an aggregate size of at least one hundred square feet per Mobile Home space.
 - n) Non-Conforming Mobile Home Parks. Existing Mobile Home Parks that do not conform to these regulations and special conditions shall be considered as non-conforming and shall be allowed to continue under the provisions of section 12-320, Non-Conforming Uses.

12-319-4.18. Salvage Yards And Junk Yards.

12-319-4.19. Commercial Feed Yards.

12-319-4.20. Sale Barn.

12-319-4.21. Slaughter House.

12-319-4.22. Rooming, Boarding and Lodging Houses, and similar uses.

12-319-4.23. Boat Storage, open or enclosed, of one or more boats which are not the property of the landowner, in the A (Agricultural), B-1 (Neighborhood Business) and the I-1 (Limited Industrial) Districts. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and residentially zoned property.

12-319-4.24. Truck Storage Facility ancillary uses, open or enclosed, provided that wholesale and retail sales not be permitted on the premises. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and adjoining properties.

12-319-4.25. Farm Implement Repair Service. Sales shall be restricted to repair service and replacement parts. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened from adjacent public roads and adjoining properties by a view-reducing wall, fence or landscaping material.

12-319-4.26. Offices and Research Facilities, provided those facilities are located in an

existing structure.

12-319-4.27. Farmer's Market.

12-319-4.28. Fruit and Vegetable Stand.

12-319-4.29. Child Care Home - Non-occupant primary provider.

12-319-4.30. Child Care Center.

12-319-4.31. Radio, television, telecommunication, and microwave towers.

- a. Tower Standards; Purpose. The purpose of section this section shall be to establish standards for the use and construction of radio or television broadcasting towers and/or apparatus, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building, or of any height if lighted; whether publicly or privately owned.
- b. Same, Development Plan Required. At the time of application for Conditional Use Permit a site plan is required to be submitted pursuant to this Chapter, the applicant shall submit a development plan in sufficient detail, as determined by the staff of the Planning Department, to evaluate its conformance with applicable standards and guidelines.

The development plan shall include:

- 1) The applicant shall provide written authorization from the property owner of the proposed tower site.
- 2) An application for tower approval shall include the submission of a site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site. If any accessory building is proposed, details of the building including elevations and proposed use of the building is required to be submitted with the application.
- 3) An application for tower approval shall include a report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.
- 4) In addition to notifying property owners within 1,000 of the communication tower request per Section 12-324, all owners of record of unincorporated property located within a one-mile radius of the proposed tower request must also be notified with written notice by the applicant. The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing. The notice shall be sent by regular mail, postage pre-paid, by the applicant. The notice shall provide:
 - a) A brief description and location of the proposed communication tower;
 - b) Projected date for construction;

- c) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed communication tower;
- d) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
- e) A statement with substantially the following information:
Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.
This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed communication tower development describe further in this letter. This letter does not grant the recipient and/or property owner any additional legal rights to challenge the proposed development, instead, it is being provided solely to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.

The failure to receive the additional notice by a property owner shall not affect the validity of the Conditional Use Permit approval or consideration.

c. Same, General Provisions.

- 1) An effort in good faith must be made to locate new antenna on existing towers, or other structures. A request for a new tower must be accompanied by evidence that application was made to locate on existing towers, with no success.
- 2) A proposal for a new communications tower shall not be approved unless the applicant can document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:
 - a) The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and planned use of those towers, and existing and approved towers cannot be reinforced to accommodate the planned or equivalent equipment at a reasonable cost.
 - b) The planned equipment would cause RF interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost.
 - c) Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonable in parity with other similar equipment in place or approved.
 - d) Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers.
- 3) All towers shall be designed to accommodate at least three two-way antennas for every 150 feet of tower height, or at least one two-way antenna and one microwave facility for every 150 feet of tower height. The above requirements may be modified to provide the maximum number of compatible users within the radio frequency emission levels.
- 4) The owner at the owner's expense shall remove any tower that is not in use for a period of three years or more.
- 5) The tower owner/operator shall submit a letter to the Planning Office by July 1 of each year listing the current users and types of antenna located on the approved tower. A sign shall be posted on the tower or the exterior fence around the base

of the tower noting the name and telephone number of the tower owner/operator.

d. Same, Development Standards.

- 1) The location of a ground mounted tower must be such that it is setback at least equal to the height of the tower to the nearest property line measured from the center of the tower. A ground mounted tower may be set back less than the tower height to the nearest property line if documentation from a registered engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed set back area. All guy wires, similar support devices and other apparatus shall be no closer than twenty feet from any lot line.
- 2) Towers may be placed on the roof of a building or on top of other structures using either of the following to determine tower height and setback:
 - a) Tower height above the roof/structure may be as high as the setback distance to the nearest roof/structure edge.
 - b) The height of a ground-mounted tower may be used for a roof/structure-mounted tower if the required setbacks for a ground tower are satisfied.
- 3) Additional setbacks may be required to contain ice-fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Set backs shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- 4) The height of a tower shall meet the setback requirements as stated in this chapter.
- 5) All towers should be located in areas zoned commercial, industrial, or agricultural, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts were made to locate the proposed tower in non-residentially zoned areas.
- 6) All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers should be a galvanized finish or painted gray or light blue unless other standards are required by the FAA. In all cases, mono pole towers shall be preferable to guyed towers or free standing structures. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.

12-319-4.32. Retail Nursery, when ancillary products are sold which were not produced on the site, shall not exceed 3500 square feet of enclosed net retail space. Greenhouses, where plants are grown, and outdoor display areas will not be included in this square footage limitation. The allowable 3500 square feet of net retail space is a maximum cap; requests should not automatically be made for the maximum cap. Proposals will be evaluated individually based upon the specific site location proposed to determine the retail area to be permitted with each application. If the business owner or caretaker does not live on site, a sign shall be posted on the property, which identifies the owner's name and a contact number, which provides 24-hour access to a manager or property owner.

12-319-4.33. Adult Entertainment Business or Sexually Oriented Business. The types of uses included under this category are subject to regulation through review, approval and adoption of a Condition Use Permit. The operation of an Adult Entertainment Business

requires commercial or industrial zoning in addition to the approval of a Conditional Use Permit. Adult Entertainment Businesses shall include but not be limited to the following:

- a.** Adult arcades;
- b.** Adult media outlet,
- c.** Adult cabarets;
- d.** Adult motels;
- e.** Adult motion picture theaters;
- f.** Adult retail establishment;
- g.** Adult theaters
- h.** Escort agencies;
- i.** Nude model studios; and
- j.** Sexual encounter centers

Development Standards. The following development standards provide location and operational requirements which shall be adhered to and complied with and certified as to their existence when making application for a Conditional Use Permit for the operation of an Adult Entertainment Business. A Conditional Use Permit cannot be granted if these standards are not met.

- a.** Adult Entertainment Businesses shall not be located within 1,000 feet of any other Adult Entertainment Business, or within 1,000 feet of any residence, residential zoning, church, school, park or playground, or any other area where large numbers of individuals under the age of 18 regularly attend or congregate. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property lines of applicant's premises to the nearest point on the property line of the residence, school, church, park or playground.
- b.** Adult Entertainment Businesses proposed for any building, structure, or open space shall meet all requirements of this and other county, state and health regulations pertaining to buildings and structures; parking; zoning; signage; and on-site and off-site improvements; as provided in the other applicable ordinances, resolutions and regulations of the Unincorporated Territory of Douglas County, Kansas.
- c.** The interior of an Adult Entertainment Business shall be adequately lighted (as defined in subsection f below) and constructed so that every portion thereof, with the exception of restrooms, is readily visible to the clerk or other supervisory personnel from the counter or other regular station where payment is made for the stock in trade, fare, or live entertainment offered in such establishment. Private or semi-private viewing rooms or booths are prohibited.
- d.** The lobby or entrance area of an Adult Entertainment Business shall be designed to minimize the obstruction of sidewalks or pedestrian paths during operating hours and to prevent the interior of the establishment from being viewed from the exterior. Exterior lighting shall be provided at a minimum of two foot-candles of illumination at the entrance and in the parking lot.
- e.** All sexually oriented graffiti shall be prohibited. Any existing sexually oriented graffiti shall be immediately removed from the interior or exterior of a building used for adult entertainment business or of a vacant building formally used for such purpose upon adoption of this regulation.
- f.** All areas within an Adult Business shall be illuminated at a minimum of one and one-fourth foot candles, minimally maintained and evenly distributed at ground level.
- g.** No materials that graphically depict "specified anatomical activities" or "specified anatomical areas", or that are characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" shall be permitted in restrooms.

- h.** All live entertainment shall take place in an area which is at least two feet above the primary level of the customer floor level and at least six feet from all members of the public and which is separated by a rail or other physical barrier designed to obstruct any contact between any entertainer and the public.
- i.** The names and telephone numbers of the principal owner and manager of the adult entertainment business shall be legibly written or printed and posted in a visible, unobstructed place viewable from the front door of the establishment. This information shall be kept current so the constituents or general public know whom to contact in case of an emergency.
- j.** Illegal activities shall not be permitted to occur on the premises. All measures necessary to eliminate illegal activities on the premises shall be taken as soon as they are known to exist.
- k.** All Adult Entertainment Businesses shall permit law enforcement and code enforcement officers to inspect the premises at anytime without advance notice during normal business hours.
- l.** All Adult Entertainment Businesses shall comply with all laws regarding the protection of minors from harmful materials.
- m.** All Adult Entertainment Businesses shall take all necessary & reasonable measures to control patrons' conduct which results in disturbances; vandalism; criminal activity; or crowd control problems which occur inside or outside the premises; traffic control problems; or the creation of a public or private nuisance; or the obstruction of another business's property.

Cessation of Use. Any substantial enlargement of the use area shall be subject to compliance with the Adult Entertainment Business operation and locational standards set forth in this section, prior to such alteration or expansion. Any non-conforming Adult Entertainment Business proposed to be substantially enlarged shall first be required to obtain a Conditional Use Permit.

Criminal Offense. The violation of any law, which is a criminal offense for which the operator or owner of an Adult Entertainment Business is convicted, shall be cause for immediate and automatic suspension and or revocation of the Conditional Use Permit authorizing the establishment and operation of the Adult Entertainment Business

12-319-4.34. Mini-or self-storage facilities permitted in the portions of the unincorporated area of Douglas County which meets the following locational criteria and development standards:

- a.** Must be located within an Urban Growth Area.
- b.** Must take direct access from a paved road classified as 'collector' or higher.
- c.** Security fencing and lighting must be provided for the entire facility. Security fencing is fencing which permits visibility while obstructing access. An example would be a 6' high chain link fence.
- d.** All outdoor lights shall, to the maximum extent feasible, confine emitted light on the property on which the light is located and not be directed upwards toward the sky. All lights are to be shielded to reflect or direct light away from adjoining property but may be of sufficient intensity to discourage vandalism and theft. Photometric plans must be submitted with site plan. Maximum illumination at lot line is as follows:
 - 1) .2 foot-candles, or less, if adjacent to a residentially zoned property
 - 2) 3 foot-candles, or less, if adjacent to a non- residentially zoned property.
 - 3) 1 foot-candle at lot line abutting the road right-of-way.
- e.** Screening must be provided on any side which abuts a residentially zoned district or a property containing a residence with a view reducing wall, fence, berm landscaping materials or a combination.

- f. Access way width must be a minimum of 20' for one-way traffic and 25' for two-way traffic (to allow parking within the drive aisles).
- g. Off-street parking shall be required on the basis on one space for each 8,000 square feet of floor area in the facility, plus one space for each employee, but in no case shall the number be less than five spaces.
- h. All storage will be kept within an enclosed building, unless a portion is designated for covered (non-enclosed) or exterior vehicle storage. This area may be used for storage of trucks, automobiles, trailers, boats or RVs. Exterior storage of unregistered and/or disassembled vehicles is prohibited. Access ways and individual spaces must be shown on the plan and designated on the site. One vehicle and trailer will be permitted per stall. Any covered (non-enclosed) or exterior vehicle storage must be screened from adjacent public roads, residentially zoned properties or a property containing a residence with a view reducing wall, fence, landscaping materials or a combination of these measures.
- i. Activities which are prohibited on the premises include miscellaneous or garage sales, commercial shipping and receiving, and the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment. Storage spaces shall not be used for storage of commercial or industrial trucks and/or trailers, workshops, hobby shops, manufacturing or similar uses. Human occupancy shall be limited to that required to transport, arrange and maintain stored materials.
- j. The area shall be properly policed by the owner or operator for removal of trash and debris.
- k. Keyless keypad entry system required or similar secure entry system with monitoring ability.
- l. All storage units must be oriented toward the interior of the site. Doors may not be located along or visible from the perimeter.

12-319-4.35. Value-added Agricultural Business. A business that economically adds value to an agricultural product as a result of a change in the physical state of an agricultural commodity that is not produced on the site, by manufacturing value-added products for end users instead of producing only raw commodities. Value-added products may include:

- a. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).
- b. The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system).

Agricultural value-added businesses shall meet each of the following location and development standards:

- a. Employees: A maximum of 4 full-time equivalent employees shall be allowed.
- b. Buildings or Structures: The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet. Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.
- c. Deliveries to/from the site: Commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to two trips (to and from the site) per day.
- d. Environmental considerations: No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
- e. Equipment: All equipment used in the production of the value-added product shall be

located wholly within a building or structure, or be screened from public rights-of-way and adjacent residential buildings. In either case, the associated noise, light and vibrations from the production operation shall not be perceptible at the site boundary/property lines.

- f. Storage of products: Shall be enclosed within a building or structure so that it is not visible from the site boundary/property lines.
- g. Minimum Site Area: A minimum site area is consistent with the County adopted policy for agricultural uses.
- h. Road Access and Frontage: The site must have direct access to a full maintenance public road and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.
- i. Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.

12-319-5. TEMPORARY BUSINESS USES AND TEMPORARY BUSINESS USE PERMITS

Temporary business uses may be permitted in any district upon the review and finding of the Board of County Commissioners that the proposed use is in the public interest. In making such determination, the Board shall consider the intensity and duration of the use, the traffic that can be expected to be generated by the use, the applicant's plans for dealing with sanitation and other public health and safety issues, and other factors which the Board in its discretion determines will affect the public health, safety and welfare.

12-319-5.01 Definitions.

- a. "Temporary business use" shall mean the carrying on of any of the activities enumerated in subparagraph (2) of this Paragraph (b) on real property located in the unincorporated area of Douglas County, Kansas, which is not owned and regularly used by the applicant/sponsor of such activity for such purpose; provided that, "temporary business use" shall not include the activities of persons, families, groups or social or religious organizations that conduct fund raising, social or religious activities on real property which is owned and regularly used by such persons, families or groups for such activity. An activity enumerated in subparagraph (2), below, held on property, which is leased or borrowed for the purpose of conducting the activity shall be presumed to be a "temporary business use" which is subject to the requirements of this section 12-319-5.
- b. Temporary business uses shall include the following activities:
 - 1) Batching plant, including Portland cement, concrete or asphalt.
 - 2) Construction building or construction materials yard.
 - 3) Real estate tract sales office.
 - 4) Flea market or swap meet.
 - 5) Concerts, musical performances, plays and other performing arts events.
 - 6) Circus or carnival.
 - 7) Movie or video filming operations involving a combined crew, cast and extras of greater than ten persons, except that one permit may be acquired for a single movie or video filming operation at different locations over a six month period provided the applicant therefore informs the Douglas County Sheriff of each filming location twenty-four hours prior to commencing filming operations.
- c. Application Procedure. An applicant for a temporary business use permit shall make application to the office of the Douglas County Zoning Administrator no less than

twenty-eight days before the date of the proposed temporary business use. For good cause shown, the Board of County Commissioners may allow an application to be filed on shorter notice. All applications shall be accompanied by a non-refundable application fee in an amount set by resolution of the Board of County Commissioners but not less than one hundred dollars. In the application the applicant shall identify each sponsor of or other persons with a financial interest in the proposed activity.

- d.** Temporary Business Use Plan. Each temporary business use application shall be accompanied by ten copies of a plan in which the applicant explains the activity, the number of persons anticipated to attend, the location of the event, and detailed information concerning the applicant's plans and procedures for the following:
- 1) Controlling traffic, parking and road conditions during the event, including provisions for off-road parking;
 - 2) Addressing health and sanitation concerns at the site, including toilet and drinking water facilities and supplies adequate to meet the anticipated crowd plus a reasonable allowance for additional persons, including certification by Lawrence-Douglas County Health Department that all sanitation and health concerns have been adequately addressed in the applicant's plans;
 - 3) Providing adequate illumination at the site if the event is to be held at night;
 - 4) Providing security at the site, including the hiring of private security guards;
 - 5) Providing adequate fire safety precautions at the site, including consultation with the township fire department and approval prior to the activity;
 - 6) Evidence that the applicant has secured or can secure adequate general liability and property insurance coverage for the event;
 - 7) If applicable, the serving of alcoholic beverages, including cereal malt beverage;
- e.** Public Notice Requirements. Upon receipt of the application for a temporary business use permit, the Zoning Administrator shall notify the applicant of the date scheduled for a public hearing on such application before the Board of County Commissioners. No less than ten days prior to the public hearing the Zoning Administrator shall send notice of the date, time and place of the hearing by first class mail to the following persons:
- 1) The owners and occupants of properties within 1,000 feet of the boundaries of the site at which the proposed use will occur; and,
 - 2) The owners and occupants of residential structures served by driveways which take access from the public road which shall serve as the primary access to the proposed site and that are within one mile of the main entrance to such site.
- The public notice provided for herein also shall contain a copy of the temporary business use plan required in paragraph (d) or a summary thereof. The failure of any of the above described persons to receive the notice provided for herein shall not invalidate any proceedings held concerning a temporary business use permit application. The notice required by this subsection shall only be required to be sent to the non-owner occupants of properties described herein if the names and addresses of such persons can be ascertained from records of the County that are available to the Zoning Administrator.
- f.** Public Hearing and Decision by Board. Each application for a temporary business use permit shall be exempt from the requirements of section 12-319-1, but the application shall be the subject of a public hearing before the Board of County Commissioners on the date and at the time and place set out in the notice required to be given under paragraph (e) of this section. After the public hearing held thereon, the Board may approve or deny the permit, or the Board may continue the hearing or a decision on the permit application until a subsequent meeting. If the permit is approved, the Board shall establish the effective time period for the permit and all conditions under which the

permit is granted. Such conditions may include, but shall not be limited to, a requirement that a cash bond be posted by the applicant to reimburse Douglas County for the cost of any overtime incurred by County staff in responding to calls by law enforcement personnel and the provision of other services in connection with the permitted activity. Within 14 days after the conclusion of the use the County Administrator shall review all costs incurred by the County, shall deduct the amount of the costs from the bond, and shall refund the balance of the cash bond to the applicant.

- g.** Permit Not Assignable. Any permit issued under this section may not be assigned by the applicant to any other person without the consent of the Board of County Commissioners.

12-319-6.01 RURAL HOME OCCUPATIONS [Type I]

a. Purpose

To permit the establishment of certain incidental and accessory home occupation uses that can be conducted wholly within the dwelling unit and that are ancillary to the primary residential use of the property. Rural home occupations are uses that are incidental and accessory to the primary residential use, and as such, are activities that are compatible with residential or farm activities.

b. Development Standards for Operation of a Rural Home Occupation

Rural Home Occupations shall be subject to the following standards:

- 1) A Rural Home Occupation shall not occupy more than 50% of the gross square footage of the principal dwelling unit;
- 2) No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission that is perceptible beyond the property lines of the subject parcel;
- 3) There shall be no visible evidence of the conduct of a Rural Home Occupation, other than a permitted sign. All equipment, materials, goods, and vehicles shall be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way;
- 4) A maximum of two Nonresident Employees (as defined in section 12-303-1.65) shall be allowed with a Rural Home Occupation.
- 5) No inventory of products shall be displayed or sold on the premises other than what has been produced on the premises;
- 6) The home occupation activity shall be conducted wholly within the dwelling unit;
- 7) A maximum of one sign shall be permitted with a Rural Home Occupation. Signs shall be restricted to a maximum of two square feet in area, and shall not be illuminated. Signs shall be mounted flat against the main face of the dwelling or at the driveway entrance to the premises where the home occupation is conducted. If placed at the driveway entrance, the sign shall not be located on the road right-of-way;
- 8) Rural Home Occupation signs shall contain no commercial message other than the name of the business and its hours of operation. For purposes of this provision, "commercial message" means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

c. Permitted Uses

The following uses shall be allowed as Rural Home Occupations, provided they comply with all other applicable standards of this Section. No uses other than those expressly permitted in this paragraph shall be allowed as Rural Home Occupations:

- 1) Artists, authors or composers, dancers, music teachers, and other similar artists,

- including the instruction thereof; provided that instruction shall be limited to not more than six pupils at any one time;
- 2) Home crafts, such as model making, rug weaving, lapidary work, cabinet making, appliance repairs, and other similar uses, as determined by the Zoning Administrator;
 - 3) Office facilities for ministers, rabbis, and priests;
 - 4) Office facilities for architects, engineers, lawyers, doctors, dentists, and members of similar professions, as determined by the Zoning Administrator;
 - 5) Office facilities for salespersons, sales representatives, and manufacturer's representatives, when no retailing or wholesaling is made or transacted on the premises;
 - 6) Office facilities for service-type businesses such as insurance agents, brokers, decorators, painters, business consultants, tax advisors, and photographers; and
 - 7) Personal services, such as dressmakers, seamstresses, tailors, barbershops, and beauty shops.
 - 8) Other uses with operational characteristics and impacts similar to those listed above, as determined by the Planning Director. In making such determinations, the Planning Director shall consult with the County Zoning Administrator, and shall consider if the similar use meets the purpose of a Rural Home Occupation as stated in section 12-319-6.01-a.

d. Prohibited Uses

The following uses are expressly prohibited as Rural Home Occupations. This list of prohibited uses is not intended as an exhaustive list. Other uses will be prohibited based on their inability to comply with all applicable standards of this section.

- 1) Auto and other vehicle repair;
- 2) Funeral homes;
- 3) Medical or dental clinics or hospitals;
- 4) Renting of trailers, cars, or other equipment;
- 5) Restaurants;
- 6) Tourist homes;
- 7) Contractor's equipment and material storage;
- 8) Any use first allowed, by right or by Conditional Use Permit, in the Industrial Districts.

e. Off-street Parking Requirements

No off-street parking spaces shall be provided exclusively for a Rural Home Occupation. Parking spaces required for the primary residential use will need to serve the needs of the Rural Home Occupation.

f. Application and Approval Process

Rural Home Occupations must be registered with the County Zoning Administrator. The approval process is an administrative procedure. The application form is available from the County Zoning and Codes Office. Upon receipt by the Zoning and Codes office of a completed application form, the listed use will be verified as a permitted Rural Home Occupation use listed in 12-319-6.01-a. A use permit will be issued for a use if it is a permitted use. The Rural Home Occupation use permit is valid for a period of twelve months from the date of issuance.

To renew the permit, a renewal application form must be filed at the County Zoning and Codes Office. Renewal of a use permit for the same use can be requested either by mail or in person. It is the responsibility of the Rural Home Occupation business owner to renew annually the use permit. The fees charged for the initial permit and for the

renewal permit are based on a separate Fees & ENFORCEMENT POLICY resolution adopted by the County Commission.

12-319-6.02 RURAL HOME BUSINESS OCCUPATIONS [Type II]

a. Purpose

To permit the establishment of certain incidental and accessory home business occupations that can be conducted within the dwelling unit, or within an accessory building, that is ancillary to the primary residential use of the property. Such occupations are service-oriented or involve production of materials for sales off premises. Rural Home Business Occupations are uses that are incidental and accessory to the primary residential use, and as such, are activities that are compatible with residential or farm activities. These uses are permitted only in the A (Agricultural) district.

b. Development Standards for Operation of Rural Home Business Occupation Rural Home Business Occupations shall be subject to the following standards:

- 1) A maximum of four Nonresident Employees (as defined in subsection 12-303-1.65) shall be allowed with a Rural Home Business Occupation;
- 2) The home business activity shall be conducted with the dwelling unit or within an accessory building that is no greater than 3,600 square feet in gross area. An accessory structure in use by a rural home business occupation on August 16, 2000, for a use permitted in section 12-319-6.02-c. is not subject to the maximum size limitation of 3,600 square foot. The use or use area existing on August 16, 2000 cannot be enlarged or expanded under the Rural Home Business Occupation regulations;
- 3) The majority of work related to agricultural implement repair or grading and earthwork activities must be conducted off premises;
- 4) No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission from a dwelling or accessory structure that is perceptible beyond the property lines of the subject parcel;
- 5) All equipment, materials, and vehicles shall be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way;
- 6) No inventory of products shall be displayed or sold on the premises other than what has been produced on the premises;
- 7) A minimum site area of five acres is required for all home business occupations established after August 16, 2000.
- 8) The site must have direct access to a section line road or highway;
- 9) A maximum of one sign shall be permitted with a Rural Home Business Occupation. Signs shall be restricted to a maximum of four square feet in area, and shall not be illuminated. Signs shall be mounted flat against the main face of the dwelling or accessory building or at the driveway entrance to the premises where the home business occupation is conducted. If placed at the driveway entrance, the sign shall not be located on the road right-of-way;
- 10) Rural Home Occupation signs shall contain no commercial message other than the name of the business and its hours of operation. For purposes of this provision, "commercial message" means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business product, service, or other commercial activity;
- 11) Outdoor storage buildings, and off-street parking spaces established after August 16, 2000, shall be located at least 50 feet from all property lines and public

rights-of-way, or screened by landscaping or buildings so as not to be visible from off-site.

c. Permitted Uses

The following uses shall be allowed as Rural Home Business Occupations, provided they comply with all other applicable standards of this Section. Rural Home Business Occupations shall be allowed only in the A (Agricultural) district. No uses other than those expressly permitted in this paragraph shall be allowed as Rural Home Business Occupations:

- 1) Uses permitted in section 12-319-6.01 that do not meet development standards outlined in 12-319-6.01, but do meet the standards outlined within this Section;
- 2) Assembly, distribution, maintenance, and repair of dairy and agricultural implements and equipment;
- 3) Assembly of mechanical devices and components conducted entirely within an enclosed structure with no outdoor storage of parts or equipment.
- 4) Automobile painting, upholstering, rebuilding, renovation, reconditioning, body and fender works, and overhaul work conducted entirely inside an enclosed structure without any outdoor storage of vehicles, parts, or equipment;
- 5) Welding and machine shops, if totally enclosed in a building structure without any outdoor storage of vehicles, parts, or equipment; and
- 6) Contractor's equipment and material storage, if totally enclosed in a building structure without any outdoor storage of vehicles, parts, or equipment.

d. Prohibited Uses

The following uses are expressly prohibited as Rural Home Business Occupations. This list of prohibited uses is not intended as an exhaustive list. Other uses will be prohibited based on their inability to comply with all applicable standards of this Section.

- 1) Auto and other vehicles repair (except as noted above);
- 2) Funeral homes;
- 3) Medical or dental clinics or hospitals;
- 4) Renting of trailers, cars, or other equipment;
- 5) Restaurants;
- 6) Tourist homes;
- 7) Exterior storage of Contractor's equipment and material;
- 8) Any use first allowed, by right or by Conditional Use Permit, in the Industrial Districts.

e. Off-street Parking Requirements

A minimum of one parking space shall be provided, based on the maximum number of employees present at any one time, for each non-resident employee. All parking spaces shall be located a minimum of 50 feet from property lines and public rights-of-way, and shall be screened by landscaping, a fence, or buildings so it is not visible from the public rights-of-way or from adjacent residences.

f. Registration & Approval Process

Rural Home Business Occupations must be registered with the County Zoning Administrator. A use permit will be issued for the Home Business Occupation upon verification that the applied for use is a permitted use per 12-319-6.02.c.

The registration and approval process is an administrative procedure. To establish the Rural Home Business Occupation, a registration application available from the County Zoning and Codes Office must be filled out and submitted to the County Zoning Administrator. Upon submittal of a completed application, the Zoning and Codes Office needs to verify the requested use is permitted for the requested home business

occupation. The use permit is valid for twelve months.

This is an annual registration and permit process. After initial registration and issuance of a use permit, the renewal of the registration and of the use permit may be either by mail or in person. Fees for the initial registration and use permit and for renewal of the registration and use permit are based on a separately adopted FEES & ENFORCEMENT POLICY Resolution by the County Commission.

The use permit issued is for the registered use and for the current owner of the real estate at the described location on the use permit. The use permit is non-transferable. If a business owner does not currently own the real estate on which the Rural Home Business Occupation is conducted, an affidavit of equitable interest or a copy of a lease evidencing a leasehold interest can be submitted as a substitute for fee simple ownership of the real estate.

12-319-6.03 TRANSITIONAL HOME OCCUPATIONS [Type III]

a. Purpose

To provide for the registration and scheduled elimination of temporary, transitional and non-traditional Home Occupations that existed in Douglas County on August 16, 2000.

b. Permitted Uses

Transitional home occupation uses are those uses that fall in one or more of the following categories:

- 1) Rural Home Occupation uses which exceed either or both the number of employees or the gross square footage requirements of section 12-319-6.01;
- 2) Rural Home Business Occupation uses which exceed the maximum number of employees or the minimum site area requirement of section 12-319-6.02;
- 3) A use that was in existence on August 16, 2000, as a home occupation which does not meet the requirements for a Rural Home Occupation or a Rural Home Business Occupation.

c. Registration Required

A Home Occupation that does not fall under sections 12-319-6.01 or 12-319-6.02, but falls in one of the categories listed in sub-section b. of this section shall be allowed to continue for a limited period under the provisions of this Section, provided that the property owner shall register the use at the County Zoning & Codes Office by December 31, 2001, by following the procedures set forth in sub-section 05.

This permit issued for the registered use is for the current owner of the real estate and the current location. It is non-transferable. If the business owner does not currently own the real estate on which the Transitional Home Occupation is located, an affidavit of equitable interest or a copy of a lease evidencing a long-term leasehold interest can be submitted as a substitute for a fee simple ownership of the property.

d. Notice

Within sixty days of the passage of Resolution No. 01-21, the Zoning Administrator shall give notice of the applicability, general effect, and the registration requirements of this Section, said notice to be given as follows:

- 1) By publication on two different dates, in a display advertisement in the general news sections, or a newspaper of general circulation in the county;
- 2) By written notice, by first class mail, to all property owners known or believed to have such a use, as determined from business licensing records, tax records, inspection records, or other sources;

- 3) By handbill notice maintained in appropriate racks or on the counters of the offices of City/County Planning, Zoning and Codes, Real Estate Appraisal, and the office of the County Clerk until December 28, 2001.

e. Application for Registration

Transitional Home Occupations must be registered with the County Zoning Administrator. Application for registration under this section shall be made on a form provided by the County Zoning Administrator, which shall require at least the following information:

- 1) Property address and tax parcel I.D. number;
- 2) Name of the property owner and business owner (if different);
- 3) Business owner's address if different from property address;
- 4) Name of the business;
- 5) Indication of relationship of occupant to business if not business owner;
- 6) Date of establishment of the business;
- 7) Date on which the business first reported income or other activity to local, state or federal tax offices;
- 8) General nature of the business conducted, including but not necessarily limited to:
 - a) The number of employees of the business on August 16, 2000, and the number of those regularly working at the premises;
 - b) A list of equipment used in the business and actually on the property on August 16, 2000;
 - c) A summary of the inventory, by types and value, used in the business and actually on the property on August 16, 2000;
 - d) A count (or good estimate) of the number of customers visiting the premises in an average week between August 1, 2000, and November 1, 2000.

f. Review of Application

Upon receipt of a registration application for a Transitional Home Occupation use, the Zoning Administrator, or his designated staff inspector, shall visit the site, and to the extent practicable, verify the contents of the application. Photographs of the interior and exterior of the business operation and of any signs for the business will be necessary to document the current conditions. The applicant may submit these with their application or the inspector will need to take photographs during the initial site inspection. If the application is incomplete, the County Zoning & Codes Office shall notify the applicant of the items that are missing, and the applicant shall have fourteen days to submit the missing items. If the missing items are not submitted within this fourteen-day period, the application shall be rejected and the application fee shall not be refunded. If the Zoning Administrator finds that any part of the application is false, the Zoning Administrator shall reject the application and notify the applicant. If the Zoning Administrator finds that the application is complete, substantially accurate and true, the Zoning Administrator shall issue a use permit for the Transitional Home Occupation. A copy of the approved application shall be filed at the Register of Deeds as notice for all future property owners that said use is transitional and permitted only until May 1, 2006. The use permit issued is valid for twelve months; or until May 1st of the year following the date of issuance of the use permit, or until May 1, 2006, based upon whichever of these events occurs first.

This is an annual review process. The Transitional Home Occupation owner shall be responsible for annually renewing a registration application and use permit request by May 1st of each year. The fees charged for the initial permit and for the renewal permit

are based on a separate FEES & ENFORCEMENT POLICY Resolution adopted by the County Commission. The applicant shall provide written notification to the County Zoning Administrator when the Transitional Home Occupation is discontinued or moved.

g. Right to Continue

A Transitional Home Occupation registered under this section may continue to operate as though it were a lawful, nonconforming use until the first of the following shall occur:

- 1) The cessation of the business for a period of ninety days or more;
- 2) The failure of the operator of the business to pay any county taxes or fees when due;
- 3) The violation by the operator of the business to pay any county taxes or fees when due;
- 4) The discovery of any material misrepresentation in the original application;
- 5) Expiration of long-term leasehold agreement with the property owner; or
- 6) The expiration of the scheduled elimination period on May 1, 2006. Prior to the expiration of a use permit on the scheduled elimination date, the County's comprehensive land use plan, Horizon 2020, must be amended to provide for location criteria and policies for commercial and industrial uses in the County which are appropriate for the registered Transitional Home Occupation uses. If these amendments to Horizon 2020 have not occurred by May 1, 2006, the elimination date shall be suspended until such amendments have been adopted.

h. Development Standards for Operation

Transitional Home Occupations shall be allowed to continue for the stated period subject to the following conditions:

- 1) There shall be no expansion of inventory of the business from the amount maintained on August 16, 2000;
- 2) There shall be no increase in the number of Nonresident Employees (as defined in section 12-303-1.65) working on the premises above the number working there on August 16, 2000;
- 3) Equipment stored or used on the premises shall not exceed in size or quantity the equipment used on the premises on August 16, 2000;
- 4) The business activity shall not expand to any portion of a building or any portion of a site not occupied on August 16, 2000;
- 5) Only non-retail business uses shall be allowed;
- 6) The owner of the business must live on the premises;
- 7) A maximum of one sign shall be permitted with a Transitional Home Occupation. Signs shall be restricted to a maximum of eight square feet in area, and shall not be illuminated. The allowed sign may be wall-mounted or freestanding, located outside of public right-of-way; and
- 8) Signs shall contain no commercial message other than the name of the business and its hours of operation. For purposes of this provision, "commercial message" means any wording, logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial activity.

i. Termination

Any Transitional Home Occupation which has not been registered under this Section, including those for which an incomplete application was filed and not corrected, shall cease on December 31, 2001, and all inventory, equipment, and activity not allowed under either sections 12-319-6.01 or 12-319-6.02 shall be removed from the premises before the first day of business for government offices in January 2002.

Any Transitional Home Occupation which meets the requirements of this 30and is duly registered under this section shall cease on May 1, 2006, or on the earlier occurrence of one of the other events enumerated in sub-section g, shall cease on May 31, 2006, or on the earlier date on which such event occurs, and all inventory, equipment, and activity not allowed under either sections 12-319-6.01 or 12-319-6.02 shall be removed from the premises before the first day of business for government offices after such date.

12-319-6.04. APPEALS OF ADMINISTRATIVE DECISIONS CONCERNING HOME OCCUPATIONS

- a. Purpose
To provide for aggrieved business owners an opportunity to appeal determinations made by the Douglas County Zoning and Codes Department.
- b. Appeals From Decisions of Douglas County Zoning and Codes Department
Any person owning a home business that is dissatisfied with the final determination of the Douglas County Zoning and Codes Department as it relates to the applicability of sections 12-319-6.01, 12-319-6.02, or 12-319-6.03 to such person's home business, may appeal such determination to the Douglas County Commission. The provisions in sections 12-319-6.01, 12-319-6.02 and 12-319-6.03 are not provisions that can be appealed to the County Board of Zoning Appeals.
- c. Appointment of County Commissioner to Act for County Commission
The Douglas County Commission may, from time to time, appoint a hearing officer to hear and decide appeals made pursuant to Paragraph B. In the event that there is a single Commissioner so appointed, the decision of that Commissioner shall be deemed to have been made by the entire Douglas County Commission and the aggrieved person shall have no right to appeal to the entire Commission.
- d. Appeals From Douglas County Commission
Any person who is dissatisfied with the decision of the Douglas County Commission may appeal such decision to the district court, as provided by law.
- e. Final Determination of Appeal Not Prerequisite To Enforcement
A final determination of the Douglas County Commission shall not be a prerequisite to the commencement of any enforcement action against any person allegedly violating the Zoning Regulations.

ARTICLE - 19A SITE PLAN REGULATIONS

12-319A-1. PURPOSE AND INTENT

The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, and drainage on the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties.

12-319A-2. WHEN REQUIRED

The conditions and requirements of this section shall be in full force and effect in each and all of the following instances:

12-319A-2.01. Whenever an area is designated as a B-1 (Neighborhood Business), B-2 (General Business), B-3 (Limited Business), or I-1 (Limited Industrial), I-2 (Light Industrial), I-3 (Heavy Industrial), I-4 (Heavy Industrial) District or, is a non-conforming use.

12-319A-2.02. Whenever a use is altered, changed or intensified in a manner that increases parking, or outside storage requirements; or,

12-319A-2.03. Whenever a specific reference is made to this section in any other part of the zoning regulations.

No building permit shall be issued in any of the other noted instances for the erection or alteration of a structure or building until a site plan has been submitted and approved as set forth herein.

Single-family and duplex units are hereby expressly exempted from the provisions of this section.

12-319A-3. PROCEDURE

A site plan application, ten copies of the site plans, and a fifty dollar review fee shall be submitted by the property owner, or his certified agent, to the Planning Office eleven days prior to a scheduled Board of County Commissioners meeting. No part of the review fee shall be refunded. (Prior consultation with the Planning Staff is encouraged so that the possibility of a delay in approval is minimized.) The Planning Staff shall review the site plan for conformance with the zoning regulations of the County, and shall make a report, with recommendations, to the Board of County Commissioners. After receiving the report of the Planning Staff, the Board of County Commissioners shall approve the site plan, with or without conditions, deny it, or defer it for further study.

12-319A-4. SITE PLAN CONTENTS

A site plan shall:

12-319A-4.01. Be prepared by an architect, engineer, landscape architect, or other qualified individual at a scale of one inch equals 50 feet or larger;

12-319A-4.02. Be arranged so that the top, or the left, of the plan represents north, and have directional arrows clearly shown;

12-319A-4.03. Show boundaries and dimensions graphically, and contain a written legal description of the property;

12-319A-4.04. Show the present and proposed topography of the area by contour lines at an interval of not more than five feet;

12-319A-4.05. Show, by use of directional arrow, the proposed flow of storm drainage from the site;

12-319A-4.06. Show the location of existing and proposed structures and indicate the number of stories, gross floor area, and entrances to all structures;

12-319A-4.07. Show the location and dimensions of existing and proposed curb cuts, access aisles, off-street parking, loading zones and walkways;

12-319A-4.08. Indicate location, height, materials for screening walls and fences;

12-319A-4.09. List the type of surfacing and base course proposed for all parking, loading and walkway areas;

12-319A-4.10. Show the location and size, and provide a landscape schedule of all perimeter and interior landscaping including grass, ground cover, trees and shrubs. The schedule must show that landscape materials will be no smaller or less dense than the following standards:

Ground cover:	2" Pots on 6 -8 " centers, or 6" pots on 10 -12" centers
Shrubs:	18 -24", 2 gallon size (spreading evergreens -5 gallon container size or Balled & Burlapped)
Ornamental trees:	1 1/2 -1 3/4" ca. (smaller ornamental trees are to be 5 -6 ' in height)
Shade trees:	2 -2 1/2" ca
Coniferous trees:	6 -8', (Balled & Burlapped)

12-319A-4.11. Describe the proposed use of the site and list the number of required off-street parking spaces. If the exact use is not known at the time a site plan is submitted for review, off-street parking requirements shall be calculated by the general use group using the greatest off-street parking requirement of that use group:

12-319A-4.12. Show the proposed location, indicate direction, and list amount of illumination of proposed lighting. Provide information on screening proposed for the lighting and steps taken to prevent glare;

12-319A-4.13. Show location of each outdoor storage area;

12-319A-4.14. A note shall be required to appear on the site plan indicating that the site plan for a public or governmental building(s) and facility(ies) has been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities, appendix A to 28 CFR part 36. If the site plan is for a multiple-family structure containing at least four dwelling units, a note shall appear on the site plan indicating it has been designed to comply with the minimum provisions of the Final Fair Housing Accessibility Guidelines, 24 CFR, Subchapter A, Appendix 2, as required by the Fair Housing Act of 1968, as amended.

12-319A-5. CONDITIONS OF APPROVAL

Before making a report to the Board of County Commissioners, the planning staff shall first find that the following conditions have been met;

12-319A-5.01. That the proposed use is a permitted use in the district in which the property is located;

12-319A-5.02. That the proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses;

12-319A-5.03. That the vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient, and convenient movement of traffic not only within the site but on adjacent roadways as well;

12-319A-5.04. That the site plan provides for the safe movement of pedestrians within the site;

12-319A-5.05. That there is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter (including public right-of-way) of the site so that the proposed

development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for building, structures, parking or access ways shall be landscaped with a mixture of grass, trees, and shrubs; and;

12-319A-5.06. That all outdoor trash areas are screened.

12-319A-6 ASSURANCE OF PERFORMANCE

The Board of County Commissioners may require the applicant to file with the planning office a performance bond as a condition of approval, to insure completion of approved landscaping, fencing, off-street parking, and loading, drainage and other specific items of the site plan. The amount of the performance bond shall be recommended by the planning staff, based upon current costs, and set by the Board of County Commissioners. If upon inspection of the completed project by the zoning enforcement officer, it is found that the conditions of the site plan have been met, the performance bond shall be released to the applicant. If the applicant does not comply within a reasonable time with the conditions of the site plan, the zoning enforcement officer shall give written notice to the applicant and the bonding company. (Reasonable time shall be determined by the life of the performance bond as stated thereupon, less sixty (60) days.) If the conditions of the site plan have not been met thirty days prior to the expiration of the performance bond, the county shall bring such action as is necessary to insure completion of the site plan conditions. However, if the applicant can show that he has tried to the utmost of his ability to meet the conditions of the site plan within the time period allotted, but that adversities not of his making have been the cause of his failures to meet the site plan conditions, the Board of County Commissioners may require that he extend the performance bond for a specified period of time. In general, no initiation of commercial, or office activity shall take place before all of the conditions of the site plan and other provisions of the zoning regulations have been satisfied, except;

12-319A-6.01. That in planned unit developments and planned shopping centers, approved for phase development by the Board of County Commissioners, such activity may commence as each phase or portion is completed if the conditions of the site plan relating to the particular conditions shall be considered to mean off-street parking and loading areas, screening, drainage, lighting, and trash storage facilities.)

12-319A-6.02. That consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of landscaping plans before initiation of such activity: Provided, that landscaping shall be completed within six months following commencing of such activity.

Such conduct of an activity on a parcel of ground having an approved site plan without completion of site plan conditions, except as noted above, and/or zoning regulation provisions shall be considered a violation of the zoning regulations.

12-319A-7. APPROVED SITE PLAN CHANGE

An applicant who wishes to change an approved site plan must contact the Planning Office. If the proposed changes are of a nature that the revised site plan will be substantially similar to the approved site, the Lawrence-Douglas County Planning Director may approve the revised site plan. If the proposed changes substantially rearrange use grouped types, parking, landscaping, drainage, lighting, etc., the applicant must apply for approval of the revised plan in the manner set forth in 12-319A-3 of this section.

12-319A-8. TIME LIMITATIONS

12-319 SUPPLEMENTAL USE REGULATIONS – CONDITIONAL USES AND TEMPORARY USES
12-319A SITE PLAN REGULATIONS

If no building permit is issued for the site within two years from the date of the site plan approval by the Board of County Commissioners, the site plan shall be and become null and void.

12-320 NON-CONFORMING USES

12-320-1. CONTINUING EXISTING NON-CONFORMING USE

Except as hereinafter specified, any non-conforming use of open land, building or structure; or a non-conforming building, structure and use thereof existing at the time of the enactment of this Resolution may be continued, even though such use or building may not conform with provisions of this Resolution for the district in which it is located: Provided that this section does not apply to any open use of land, use, or building established in violation of any zoning regulations previously in effect in the unincorporated portions of Douglas County unless said use or building now conforms with this Resolution. Non-conforming uses of open land shall include but not be limited to: billboards, poster boards, automobile wrecking yards, scrap iron, and junk storage, mobile home parks, auction yards, contractors' yards, stockyards, golf driving ranges, and miniature golf courses.

12-320-2. NON-CONFORMING USE OF BUILDINGS

12-320-2.01. Except as otherwise provided herein:

- a. The lawful use of a building, or structure existing at the effective date of this Resolution, or
- b. The lawful use of a building or structure made non-conforming through adoption of amendments to section 12-318 Height, Area and Bulk Requirements or through the dedication of additional road easement for road right-of-way as required in section 11-110(d)(4)(ii) of the Subdivision Regulations (Chapter XI, Article 1 of the County Code), may be continued although such use does not conform to the provisions hereof.

12-320-2.02. No non-conforming building, structure, or use shall be changed, extended, enlarged or structurally altered unless:

- a. Such change is required by law or order;
- b. The use is changed to a use permitted in the district in which it is located;
- c. Authority is granted by the Board of County Commissioners to change the use or occupancy, provided the Commission finds the use is within the same or more restricted classification as the original non-conforming use; or,
- d. Authority has been granted by the Board of County Commissioners to extend a non-conforming use throughout those parts of a building which were manifestly designed or arranged for such prior to the date when such use or building became non-conforming.

A building or structure which was made non-conforming solely by its' failure to satisfy setback requirements along road frontage(s) because of the granting, dedication or condemnation of required public road easement or right-of-way; may be changed, extended, enlarged or structurally altered if the change does not further reduce existing building or structure's setback from road right-of-way or easement or otherwise expand its nonconformity.

12-320-3. CESSATION OF NON-CONFORMING USES

12-320-3.01. Whenever a non-conforming use has been changed to a conforming use, such use shall not therefore be changed to a non-conforming use.

12-320-3.02. A lawful non-conforming use of a building, structure, or land that has been voluntarily discontinued for a period of six calendar months shall not thereafter be resumed.

12-320-4. REPLACEMENT OR DAMAGED OR DESTROYED NON-CONFORMING USES.

12-320-4.01. Any non-residential building damaged by more than 50% of its fair market value shall not be restored if the use of such building is not in conformance with the zoning regulations adopted herein.

12-320-4.02. Residential non-conforming uses shall be permitted to rebuild except when located in the flood way overlay district. The use may not be rebuilt to a greater density than existed before the damage. Rebuilding shall not be allowed unless setback and parking requirements of the district are met; provided, however, that a non-conforming residential building to which section 12-320-2. is applicable may be rebuilt on the existing foundation as long as the rebuilding does not further reduce the setback to the public road or otherwise expand its nonconformity. Reconstruction must be completed within 12 months of the time the damage occurred.

12-320-5. REPAIRS TO NON-CONFORMING USES, LIMITATION

Such repairs and maintenance work as are required to keep it in sound condition may be made to a non-conforming building or structure, provided, that no structural alterations shall be made except such as are required by law or regulation or expressly permitted by these zoning regulations. Any non-residential building damaged by less than 50% of its fair market value shall be restored within twelve months of the time the damage occurred.

12-321 SUPPLEMENTAL HEIGHT, AREA, AND BULK REQUIREMENTS

12-321-1. The regulations set forth in this section qualify or supplement the district regulations appearing elsewhere in this Resolution, with the exception of such regulations as exempts land being used for agricultural purposes.

12-321-2. CONSTRUCTION REQUIREMENTS

All new dwellings constructed, and all dwellings moved from one location to another, shall:

12-321-2.01. Provide a minimum floor area of eight hundred square feet for each family.

12-321-2.02. Provide for each family a kitchen sink and a water closet installed in a room or compartment separated from other portions of the dwelling by partitions extending from floor to ceiling with entrance provided by a solid door. All water closets and kitchen sinks shall be connected with a water supply and sewage disposal system to be approved by the Zoning Administrative Officer.

12-321-2.03. Provide framing for the structure that develops strength and rigidity capable of withstanding winds of 20 pounds per square foot pressure, and provide framing for the roof capable of supporting a live load of 30 pounds per square foot plus the structural dead load.

12-321-2.04. Provide exterior wall surfacing of brick, stone, concrete, concrete blocks, wood siding, or other similar durable and satisfactory materials but not of tarpaper, canvas, cardboard, corrugated metal, unfinished slab siding, or other similar temporary, unsubstantial or unsightly materials.

12-321-3. MODIFICATION OF HEIGHT REGULATIONS

12-321-3.01. Except in an Airport Hazard District, the height regulations as prescribed in this Resolution shall not apply to:

- a. Belfries
- b. Chimneys
- c. Church spires
- d. Conveyors
- e. Cooling towers
- f. Elevator bulkheads
- g. Fire towers
- h. Flag poles
- i. Grain elevators
- j. Monuments
- k. Ornamental towers and spires
- l. Radio and television antennas
- m. Silos
- n. Smoke stacks
- o. Stage towers or scenery lofts
- p. Tanks
- q. Water towers and standpipes

12-321-3.02. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 60 feet, and

churches and temples may be erected to a height not exceeding 75 feet, when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

12-321-4. MODIFICATION OF AREA REGULATIONS

12-321-4.01. Yards, Generally

- a. Whenever a lot abuts upon a public alley, one-half of the alley width may be considered a portion of the required yard.
- b. Every part of a required yard shall be open to the sky except as authorized by this section, and ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard.
- c. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having direct street access; provided, however,
 - 1) that said court between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for one-story buildings and, in no case may such buildings be closer to each other than 15 feet;
 - 2) where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 30 feet for one-story buildings, 40 feet for two-story buildings, and 50 feet for three-story buildings.
- d. Within any residential district, the least dimension of a yard upon which the principal entrances or exits of a multiple dwelling face, shall be 20 feet.
- e. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.

12-321-4.02. Accessory Buildings and Structures

- a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- b. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 25 feet from street lines.
- c. One directional or name sign or sign advertising products sold on the premises may occupy required yards in a district where such sign is permitted by the use regulations of this Resolution; provided such sign is of not more than 30 square feet in area, does not contain flashing, moving or intermittent illumination, and provided the requirements of other laws and resolutions are complied with.
- d. An ornamental fence or wall not more than three and one-half feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided such fences and walls do not exceed a height of seven feet.
- e. Accessory, open, and uncovered swimming pools and home barbecue grills may occupy a required rear yard; provided they are not located closer than five feet to the rear lot line nor closer than three feet to a side lot line.
- f. Accessory buildings which are not part of the main building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than five feet to the rear lot line or closer than three feet to a side lot line.

- g.** A mobile home, when permitted as an accessory use, building or structure according to the provisions of these regulations, shall be used exclusively for residential purposes and shall not be used for a storage building. A mobile home may be used as a construction office or tract office, provided it has been approved as a Temporary Business Use according to the provisions of section 12-319-5 of the Regulations.

12-321.4.03. Front Yards.

- a.** Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- b.** On through lots, the required front yard shall be provided on each street.
- c.** Where a lot is located at the intersection of two or more streets, there shall be a front yard of twenty-five feet on the side street.
- d.** Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front and side yard not more than six feet.
- e.** Where 25 percent or more of the street frontage, or where 25 percent or more of the street frontage within 400 feet of the property in question, is improved with buildings that have a front yard (with a variation of six feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50 percent in excess of the depth of the required front yard in the district in which the lot is located, shall not be required. Where 40 percent have no front yard, no front yard shall be required for the remainder of the street frontage.

12-321-4.04. Side Yards.

- a.** Where dwelling units are erected above business structures in business districts, no side yards are required except such side yard as may be required in the district regulations for a business or industrial building.
- b.** For the purpose of the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.
- c.** The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case, the depth of that yard shall be as required in the chart of Section 12-318 for the district in which the building is located.

12-321-4.05. Rear Yards.

- a.** Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than five feet, but only where the same are so placed as not to obstruct light and ventilation.

12-321-4.06. Corner Visibility. No sign, fence, wall, hedge, planting or other obstruction to vision, extending to a height in excess of three feet above the established street grade, shall be erected, planted, or maintained within the area of a corner lot that is included between the lines of the intersecting streets and a straight line connecting them at points twenty feet distant from the intersection of the street lines.

12-321-4.07. Lot Area.

- a. If the owner of a lot in any district does not own a parcel or tract of land immediately adjacent to such lot, and if the deed or instrument under which such owner acquired title to such lot was of record prior to the application of any zoning regulations and restrictions to the premises, and if such lot does not conform to the requirements of such regulations and restrictions as to width of lots and lot area per family, the provisions of such lot area per family and lot width regulations and restrictions shall not prevent the owner of such lot from erecting a single-family dwelling or making other improvements on the lot; provided such improvements conform in all other respects to applicable zoning regulations and restrictions.

12-322 LARGE-SCALE DEVELOPMENT – THE COMMUNITY UNIT PLAN

12-322-1. PROCEDURE

The owners or agents of any tract of land comprising an area of not less than twenty (20) acres in a district where dwellings are permitted may submit a plan for the use and development of all of the tract of land for residential and allied purposes. Public hearings shall be held, reports submitted, and final action taken in accordance with procedures in Section 12-324.

12-322-2. SPECIAL CONDITIONS

The approval and recommendations of the Commission shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets with the following conditions, and it is hereby required that the following conditions shall be met before the approval by the Commission.

12-322-2.01. That the subdivision plan is approved in accord with the ordinances and regulations of the City of Lawrence if the project lies wholly or partly within the subdivision jurisdiction of that city.

12-322-2.02. That the buildings shall be used for single-family dwellings, two-family dwellings, or multiple dwellings, and the usual accessory uses, such as private or parking garages and storage space and for community activities, including churches and schools.

12-322-2.03. That the average overall lot area per family contained in the project, exclusive of the area occupied by streets, shall not be less than the lot area per family required in the district or districts in which the project is located.

12-322-2.04. That the area shall be adaptable to complete community development being bounded by major thoroughfares, streets, railroads, or other external barriers, and as far as possible, shall have within or through it, no major thoroughfare or other physical feature which will tend to impair the neighborhood or community cohesiveness.

12-322-2.05. That no more than 25 percent of the gross area of the total project located in a single-family or agricultural district be devoted to multiple-family dwellings.

12-322-2.06. That the property adjacent to the area included in the plan will not be adversely affected and to this end, the Planning Commission may require, in the absence of an appropriate physical barrier, that uses of least intensity be arranged along the borders of the project.

12-322-2.07. That the plan is consistent with the intent and purposes of this Resolution to promote public health, safety, morals, and general welfare.

12-322-3. ADDITIONAL REQUIREMENTS BY THE COMMISSION

Before approving a plan under this section, the Planning Commission shall prescribe such additional conditions as are, in its opinion, necessary to secure the objectives of this Resolution, including, but not limited to, those conditions which may be imposed by the Board of Zoning Appeals under Section 12-323. The violation of any conditions so imposed shall constitute a violation of this Resolution.

12-322-4. PERMITS

If the Board of County Commissioners approved the plans, building permits and certificates of occupancy may be issued, even though the use of land and the location and height of buildings to be erected in the area and the yards and open space contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

12-322-5. AMENDMENTS AND ADDITIONS

Amendment or addition to a community unit plan may be accomplished subject to the same regulations and procedures as those which apply to a new application.

12-322A CITY OF EUDORA SOURCE WATER PROTECTION OVERLAY ZONE

A Source Water Protection Overlay Zone has been identified to implement the City of Eudora’s Source Water Protection Plan. This Overlay Zone encompasses the City’s designated public water sources and a two-mile radius around each water source. Only the unincorporated areas within a two-mile radius of the water sources will be subject to the protection measures outlined below. The official Eudora Source Water Protection Overlay Zone map is located in the City of Eudora Source Water Protection Plan, which is available at the Lawrence-Douglas County Planning Office and Eudora City Hall. The Official Douglas County Zoning Map shall also include the Eudora Source Water Protection Overlay Zone.

For development applications, which include the following uses within the City of Eudora’s Source Water Protection Overlay Zone, the associated water quality protection measures shall be utilized and noted on site plans, certificates of survey, and plats:

Use	Water Quality Protection Measure
Auto Truck Repair Service	Discharge to Publicly Owned Treatment Works (POTW). Manage oil products and used oil so that it is not in contact with water.
Construction and Mining Machinery	Discharge to POTW.
Golf Course	Proper application of fertilizers and pesticides. Proper cleaning of equipment and disposal of chemicals.
Highway and Street Construction	Erosion and sediment control.
Meat Packing Plant Manufacturing	Wastewater pre-treatment and/or discharge to POTW.
Single-family Housing Construction	Proper cleaning and disposal of household hazardous waste. Proper storage, application, and clean up of pesticides and fertilizers.
Veterinary Services, Specialties	Discharge to POTW.
Deciduous Tree Fruit Orchard	Minimize the use of chemicals and pesticides. Maintain good erosion control practices.
Farm Product Warehousing and Storage	Keep the area clean of grain. Use grease traps.
General Farm, Primarily Crop	Maintain good erosion control practices and minimize the use of chemicals.
Repair Services, Not Elsewhere Classified	Discharge to POTW.

12-323 THE BOARD OF ZONING APPEALS

12-323-1. ORGANIZATION

The Board of Zoning Appeals is hereby created. The Board shall consist of five members, all of whom shall be residents of that portion of the county within the jurisdiction of this Resolution and one member may be a member of the Planning Commission. Members are to be appointed by the Board of County Commissioners and shall serve without compensation. Of the members first appointed, one shall serve for one year, two for two years, and two for three years. Thereafter, members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term. The Board shall adopt rules for the conduct of its business, such rules to be made available to the public. An affirmative vote of a majority of the Board shall be required to overrule any decision, ruling, or determination of the official charged with enforcement of this Resolution, or to approve any special exception or variance.

12-323-2. POWERS

The Board of Zoning Appeals shall have the following powers:

12-323-2.01. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this resolution.

12-323-2.02. To hear and decide special exceptions to the provisions of the Zoning Regulations in those instances where the Board is specifically authorized to grant such exceptions, and only under the terms of the Zoning Regulations. In no event shall exceptions to the provisions of the Zoning Regulations be granted where the use or exception contemplated is not specifically listed as an exception in the Zoning Regulation. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception when conditions of this exception, as established in the Zoning Regulations by the Board of County Commissioners, are not found to be present.

12-323-2.03. To authorize upon appeal in specific cases such variance from the specific terms of this Resolution as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Resolution will result in unnecessary hardship, provided that the spirit of the Resolution shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not permitted by the Zoning Regulations in such district. A request for a variance may be granted in such individual case, upon a finding by the Board that all of the following conditions have been met:

- a. That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant;
- b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- c. That the strict application of the provisions of this Resolution will constitute unnecessary hardships upon the property owner represented in the application;
- d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and,
- e. That granting the variance desired will not be opposed to the general spirit and intent of this Resolution.

12-323-3. SPECIAL USE EXCEPTIONS

In order to provide for adjustment in the relative locations of uses and buildings of the same or of different classifications, to promote the usefulness of this Resolution as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation, special use exceptions are permitted by the terms of this Resolution. The following building and uses are permitted as special exceptions if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exceptions will not substantially affect adversely the uses of adjacent and neighboring property permitted by this Resolution:

12-323-3.01. A two-family dwelling in an Agricultural or Residential District if there is compliance with the minimum lot area per family requirements of the district in which it is located.

12-323-3.02. A nonconforming commercial use to extend to the entire lot or a larger portion of the lot where there is now a commercial use on a portion of the lot.

12-323-3.03. A nonconforming commercial use on a lot, between two lots which are now used for commerce.

12-323-3.04. A nonconforming use now existing in any part of a building to be extended vertically or laterally to other portions of the building. In a building now occupied by a nonconforming commercial or industrial use, as additional use of the same classification in the remainder of the building.

12-323-3.05. The extension of an existing nonconforming building and the existing use thereof, upon the lot occupied by such building at the time of the passage of this Resolution or erection of an additional building upon a lot occupied at the time of the passage of this Resolution by a nonconforming commercial or industrial establishment and which additional building is a part of such establishment.

12-323-3.06. Where a use district boundary line crosses a lot, a use of either classification on the whole lot within one hundred feet of said district boundary line.

12-323-3.07. Private garage for more than four cars in a residential district.

12-323-3.08. Commercial greenhouses and nurseries, provided that any structure shall not be less than 50 feet from all property lines and street or road right-of-way.

12-323-3.09. Radio or television broadcasting tower and station, provided due consideration is given to the location of Airport Hazard Districts and the regulations applicable thereto.

12-323-3.10. Temporary and Conditional Permits for a two-year period for the following uses:

- a. Commercial dog kennels.
- b. Child care center.
- c. Convalescent or nursing home.
- d. Riding stables and private stables.
- e. Rifle or pistol range, trap, or skeet shooting.
- f. Miniature golf courses or driving ranges.

- g.** Raising for sale of birds, bees, rabbits, and other animals, fish, and other creatures.

12-323-3.11. A temporary and conditional permit may be issued for a mobile home in any district except the "A-1", "R-1", and "I-1" Districts and the Floodplain Overlay Districts, provided such mobile home shall be located on a lot of at least one acre. A mobile home shall not be located on a lot adjacent to any other lot occupied by a mobile home unless the mobile home on the adjacent lot is a permitted accessory use to a farm. In no event is this provision to be used to permit an assembly of trailers on separate lots which would in appearance or otherwise, constitute a mobile home park.

12-323-3.12. Conversion of any building existing at the time of passage of this Resolution, so as to permit the housing of any number of families; provided that there is compliance with the lot area per family and off-street parking requirements of the district in which the building is located; and further provided that there is substantial compliance with the yard requirements of the district in which the building is located.

12-323-3.13. Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of this Resolution where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of this Resolution to relieve congestion in the streets would best be served by permitting such parking off the premises.

12-323-3.14. To waive or reduce the parking and the loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the lot.

12-323-3.15. An exception to the sign requirements in the "I-1" Limited Industrial District.

12-323-3.16. Additions or structural alterations to Conditional Uses after they have been approved by the Board of County Commissioners.

12-323-3.17. To determine, in cases of uncertainty, the classification as to district of any use not specifically named in this Resolution provided, however, such use shall be in keeping with uses specifically named in the district regulations.

12-323-3.18. In any "I-3" Heavy Industrial District, those uses on which the Board is required to pass by section 12-313-3 of this Resolution.

12-323-4. SPECIAL YARD AND HEIGHT EXCEPTIONS

The following special yard exceptions, limited as to location and especially in locations described below in this section are permitted by this Resolution if the Board of Zoning Appeals finds that in its opinion, as a matter of fact, such exception will not substantially affect adversely the uses of adjacent and neighboring property permitted by this Resolution and provided such exceptions are approved by the Board:

12-323-4.01. An exception in the yard regulations on a lot where on the adjacent lot there is a front, side, or rear yard that does not conform with such yard regulations.

12-323-4.02. A yard exception on a corner lot, or lots opposite or adjoining permanent open spaces, including parks and playgrounds.

12-323-4.03. An exception in the depth of rear yard on a lot in a block where there are nonconforming rear yard conditions.

12-323-4.04. An exception where there are irregularities in depths of existing front yards on a street frontage on the side of a street between two intersecting streets, so that any one of the existing depths shall, for a building, hereafter constructed or extended, be the required minimum front yard depth.

12-323-4.05. An exception to the height regulations in the "I-1" Limited Industrial District.

12-323-5. VARIANCES

Subject to the provisions of section 12-323-2.03, the Board of Zoning Appeals shall have power to grant the following variances:

12-323-5.01. A variation in the yard requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, at the time of the enactment of such regulations or restriction, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon, the owner of such property. Such grant or variance shall comply, as nearly as possible, in every respect with the spirit, intent, and purpose of the zoning plan; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.

12-323-6. CONDITIONAL PERMITS

Where, in this Resolution, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals, where the Board is authorized to decide appeals or approve certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

- a. No outside signs or advertising structures except professional or directional signs.
- b. Limitation of signs as to size, type, color, location, or illumination.
- c. Amount, direction, and location of outdoor lighting.
- d. Amount and location of off-street parking and loading space.
- e. Cleaning and painting.
- f. Gable roof or other type.
- g. Construction and materials.
- h. Connected or disconnected with other buildings.
- i. Exits or entrances, doors, and windows.
- j. Paving, shrubbery, landscaping, or ornamental, or screening fence, wall, or hedge.
- k. Time of day or night for operating.
- l. No storefront.
- m. No structural changes.

- n. Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.

- o. Such other conditions as are necessary.

12-323-7. LAPSE OF SPECIAL EXCEPTION OR VARIANCE

After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of this Resolution shall thereafter govern.

12-323-8. MEETINGS

The Board of Zoning Appeals shall annually elect one of its members as chairperson. The Board shall appoint a secretary who may be an officer or an employee of the governing authority, and shall adopt rules in accordance with the provisions of any ordinance or resolution adopted pursuant to this act. Meetings of the Board shall be held at the call of the chairperson, and at such other times as the Board may determine. The chairperson, or in his absence the acting chairperson, may administer oaths. The Board shall keep minutes of its proceedings, showing evidence presented, the findings of fact by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board, and shall be a public record. The Board of County Commissioners may establish a scale of reasonable fees to be paid in advance by the party appealing.

The Board of Zoning Appeals shall administer the details of appeals from or other matters referred to it regarding the application of the zoning resolution as hereinafter provided. The Board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the official county newspaper at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal and to the appropriate planning commission.

12-323-9. APPEALS

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the county or any governmental agency or body affected by any decision of the officer administering the provisions of the zoning resolution. Such appeal shall be taken within a reasonable time as provided by the rules of the Board, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefore. The officer, from whom the appeal is taken, when notified by the Board or its agent, shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

The Board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of the zoning resolution. In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the office from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

12-323-10. APPEAL OF A DECISION FROM THE BOARD OF ZONING APPEALS

Any person, official or governmental agency dissatisfied with any order or determination of the

board of zoning appeals or the board of county commissioners may bring an action in the district court of the county to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Board.

12-323-11. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

Variations from the floodplain management regulations may be granted by the Board of Zoning Appeals. In approving a variance request, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, and standards specified in section 12-328 of this code and meeting the terms of K.S.A. 12-734. In addition, the following factors shall be considered:

- a. The danger of injury from materials swept onto other lands;
- b. The danger of life and property due to flooding or erosion damage;
- c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner or occupant;
- d. The importance of the services provided by the proposed facility to the community;
- e. The necessity to the facility of a waterfront location, where applicable;
- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g. The compatibility of the proposed use with existing and anticipated development;
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and,
- l. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures below the regulatory flood level, providing items 01 to 11 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

12-323-11.1 CONDITIONS

12-323-11.1.01. Upon the consideration of the above factors and purposes of section 12-328, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary.

12-323-11.1.02. Variance shall not be issued within the regulatory floodway if any increase in flood levels during the regulatory flood would result.

12-323-11.2 CONDITIONS VARIANCE APPROVAL

12-323-11.2.01. Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

12-323-11.2.02. Variances shall be issued only upon:

- a. a showing of good and sufficient cause,
- b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

- c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or in victimization of the public, or conflict with existing local laws or ordinances.

12-323-11.2.03. Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

12-323-11.2.04. The Director of Zoning & Codes shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

12-324 CHANGES AND AMENDMENTS

12-324-1.

12-324-1.01. The Board of County Commissioners may, from time to time, amend, supplement, or change, by resolution, the boundaries of the districts or the regulations herein established. The resolution shall become effective upon publication thereof in the official county paper.

12-324-1.02. An amendment, supplement, or change to these regulations may be initiated by the Board of County Commissioners, Planning Commission or by an application of one or more owners of property affected by the proposed amendment, supplement or change.

12-324-1.03 The Board of County Commissioners, from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the Board of County Commissioners or the Planning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Such application shall be made at least forty-five days prior to a regularly scheduled Planning Commission meeting.

Any such amendment, if in accordance with the land use plan or the land use element of a comprehensive plan, shall be presumed to be reasonable. The criteria for evaluation shall include, but not be limited to, the following when approving or disapproving a rezoning request:

- a.** Zoning and Uses of Properties Nearby;
- b.** Character of the Area;
- c.** Suitability of Subject Property for the Uses to Which It has been Restricted;
- d.** Length of Time Subject Property has Remained Vacant as Zoned;
- e.** Extent to Which Removal of Restrictions will Detrimentally affect Nearby Property;
- f.** Relative Gain to the Public Health, Safety, and Welfare by the Destruction of the Value of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners;
- g.** Conformance with the Comprehensive Plan; and,
- h.** Professional Staff Recommendation.

All such proposed amendments first shall be submitted to the Planning Commission for a recommendation. The Planning Commission shall hold a public hearing thereon, and shall give notice of the public hearing by publication at least once in the official newspaper a minimum of 20 days prior to the date of the hearing. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.

In addition to such publication notice, written notice of such proposed amendment shall be made at least 20 days before the hearing to all owners of record of lands located within at least 1,000 feet of the area proposed to be altered. Notice of the county's action shall extend 200 feet in those areas where the notification area extends within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public

inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Board of County Commissioners.

Such notice is sufficient to permit the Planning Commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation of a zoning classification of lesser change than that set forth in the notice shall not be valid without republication and, where necessary, remailing, unless the Planning Commission has previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications.

At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.

12-324-2. Action by the Planning Commission. The hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations and findings of fact. After the conclusion of the public hearing on the proposed amendment, the following shall apply:

- a. The Planning Commission may take any action that is consistent with the regulations of this Article, the Douglas County Code, by-laws adopted by the Planning Commission, and the notice given.
- b. The Planning Commission's action may include recommending approval of the proposed amendment, recommending approval with conditions or modifications, or recommending disapproval.
- c. The Planning Commission may recommend conditions or modifications if the effect of the condition or modification is to limit the allowed uses or to allow a lesser change from the rezoning requested in the proposed amendment; provided, however, that any recommendation of a zoning classification of lesser change from the zoning set forth in the published notice shall not be valid without republication and, where necessary, remailing notice to property owners entitled to mailed notice, unless the lesser change is consistent with any lesser change table the Planning Commission has previously established in accordance with Section 12-324-2.01.
- d. The Planning Commission may not recommend greater density of development, intensity of use, or a more intense zoning district classification than was specified in the published notice.

A majority of the members of the Planning Commission present and voting at the hearing shall be required to make a recommendation to the Board of County Commissioners. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval

12-324-2.01 LESSER CHANGE TABLE. Pursuant to K.S.A. 12-757 the planning commission may adopt a "Lesser Change Table". The Lesser Change Table is for the use of the planning commission in determining when republication of a zoning application is required. The table lists zoning classifications in descending order from the least intense to the most intense zoning district. A copy of the Lesser Change Table shall be available and on file at the Lawrence-Douglas County Metropolitan Planning Office.

12-324-3 Action by the Board of County Commissioners. When the Planning Commission submits a recommendation and findings of fact for approval, approval with conditions or modifications, or disapproval of a proposed amendment, the following shall apply:

- a. The Board of County Commissioners may approve, approve with conditions or modifications, or deny the proposed amendment; or,
- b. The Board of County Commissioners may return the proposed amendment to the Planning Commission for further consideration, together with a written explanation of the reasons for the Board of County Commissioners' failure to approve or disapprove.
 - 1. The Planning Commission, after considering the explanation by the Board of County Commissioners, may resubmit its original recommendations with its reasons for doing so or may submit a new or amended recommendation.
 - 2. Upon the receipt of such recommendation, the Board of County Commissioners may, by a simple majority vote, approve the proposed amendment, approve it with conditions or modifications, or deny it.
 - 3. If the Planning Commission fails to deliver its recommendations to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioners' report, the Board of County Commissioners will consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly.
- c. The Board of County Commissioners may act by a simple majority vote, except in the following cases:
 - 1. An action that overrides the Planning Commission's recommendations, in which case the decision shall be by a 2/3 majority vote of the membership of the Board of County Commissioners; or
 - 2. Approval, or approval with conditions or modifications, when a valid protest petition has been submitted in accordance with Section 12-324-4, in which case the voting requirements in Section 12-324-4 shall apply

The Board of County Commissioners may allow or impose conditions or modifications on the proposed amendment if the effect of the condition or modification is to limit the allowed uses, to allow a zoning classification of lesser change, or to reduce the amount of land area included in the proposed amendment. The Board of County Commissioners may not approve a greater density of development, intensity of use, or a more intense zoning district classification than was specified in the published notice. The proposed amendment shall become effective upon publication of the adopting Resolution.

12-324-3.01 Conditions of Approval. When the procedures of this Article allow the Planning Commission to recommend or the Board of County Commissioners to approve applications for zoning map amendment with conditions, the conditions shall relate to a situation created or aggravated by the proposed use or development. When conditions are imposed, an application will not be deemed to be approved until the applicant has complied with all of the conditions.

12-324-4. Regardless of whether or not the Planning Commission recommends approval, approval with conditions or modifications, or disapproval of a zoning amendment, if a protest petition against such amendment is filed in the office of the county clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owner of record of 20% or more of the total area required to be notified by this act of the

proposed rezoning of a specific property, excluding streets and public ways, the resolution adopting such amendment shall not be passed except by at least a $\frac{3}{4}$ vote of all of the members of the Board of County Commissioners. The foregoing supermajority voting requirement, however, shall not apply if K.S.A.12-757(g) or other applicable law requires approval by only a majority of the Board of County Commissioners.

12-324-5.

12-324-5.01. No application for an amendment, supplements, or change to the "Zoning Regulations for Unincorporated Territory of Douglas County, Kansas". Including the zoning map, Conditional Use Permits, and Community Unit Plans, shall be accepted by the Lawrence-Douglas County Planning Commission if an application for the same amendment, supplement, or change has been denied by the Board of County Commissioners within the preceding twelve months. The withdrawal of an original application after it has been advertised for public hearing shall constitute a denial of the application just as if the public hearing had commenced and been concluded.

12-324-5.02. Irrespective of paragraph a. above, an application for the rehearing may be accepted by the Lawrence-Douglas County Planning Commission within twelve months after a denial if it is accompanied by an affidavit setting forth facts, which, in the judgment of the Planning Commission, constitute a substantial change from the original application. All requests for rehearing as provided for in this section, shall be submitted to the Lawrence-Douglas County Planning Department fifteen days prior to a regularly scheduled meeting of the Lawrence-Douglas County Planning Commission and shall be included on the agenda for that meeting as no-public hearing item. If the Planning Commission determines that the application constitutes a substantial change from the original application, the item shall be advertised and a public hearing shall be held at the next regularly scheduled meeting of the Lawrence-Douglas County Planning Commission.

12-324-6 Within 30 days of the final decision of the Board of County Commissioners, any person aggrieved thereby may maintain an action in the District Court of Douglas County to determine the reasonableness of such final decision.

12-325 CERTIFICATE OF OCCUPANCY

12-325-1. No vacant land shall be occupied or used, except for agricultural uses, until a certificate of occupancy shall have been issued by the administrative officer.

12-325-2. No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use, except for strictly agricultural purposes, until a certificate of occupancy and compliance shall have been issued by the administrative officer, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.

12-325-3. Certificates of occupancy and compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the administrative officer.

12-325-4. No permit for excavation for any building shall be issued before application as been made for certificate of occupancy and compliance.

12-325-5. A certificate of occupancy shall be required of all nonconforming uses. Application for a certificate of occupancy for non-conforming uses shall be filed with the administrative officer within 12 months from the effective date of this Resolution.

12-326 PERMITS, PLATS, AND FILING FEES

12-326-1. PERMITS

No building or mobile home shall be erected, constructed, altered, moved, converted, extended or enlarged, unless exempted by applicable building codes, without the owner or owners first having obtained a building permit therefore from the administrative officer. Such permit shall require conformity with the provisions of the Douglas County Zoning Regulations and shall be issued in accordance with and subject to all applicable provisions of all applicable subdivision regulations, building codes, rules and similar regulations.

Charges for building permits, inspections, and related fees shall be set and amended by the Board of County Commissioners from time to time.

12-326-2. BUILDING PERMIT APPLICATIONS.

In addition to documents and other information required pursuant to applicable building codes and other regulations, all applications for building permits shall be accompanied by: 1) two complete sets of construction plans; 2) a recorded deed; 3) evidence that a road access entrance permit has been issued by the Douglas County Public Works Department, Kansas Department of Transportation, or Township Board as appropriate; 4) evidence that a sewage disposal system permit and water supply permit has been issued by the Lawrence-Douglas County Health Department or other appropriate agency or that no such permits are necessary; 5) a site plan; and 6) a recorded boundary survey plat (prepared by a licensed land surveyor) in duplicate or as required by the Zoning Administrative Officer, showing the following (unless shown on the site plan):

- a. Location of proposed building(s) on the lot required street right-of-way line, base setback line, and required yard setback line.
- b. All easements, public or private; sewer or septic tank location; source of potable water supply and location.
- c. The drawings shall contain suitable notation indicating the proposed use of all lands and buildings.
- d. Vicinity sketch showing relationship of parcel to surrounding lands and existing street network.
- e. Title block, which shall include a north arrow, date, legal description of the property, name of owner, and scale.
- f. Scale of drawings: For a parcel containing one acre or less – one inch equals fifty feet; over one acre – one inch equals one hundred feet.
- g. Road access entrance location, culvert size, and materials, as approved by the Douglas County Public Works Department, Kansas Department of Transportation, or Township Board, as appropriate.

A record of the original copy of such applications and plats shall be kept in the offices of the administrative officer and a duplicate copy shall be kept at the building at all times during construction.

12-326-3. FILING FEES.

12-326-3.01. All persons, firms, corporations, or other entities (except any federal or state governmental agency or any political subdivision thereof) appealing to the Board of Zoning Appeals shall be required to pay, in advance, a filing fee for expenses relative thereto. The filing fee shall be set and amended by the Board of County Commissioners from time to time. No part of the filing fee shall be refunded after review of the request has begun.

12-326-3.02. All persons, firms, corporations, or other entities (except any federal or state governmental agency or any political subdivision thereof) applying for a Conditional Use Permit under the provisions of Section 12-319 of the Douglas County Zoning Regulations, or a change in the classification of the district or a portion thereof, necessitating the publication of notices in the newspaper shall be required to pay, in advance, a filing fee for expenses relative thereto. The filing fee shall be set and amended by the Board of County Commissioners from time to time. No part of the filing fee shall be refunded after review of the request has begun.

12-326-3.03. The payment of filing fees in advance to the Douglas County shall be deemed a condition precedent to the consideration of such appeal, Conditional Use Permit or amendment.

12-326-3.04. If a proposed amendment is approved by the Board of County Commissioners, the property owner shall pay Douglas County a fee in an amount to be set and amended by the Board of County Commissioners, from time to time, to cover publication costs, which fee shall be paid before the resolution making the amendment is published.

12-327 INTERPRETATION, PURPOSE, AND CONFLICT

12-327-1. In interpreting and applying the provisions of this Resolution, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Resolution to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties; provided, however, that where this Resolution imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Resolution shall govern. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this Resolution is not shown as being in a zoning district, the classification of such property shall be classified "R-1" Single-Family Residential District, until changed by amendment.

12-328 FLOODPLAIN MANAGEMENT REGULATIONS**12-328-1. STATEMENT OF PURPOSE AND INTENT****12-328-1.01. Statement of Purpose.**

The management regulations set forth in this Section are the floodplain management regulations for the unincorporated portions of Douglas County. The purpose of these regulations is to protect individuals and property from flood hazards or flooding by providing for the orderly and safe development of the floodplain for the most advantageous uses which are consistent with the health, safety, and welfare of the general public and which are also consistent with sound practices for utilizing those areas required for the conveyance of specified stream flows in the regulatory floodway.

12-328-1.02. Intent.

- a.** The intent of these regulations is to avoid additional costs for home owners upon annexation and to minimize losses due to floods or flood waters by provisions designed to:
- 1) Prohibit the placement of fill, materials, and structures which would obstruct flood flows and decrease the storage capacity of the regulatory floodway unless it can be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - 2) Require structures in the floodplain and public utilities vulnerable to floods be provided with flood protection at the initial construction stage.
 - 3) Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to floodplain.
 - 4) Minimize public expenditures for flood control projects and damage to public improvements within the floodplain.
 - 5) Maintain property values adjacent to the floodplain and minimize flood blight areas.
 - 6) Assure eligibility for property owners in the Federal Flood Insurance Program.
- b.** These regulations are designed and intended to be administered in a manner which will:
- 1) Restrict or prohibit uses dangerous because of water and erosion hazards or which will result in undue increases in erosion, flood heights, or velocities.
 - 2) Control grading (fill or excavation), dredging, and development which may unduly increase the potential for flood damage.
 - 3) Require that uses protect private and public investments by requiring floodproofing.
 - 4) Control alteration of floodplains, stream channels and natural barriers which accommodate or channel floodwaters.
 - 5) Prevent or regulate construction of barriers that unnaturally divert flood waters or cause increased flood hazards. Construction in floodplains should be directed to the outer limits of the Floodway Fringe before it is allowed to encroach further into the regulatory floodplain.

12-328-2. FLOODPLAIN OVERLAY DISTRICTS

The floodplain overlay districts shall include only those areas designated as floodplain by the Federal Insurance Study or by an approved Hydrologic and Hydraulic Study.

The floodplain overlay districts consist of: the "F-W" floodway overlay district; and, the "F-F" floodway fringe overlay districts.

12-328-3. FLOODPLAIN OVERLAY DISTRICTS MAP

The official floodplain overlay districts map shall be used in conjunction with the official zoning districts map. The official floodplain overlay districts map shall show the boundaries of the "F-W" floodway and the "F-F" floodway fringe overlay districts. These boundaries shall be consistent with the Floodway and Floodway Fringe as identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled, "The Flood Insurance Study for the County of Douglas, Kansas, and Incorporated Areas August 5, 2010", with the accompanying Flood Insurance Rate Maps and revisions thereto.

12-328-4. FLOOD INSURANCE

No part of this Section or any regulation therein shall be construed as affecting the eligibility for flood insurance of any structure existing at the time of publication of the Flood Insurance Rate Maps.

12-328-5. FLOODPLAIN DEVELOPMENT WITHIN THE CITY OF LAWRENCE URBAN GROWTH AREA (UGA)

12-328-5.01. Development of Property in the Floodplain Overlay District. Development of land or subdivision of property (including lot splits) within the City of Lawrence Urban Growth Area (UGA) and a floodplain overlay district shall be permitted only where an approved hydrologic and hydraulic study demonstrates that there will be no rise in the base flood elevation and no increase in flood velocities at any point resulting from the proposed development.

- a. Property platted prior to June 1, 2005, may develop and/or re-plat or subdivide (including lot splits) for non-residential uses without conducting a hydrologic and hydraulic study. Such development is still subject to the remaining sections of this Article.
- b. Development of undeveloped property that was platted prior to June 1, 2005 may occur without conducting a hydrologic and hydraulic study until January 1, 2007. Such development is still subject to the remaining sections of this Article. After January 1, 2007 development of the property is subject to all sections contained within this Section.

12-328-5.02. Floodway Restrictions. Any encroachment, including fill, new construction, substantial improvements, or other development is prohibited within the F-W Overlay District, except for the following structures:

- a. Flood control and stormwater management structures;
- b. Road improvements and repair;
- c. Utility easements/Rights-of Way; and,
- d. Public improvements or public structures for bridging the Floodway.

12-328-5.03. Hydrologic and Hydraulic Study

- a. Hydrologic and hydraulic studies shall comply with the following standards:
 - 1) The study shall be signed and sealed by a professional engineer, licensed in the State of Kansas;
 - 2) The study shall be submitted for approval by the Douglas County Director of Public Works concurrent with the initial submittal of a floodplain development permit application, preliminary plat, development plan or site plan;
 - 3) Hydrologic and hydraulic methods of analysis shall be consistent with those used

- in the current Flood Insurance Study for Douglas County;
- 4) The study shall extend an adequate distance upstream and downstream of the proposed development to encompass the hydraulic effects of the proposed development;
 - 5) The study shall determine the water surface elevations of the base flood for the existing stream and for any proposed development. Based on the assumption of full watershed development and other factors, the findings of the hydrologic and hydraulic study may differ from the Flood Insurance Study. At a given location, the higher water surface elevation shall be the base flood elevation for compliance with the provisions of this section;
 - 6) The study shall identify the velocities of the base flood for the existing stream and for any proposed development;
 - 7) The study shall determine the areas of inundation of the base flood for the existing stream and for any proposed development. The area of inundation shall be dimensioned to the property corners for use in revising the floodplain overlay districts on all property within the extent of the study; and,
 - 8) In areas outside Zone AE, the study shall also identify the Floodway for the proposed development.
- b.** For a hydrologic and hydraulic study that proposes an alteration of FEMA's designated floodplain or Floodway, a letter of map revision (LOMR) must be obtained before a building permit will be used for any lot containing a Zone A, AE, AH or AO of the current FIRM.

12-328-5.04. Land Disturbance. Land disturbance or removal of vegetation within the floodplain overlay districts shall be minimized to the extent possible. When excavation, grading, removal of vegetation or other modifications to the cross-sectional geometry of the floodplain are proposed in order to meet the requirements set forth in section 12-328-5.01, those modifications shall comply with the following:

- a.** Construction plans shall be prepared for the proposed modifications and shall be submitted for review and approval by the Douglas County Director of Public Works.
- b.** As approved by the Douglas County Director of Public Works:
 - 1) Channel lining materials shall be limited to native vegetation, stabilized as necessary to prevent erosion. The use of concrete lining, pipe or other structural materials shall be minimized;
 - 2) Within the area of inundation, all disturbed areas above the channel lining shall be restored with native vegetation, including trees, to promote wildlife habitat; and,
 - 3) Channel designs shall preserve existing low-flow channels to the extent possible.

12-328-6 DEVELOPMENT STANDARDS AND CRITERIA

12-328-6.01. General Standards. Development in areas that are included in the floodplain overlay districts shall be required to meet the following general standards:

- a.** No structure, fill, or other uses within the floodway overlay district shall be permitted which will increase the base flood elevation.
- b.** Public improvements shall be waterproofed to the base flood elevation. Any space below the base flood elevation shall be watertight with walls substantially impermeable to the passage of water with structural components having the capabilities of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The interior and content of the structures shall remain substantially dry.
- c.** Water lines shall be designed to eliminate infiltration of flood waters into systems.

- d. Sewer lines shall be designed to eliminate infiltration of flood waters into systems and discharge from the systems into the floodwaters.
- e. Residential Construction: New construction or substantial improvements of a residential structure shall be elevated, anchored to prevent flotation, collapse, or lateral movement of the structure and shall be constructed to resist and minimize flood damage. Construction shall be with materials resistant to flood damages, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- f. Non-Residential Construction: All new construction and substantial improvements that fully enclose areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement; and, which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria; A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- g. Storage of materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after the flood warning. Storage of materials that are buoyant, flammable, explosive or potentially injurious to human life at times of flooding shall not be permitted.
- h. On site waste disposal systems shall be designed to avoid impairment due to flooding.
- i. All new construction and substantial improvements that fully enclose areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- j. Until a Floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

12-328-6.02. Specific Standards. In addition to these general standards, development shall be required to meet the following specific standards:

- a. Residential Construction. New construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated: (a) a minimum of two feet above the base flood elevation when located within the Urban Growth Area

- (UGA) of Lawrence, or, (b) a minimum of one foot above the base flood elevation when located outside the Urban Growth Area of Lawrence but within the unincorporated area of Douglas County.
- b.** Non-Residential Construction. All new construction and substantial improvements of non-residential structures shall have (a) either (i) the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation; or, (ii) together with attendant utility and sanitary facilities, be designed so that below one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and (b) a registered professional engineer or architect shall develop and/or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable provisions of the Federal Emergency Management Regulations [44FR311177, the Section 60.3 (c)(3)(ii) & Section 60.3 (c)(8)(ii), and amendments thereto.]
 - c.** Existing Manufactured (Mobile) Home Park – All manufactured homes to be placed in an existing park located in a floodplain overlay district are required to be firmly secured to an adequately anchored foundation system to resist floatation, collapse, or lateral movement, which may include, but is not limited to, the use of over-the-top or frame ties to ground anchors. (This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.)
 - d.** Manufactured (mobile) homes to be placed or substantially improved in an expansion to an existing manufactured (mobile) home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced are required to have the manufactured home chassis elevated by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six inches in height above grade and be securely attached to an adequately anchored foundation such that the lowest floor of the manufactured home is elevated at least two feet above the base flood elevation.
 - e.** A licensed land surveyor or professional engineer shall certify that the elevation of a proposed structure is above the specified base flood elevation.
 - f.** In areas where a base flood elevation has not been provided by the FIS, the county shall obtain, review and reasonably utilize any base flood elevation and Floodway data available from federal, state or other sources until such other data has been provided by FEMA for use and enforcement of this chapter.
 - g.** Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either 1) be on the site for fewer than 180 consecutive days, 2) be fully licensed and ready for highway use, or 3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes in this ordinance. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
 - h.** All proposals for development must include base flood elevation data.
 - i.** In Zone AO and AH, adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

12-328-6.03. Letter of Map Revision (LOMR). Structures placed on property that has been removed from the floodplain by a LOMR shall have the lowest floor, including basement,

elevated above the base flood elevation in compliance with section 12-328-6-02.

12-328-7. ADMINISTRATION AND RECORDS

12-328-7.01. Administration. The Director of Zoning and Codes shall be vested with the administration of these regulations. It shall be his responsibility to review all requests for floodplain development permits and to enforce the regulations in this Section. Each permit shall be reviewed in consideration with the following:

- a. Satisfying all the requirements of this Section.
- b. Obtaining all the necessary permits from federal, state, or local government agencies prior to approval of the development permit.
- c. The location of the proposed development in relation to the Floodway and the assurance that any encroachment meets the standards in this Section, and K.S.A. 12-766.

12-328-7.02. Records. The Director of Zoning and Codes, as administrator of these regulations, shall record and maintain a record of all development permits issued.

Documentation of these permits shall include:

- a. The proposed use, residential or non-residential;
- b. The elevation of the regulatory floodway for the area developed; and,
- c. Certification that the elevation of the lowest floor is above the base flood elevation by the required; one foot in the unincorporated area of the County outside the Lawrence Urban Growth Area or, two feet within the Urban Growth Area of Lawrence.

The Director of Zoning and Codes shall submit a biennial report on the appropriate federal annual report form to the Administrator concerning the community's participation in the Federal Insurance Program.

12-328-8. DEVELOPMENT PERMIT

12-328-8.01. No development shall be made in, on, or over any land designated by this Section and shown on the official floodplain overlay district map as being within the floodway overlay districts without obtaining approval from the Director of Zoning and Codes.

12-328-8.02. Application for a development permit shall be made by the property owner or his certified agent to the Director of Zoning and Codes upon appropriate forms. Such application shall be made at least ten days prior to the approval of a development permit. The application shall be accompanied by a fee of Fifty Dollars; no part shall be returnable to the applicant after review of the permit request has begun. The application fee shall be made payable to the Director of Zoning and Codes.

12-328-8.03. Information required. An application for a development permit shall be accompanied by the following information:

- a. Identification and description of proposed use or development;
- b. Legal description of the property;
- c. Plan of the proposed development or use at a scale of one inch equals fifty feet or larger showing the Floodway and Floodway Fringe as designated by the Federal Insurance Administrator;
- d. Use and type of structures proposed;
- e. The elevation (in relation to mean sea level) of the lowest floor, including basements, of all structures or proposed fill;
- f. A statement of the elevation flood proofed by a licensed land surveyor or professional engineer;
- g. Proposed developments which include alteration of watercourses must:

- 1) In river or tributary situations, the Director of Zoning and Codes will notify any adjacent community, state coordinating agency for the National Flood Insurance Program, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse.
 - 2) Evidence submitted by the applicant's engineer or architect showing that no adverse impacts will result from the alteration and the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.
- h.** Any additional data which the Director of Zoning and Codes or County Engineer requests which is pertinent to the issuance of a development permit.

12-328-9. CERTIFICATION OF ELEVATION

Within sixty days after a building permit has been issued, a certification of elevation must be received, approved and recorded at the Director of Zoning & Codes' Office.

The development permit must include certification from a land surveyor or professional engineer (licensed to do business in the State of Kansas) that the lowest floor, including basement, is a minimum of one foot above the base floodplain elevation. The building permit is null and void after said sixty day period if such certification is not provided. Occupancy of the structure shall be illegal prior to the approval of a development permit.

12-328-10. NON-CONFORMING USES AND STRUCTURES IN THE FLOODPLAIN

All non-conforming uses and structures within a floodway or regulatory floodway fringe overlay districts shall be subject to the following requirements in addition to other provisions of the County's Zoning Resolution.

12-328-10.01. No non-conforming use or structure shall be altered, repaired or modified unless a permit is issued under this Section.

12-328-10.02. No permit for the alteration, repair or modification of a non-conforming use in the Floodway Fringe shall be issued unless such alteration, repair or modification includes flood proofing by elevation to or above the base flood elevation. No permits shall be issued for alteration, repair or modification in the Floodway that will obstruct flow or increase the height of the base flood.

12-328-10.03. Uses or adjuncts thereof, which are or become nuisances shall not be entitled to continue as non-conforming uses.

12-328-10.04. The Director of Zoning and Codes, before issuing a development permit for the alteration, repair or modification of a non-conforming use or structure, shall request a decision from the Board of Zoning Appeals in determining the adequacy of the proposed flood proofing measures for the proposed alteration, repair or modification of the non-conforming use or structure. The Board of Zoning Appeals shall make this determination in accordance with the following specific criteria:

- a.** The susceptibility of the structure or use to flood damage.
- b.** The availability and expense of alternate floodproofing techniques.
- c.** The safety of the flood proofing measures.

12-328-11. AREAS OF SHALLOW FLOODING (ZONE AO AND ZONE AH)

The following provisions apply to areas designated as Zone AO and Zone AH:

12-328-11.01. Zone AO.

- a.** All development and substantial-improvements of residential structures, including mobile

homes or manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

- b. All development and substantial-improvements of any commercial, industrial, or other non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade as least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
- c. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-11.02. Zone AH.

- a. The development standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in section 12-328-6 et al; and,
- b. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-12. AMENDMENTS

The regulations, restrictions, and boundaries set forth in this section may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that prior to the adoption thereof, the Board of County Commissioners shall submit to the chief engineer of the Division of Water Resources of the State Board of Agriculture any ordinance, resolution, regulation or plan that proposes to create or to effect any change in a floodplain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments, and uses of land within such an area.

The chief engineer may require, pursuant to rules and regulations, each submission hereunder to be accompanied by complete maps, plans, profiles, specifications and textual matter. The chief engineer shall approve or disapprove any such ordinance, resolution, regulation or plan or changes thereof within 90 days of the date of receipt of all such data required by the chief engineer as specified in rules and regulations adopted thereby.

If the chief engineer fails to approve or disapprove within the 90 day period required by this section, such ordinance, resolution, regulation or plan or change thereof shall be deemed approved. The chief engineer shall provide, in writing, specific reasons for any disapproval.

12-328-13. DEFINITIONS

The following definitions are applicable to only the terms found in this section.

12-328-13.01. Agency. The Federal Emergency Management Agency (FEMA).

12-328-13.02. Areas of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

12-328-13.03. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

12-328-13.04. Base Flood Elevation. The water surface elevation of the base flood as

determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher.

12-328-13.05. Community. Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

12-328-13.06. Development. Any man-made change to improved or unimproved real estate, including but not limited to, building or other structure, mining, fill, dredging, grading, paving, excavation or drilling operations (excluding wells for potable water), or storage of equipment or materials.

12-328-13.07. "Eligible Community". A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

12-328-13.08. Existing Construction. For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "existing construction" may also be referred to as "existing structures".

12-328-13.09. Existing Manufactured Home, Park or Subdivision. A manufactured home, park or subdivision for which the construction of facilities for servicing the lot(s) on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before March 2, 1981, the effective date of the adoption of the first County floodplain management regulations.

12-328-13.10. Existing Structures. (See "Existing Construction")

12-328-13.11. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)

12-328-13.12. Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland waters; 2) the unusual and rapid accumulation or runoff of surface waters from any source; and 3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item 1).

12-328-13.13. Flooding. [See "Flood"].

12-328-13.14. Flood Insurance Rate Map (FIRM). The official map of a community on which both the special flood hazard areas and the risk premium zones have been delineated.

12-328-13.15. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

12-328-13.16. Floodplain. The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study.

12-328-13.17. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness flood control works, and floodplain management regulations.

12-328-13.18. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purposes (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

12-328-13.19. Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

12-328-13.20. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

12-328-13.21. Floodway Encroachment Lines. The lines marking the limits of Floodways on Federal, State and local floodplain maps.

12-328-13.22. Floodway Fringe. The area outside the Floodway encroachment lines, but still subject to inundation by the regulatory flood.

12-328-13.23. Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and Floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

12-328-13.24. Habitable Floor. Any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof.

12-328-13.25. Highest Adjacent. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12-328-13.26. Historic Structure. Any structure that is: a) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district; c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: 1) by an approved state program as determined by the Secretary of the Interior or 2) directly by the Secretary of the Interior in states without approved programs.

12-328-13.27. Hydrologic and Hydraulic Study. An engineering study that is done in accordance with section 12-328-5.03 et al.

12-328-13.28. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render to structure in violation of the applicable non-elevation design requirements of this ordinance.

12-328-13.29. Manufactured Homes [See "Mobile Home"]

12-328-13.30. Market Value. An estimate of what is fair, economic, just and equitable value under normal local market conditions. If market value cannot be determined, the construction estimate can be used.

12-328-13.31. Mean Sea Level. For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are reference.

12-328-13.32. Mobile or Manufactured Home. A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The terms "mobile home" or "manufactured home" does not include a "recreational vehicle".

12-328-13.33. New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.

12-328-13.34. Overlay District. A special zoning district that has been "overlaid" on a base zoning classification to add to or alter some or all of the base district zoning regulations.

12-328-13.35. Participating Community. [See "Eligible Community"]

12-328-13.36. Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

12-328-13.37. Principally Above Ground. When at least 51 percent of the actual cash value of the structure, less land value, is above ground.

12-328-13.38. Recreational Vehicle. A vehicle which is a) built on a single chassis; b) 400 square feet or less when measured at the largest horizontal projections; c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security

devices, and has no permanently attached additions.

12-328-13.39. Special Flood Hazard Area (SFHA). See [“Area of Special Flood Hazard”].

12-328-13.40. Start of Construction. This includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

12-328-13.41. State Coordinating Agency. The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

12-328-13.42. Structure. For the purpose of this section the definition of structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. “Structure” for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principal above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

12-328-13.43. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to it’s before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

12-328-13.44. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed 50 percent of the market value of the structure; either 1) before the improvement or repair is started or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

12-328-13.45. Urban Growth Area. The area that is defined in the City and County Comprehensive Land Use Plan as the Urban Growth Area (UGA) surrounding the City of Lawrence.

12-328-13.46. Variance. A grant of relief by the community from the terms of floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied the community.

12-328-13.47. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

12-328-13.48. Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

12-328-13.49. Zone A. The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.

12-328-13.50. Zone AE. The special flood hazard area inundated by 100-year flood where the base flood elevations have been determined.

12-328-13.51. Zone AH. The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually areas of ponding); where base flood elevations have been determined.

12-328-13.52. Zone AO. The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); where average depths have been determined. For areas of alluvial fan flooding velocities have also been determined.

12-329 ENFORCEMENT, VIOLATION, AND PENALTIES

12-329-1. It shall be the duty of the Zoning Administrative Officer to enforce the provisions of this Resolution and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said Resolution. It shall also be the duty of all officers and employees of the County to assist the administrative officer by reporting to him any seeming violation in new construction, reconstruction, or land uses. Any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce the adopted zoning regulations and to abate nuisances maintained in violation thereof.

12-329-2. In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this Resolution, the administrative officer is authorized and directed to institute any appropriate action to put an end to such violation.

12-329-3. Any person or corporation who shall violate any of the provisions of the Resolution or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved here-under, shall be guilty of a misdemeanor and shall be punishable by a fine of not to exceed \$500.00 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

The owner or owners of any building or premises, or part thereof, where anything in violation of this Resolution shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who have assisted in the commission of any such violation shall be guilty of a separate offense, and upon conviction thereof, shall be fined as herein before provided.

12-329-4. In the event the County fails to timely and adequately enforce the provisions of these Regulations after written demand by any person directly and adversely affected by an alleged violation of these Regulations, such person may (at such person's expense) bring an action against the landowner allegedly violating these Regulations, in a court of competent jurisdiction, to assert the public's general interest in the enforcement of these Regulations, and to enjoin such alleged unlawful use.

12-330 VALIDITY

12-330-1. If any section, paragraph, subdivision, clause, phrase, or provision of this Resolution shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Resolution as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

12-330-2. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

12-330-3. VALLEY CHANNEL AND FLOODPLAIN OVERLAY DISTRICTS WARRANTY

12-330-3.01. Designation of Valley Channel and Floodplain Overlay Districts. The designating of only part of Douglas County as a Valley Channel or as a part of the regulatory floodplain shall in no way constitute a finding or warranty by Douglas County or any agency or employee thereof that any part of the County not so designated is free from flood hazards.

12-330-3.02. Granting Of Building Permits in the Valley Channel or Floodplain Overlay Districts. The granting of a building permit for the erection, moving in, altering, or enlarging of any building or structure in a Valley Channel or regulatory floodplain shall not constitute a representation or warranty of any kind or nature by the Douglas County or any agency or employee thereof; of the practicability or safety of any action or improvement described by such permit and shall create no liability upon or course of action against the County or any agency or employee thereof for any damage that may result pursuant thereto.