

12-301 INTRODUCTORY PROVISIONS

SECTION 301 INTRODUCTORY PROVISIONS

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12-301-1 OFFICIAL TITLE AND AUTHORITY

These regulations shall be known and may be cited as the “Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas”. For convenience, it is referred to throughout this document as the “Zoning Regulations”. Except where otherwise indicated, these Zoning Regulations were prepared and adopted under the authority granted to Douglas County by K.S.A. 12-741 et seq., and amendments thereto.

12-301-2 APPLICABILITY

The Zoning Regulations apply to all development activity, public and private, within the unincorporated territory of Douglas County, Kansas with the following exception:

a. The Zoning Regulations shall not apply to land or structures determined by the Zoning and Codes Director to be exempt due to their being used strictly for agricultural purposes in compliance with (K.S.A. 19-2908) except:

- 1) All new agricultural exempt buildings, shall be subject to setback requirements from public roads so as to protect the future use and improvement of such roads. (K.S.A. 19-2960)
- 2) Floodplain regulations (Section 12-312) shall apply to agricultural exempt buildings, (K.S.A. 19-2921)

b. Agricultural Exemption

The Douglas County Zoning and Codes Director has the authority to determine when an agricultural use exemption is warranted in accordance with the criteria specified in this section and state law. Upon such determination, the Director shall issue a letter granting the exemption and a record of such exemption shall be maintained by the Zoning and Codes Office.

- 1) To receive an agricultural exemption, the landowner requesting the exemption must complete and submit an application on forms provided by the Director of Zoning and Codes along with all required supplemental documentation. No application fee shall be charged for an agricultural use exemption determination.
- 2) To qualify for an agricultural exemption the Director of Zoning and Codes must determine there is an agricultural use, as defined in these regulations and state law, on the subject property. This can be demonstrated with IRS forms, or with an inspection of the agricultural operations.

12-301-3 **PURPOSE**

- a. These Zoning Regulations have been made in accordance with, and are intended to implement the recommendations in, the Comprehensive Land Use Plan adopted jointly by Douglas County and the City of Lawrence and other applicable plans adopted by the Board of County Commissioners, hereinafter collectively referred to as the 'Comprehensive Plan' in a manner that protects and promotes the public health, safety and general welfare of the citizens of Douglas County, Kansas.
- b. These regulations are intended to permit appropriate development within the unincorporated area while recognizing agriculture as a principal land use.
- c. Development is regulated to:
 - 1) Promote the public health, safety, comfort, convenience, prosperity, and general welfare;
 - 2) Preserve environmentally sensitive lands;
 - 3) Provide for safe and convenient traffic circulation;
 - 4) Lessen or avoid the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
 - 5) Insure compatibility of nearby land uses;
 - 6) Protect and maintain the unique and irreplaceable resources, natural resources, and agricultural land within the unincorporated portion of the county; and
 - 7) Maintain the rural character;

12-301-4 **GENERAL RULES OF INTERPRETATION**

- a. Numbering Style
The first two numerals in a section number correspond to the Douglas County Code ("County Code") chapter in which the section is located—Chapter 12. To the right of the dash, the first number is the article of Chapter 12 that contains the Zoning Regulations—Article 3. The following 2 numbers represent the section the text is located within. Numbers to the right of the dash indicate the subsection. Thus, "12-301-4.01" indicates that subsection 4.01 is in Section 1 of Article 3 of Chapter 12 of the County Code.
- b. Meaning
The language of the Zoning Regulations shall be read literally. Regulations are no more or less strict than stated. Words used in the Zoning Regulations have the standard dictionary definition unless they are defined in Section 12-315.
- c. Usage
 - 1) Words in the singular include the plural and the reverse is true.
 - 2) Words in the present tense include the future tense and the reverse is true.
 - 3) Words 'shall', 'will', 'shall not' and 'may not' are mandatory.

- 4) The words 'may', and 'should' are permissive.
- 5) When used with numbers, 'up to x', 'not more than x', and 'a maximum of x', all include x.

d. Fractions

- 1) When a regulation is expressed in terms of a minimum requirement, such as the number of parking spaces required per use, any fractional result shall be rounded up to the next consecutive whole number.
- 2) When a regulation is expressed in terms of maximum limits, such as maximum building area permitted, any fractional result shall be disregarded and only the smallest applicable whole number shall be considered.

e. Headings, Illustrations and Text

In case of any difference of meaning or implication between the text of the Zoning Regulations and any heading, drawing, table, figure, or illustration, the text controls.

f. References to Other Regulations

All references in the Zoning Regulations to other County, State, or Federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility by the County to enforce any State or Federal regulations.

g. Current Versions and Citations

All references in the Zoning Regulations to other County, State, or Federal regulations refer to the most current version and citation for those regulations, unless specifically indicated otherwise. Where the referenced regulations have been repealed, the Zoning Regulations requirements for compliance are no longer in effect.

h. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use 'including', 'such as' or similar terms are intended to provide examples only and do not constitute complete lists.

i. Delegation of Authority

Whenever these Zoning Regulations require the department director or another officer, staff or employee of the County to perform an act or duty, the department director or officer shall have the authority to delegate that responsibility to others over whom they have authority unless such delegation is expressly prohibited by these regulations.

j. Public Officials and Agencies

All employees, public officials, boards, and agencies to which references are made are those of Douglas County unless otherwise expressly stated.

12-301-5 CONFLICTING PROVISIONS

a. Conflict with State or Federal Regulations

If the provisions of the Zoning Regulations are inconsistent with the laws and regulations of the State or Federal government, the more restrictive provision shall control, to the extent permitted by law. The more restrictive provision is the one that imposes greater development restrictions or more stringent controls. Nothing in the Zoning Regulations shall be interpreted

as requiring a violation of State or Federal law.

b. Conflict with Other County Regulations

If the provisions of the Zoning Regulations are inconsistent with one another, or if they conflict with other County regulations, the more restrictive provision shall control. The more restrictive provision is the one that imposes greater development restrictions or more stringent controls.

c. Conflict with Private Agreements and Covenants

The Zoning Regulations are not intended to abrogate, annul, or otherwise interfere with any easement, covenant, or other private agreement or legal relationship otherwise in conformance with the Zoning Regulations.

12-301-6 TRANSITIONAL PROVISIONS

12-301-6.01 Applications Submitted Before the Effective Date

- a. Any use or development activity for which a complete application was submitted to the Planning Office or Zoning and Codes Office before the effective date of these revised Zoning Regulations, or any amendment thereto, and pending approval on the effective date may, at the applicant's option, be reviewed under the terms of the Zoning Regulations in effect at the time of application.
- b. If approved, such uses or development activities may be carried out in accordance with the standards in effect at the time of application.
- c. Any re-application for an expired permit shall comply with the Zoning Regulations in effect at the time of re-application.

12-301-6.02 Permits Issued Before the Effective Date

- a. Any use or development activity for which a permit was duly issued before the effective date of any amendment to the Zoning Regulations may be completed in conformance with the issued permit and other applicable permits and conditions, and such regulations that were in effect at the time the permit was issued, even if such use or development activity does not fully comply with the provisions of the revised Zoning Regulations.
- b. If the use or development activity is not commenced or completed in accordance with the applicable permit terms, the director of the department responsible may, upon receipt of a written request and payment of any required fee, grant one 6-month time extension. If the use is not commenced or completed within the time allowed under the original permit or extension, then the use or development activity shall be completed or occupied only in strict compliance with the requirements of the revised Zoning Regulations.

12-301-6.03 Violations Continue

Any violation of the previously approved Zoning Regulations shall continue to be a violation under these revised regulations and shall be subject to the penalties and enforcement measures listed in Section 13 unless the use or development activity is consistent with the express terms of the revised Zoning Regulations, in which case enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of the revised regulations. The adoption of the revised Zoning Regulations does not affect nor prevent any pending or future prosecution of, or action to abate violations of the previous Zoning Regulations that occurred prior to the effective date.

12-301-7 **VALIDITY**

If any portion of the Zoning Regulations is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion held to be invalid or unconstitutional is to be deemed severed from the Zoning Regulations and will in no way affect the validity of any other portion of the Zoning Regulations.