CHAPTER 12. ZONING AND LAND USE REGULATIONS

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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 that 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.

SECTION 302 ZONING DISTRICTS, ZONING MAP, AND GENERAL PROVISIONS

12-302-1 Zoning Districts
12-302-2 Official Zoning District Map
12-302-3 Regulations within Districts
12-302-4 Rules for Interpretation of Zoning District Boundaries
12-302-5 General Provisions

12-302-1 ZONING DISTRICTS

The zoning districts listed below establish the basic zoning regulations that apply to all properties classified in, or shown on, the Official Zoning District Map as in that Zoning District. The Zoning District regulations control the types of uses allowed and the way in which uses, buildings, and structures may be developed on a property.

Zoning Districts	
AG-1	Agricultural District
AG-2	Transitional Agricultural District
CP	Clustered Preservation District
LS	Lone Star Lake Lot Residential District
LB	Lake Oriented Business District
RT	Rural Tourism District
GB	General Business District
LI	Light Industrial District
GI	General Industrial District
V	Village District
BSC	Big Springs Community District
FW	Floodway Overlay District
FF	Floodway Fringe Overlay District
EWP	Eudora Source Water Protection Overlay District
ASO	Airspace Overlay District

12-302-1.01 CONVERSION OF EXISTING ZONING DISTRICTS

The Zoning District Map designations in effect prior to the effective date of the revised Zoning Regulations are converted as follows:

Previous Map Designations	New Map Designations
Agricultural Districts	
A (Agricultural)	AG-1 (Agricultural) (parcels with 20 acres or more) AG-2 (Transitional Agricultural) (parcels with less than 20 acres)
V-C (Valley Channel)	
Residential Districts	
A-1 (Suburban Home Residential)	CP (Clustered Preservation)
R-1 (Single Family Residential)	
Business Districts	
B-1 (Neighborhood Business)	GB (General Business)
B-2 (General Business)	
B-3 (Limited Business)	LB (Lake Oriented Business)
R-T (Rural Tourism Business)	RT (Rural Tourism Business)

Industrial Districts	
I-1 (Limited Industrial)	LI (Light Industrial)
I-2 (Light Industrial)	
I-3 (Heavy Industrial)	GI (General Industrial)
I-4 (Heavy Industrial)	
Overlay Districts	
F-W (Floodway)	F-W (Floodway)
F-F (Floodway Fringe)	F-F (Floodway Fringe)
EWP (Eudora Source Water Protection)	EWP (Eudora Source Water Protection)

12-302-2 OFFICIAL ZONING DISTRICT MAP

a. The boundaries of the zoning districts established by the Zoning Regulations are shown on the map or a series of maps designated as the "Official Zoning District Map of Douglas County, Kansas, February 19, 2020 and as amended from time to time.

b. This Zoning District Map, and all notations, dimensions, references, data, and other information shown thereon is adopted and made a part of the Zoning Regulations as fully as if it were included in the pages of these Zoning Regulations.

c. The Official Zoning District Map shall be maintained by the Director of Zoning and Codes in accordance with K.S.A. 12-753. In case of any dispute regarding the zoning classification of property subject to the Zoning Regulations, the original maps maintained by the Director of Zoning and Codes shall govern. The Director of Zoning and Codes is responsible for producing all updates of the Official Zoning District Map.

d. The Zoning District Map, clearly showing the zoning district boundaries and zoning district names/designations, shall be available for public inspection in the Zoning and Codes Office. The official map shall be revised to show such district boundary changes once the resolution adopting the change has been published in the official newspaper in accordance with the provisions in Section 12-307-4.09(e).

12-302-3 REGULATIONS WITHIN DISTRICTS

A district name or abbreviation shown on the Zoning District Map indicates that the zoning regulations pertaining to the designated zoning district extend throughout the entire area of the unincorporated territory of the County within the jurisdiction of the Zoning Regulations contained within the district boundary lines shown by such name or abbreviation, except as otherwise provided by this section.

12-302-4 RULES FOR INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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 the Zoning Regulations, the following rules apply:

a. In cases where a boundary line is given a position within right-of-way or an easement for road right-of-way, or a navigable or non-navigable stream, it shall be deemed to be in the center of the road right-of-way or easement for road right-of-way or stream, and if the actual location of such road right-of-way or easement for road right-of-way, 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 road

right-of-way or easement for road right-of-way, or other physical feature, this distance shall control.

In cases where a boundary line is shown adjoining or coincident with a railroad, the boundary line shall be deemed to be in the center of the railroad right-of-way.

c. In cases where the Floodway or Floodway Fringe Overlay District boundaries are in dispute, the Director of Zoning and Codes shall make the necessary interpretation. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. Section 12-312 provides additional information regarding the Floodplain Overlay Districts and the Floodplain Overlay District Maps.

12-302-5 GENERAL PROVISIONS

Except as hereinafter provided:

12-302-5.01 PERMITTED USES

All land, buildings or part thereof shall be used only for a use permitted in the Zoning District in which the land or building is located.

12-302-5.02 BUILDING PERMITS

If required by these Zoning Regulations, building permits shall be as required by Chapter 13, Construction Codes of Douglas County, Kansas.

12-302-5.03 DIMENSIONAL STANDARDS

No building shall be constructed converted, or structurally altered except in conformity with the Dimensional Standards, listed in Section 12-303, for the Zoning District in which the building is located, unless a variance from these standards has been obtained from the Board of Zoning Appeals.

12-302-5.04 RIGHT-OF-WAY OR EASEMENT FOR ROAD RIGHT-OF-WAY

No building shall be constructed, enlarged**,** altered, repaired, or relocated, to occupy land within the required right-of-way or easement for road right-of-way of any existing or future road shown on the officially adopted Major Thoroughfare Map within the Douglas County Access Management Standards. (Section 9-506, County Code)

12-302-5.05 PRINCIPAL STRUCTURES

Every structure hereafter erected or structurally altered shall be located on a platted lot or an eligible parcel as herein defined and, except as hereinafter provided, in no case shall there be more than one principal structure on a lot or eligible parcel for residential purposes.

12-302-5.06 SANITATION AND WATER SUPPLY

Those areas not served by approved public utilities shall adhere to the following regulations:

a. Sewage Management Systems

1) Sewage Management shall comply with the Douglas County Sanitary Code.

2) A permit shall be obtained from the Lawrence-Douglas County Health Department prior to the installation of any septic systems.

3) Inspection of on-site sewage management systems by the Health Authority is required prior to the sale of any property which contains such a system.

4) The discharge of sewage into seepage pits, abandoned wells, cisterns, streams or upon the surface of the ground is prohibited. In no case shall treated or untreated sewage, or the effluent from an on-site sewage management system be permitted to drain directly or indirectly into a ditch or stream, nor shall it be allowed to surface, run, or drain across any other adjacent land. The system may be inspected by the Health Authority at any stage in construction.

5) Individual on-site sewage management systems shall not be constructed upon lots with less than 3 contiguous acres which are not encumbered by floodplain.

6) Plans for on-site sewage management systems must be submitted to the Health Authority for review. Approval by the Health Authority is required prior to construction. Written standards are available at the Lawrence-Douglas County Health Department.

7) On-site sewage management systems shall be property maintained per approval of the Health Authority.

b. Disposal of Solid Waste

Disposal of solid waste shall occur in accordance with Chapter 10 of the County Code.

1) Disposal of garbage, rubbish, refuse, and other solid waste is permitted only in a designated public or private landfill 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.

2) The discarding, dropping**,** throwing, or storing of litter, appliances, vehicles, or other trash in roads, ditches, abandoned wells, intermittent streambeds, streams, or other bodies of water on public or private property is prohibited.

c. Public Water Supplies

1) 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.

2) Water systems yielding samples containing coliform bacterial or other demonstrable surface contaminants shall be considered unsafe for drinking purposes and shall be considered a public health hazard.

d. Private Water Supplies

Where connection is not to be made to municipal or approved communal potable water system, a building permit will not be issued unless provision is made for a safe and adequate supply of drinking water that has been approved by the Health Authority, unless the Zoning and Codes Director determines that a connection to water is not required for the proposed use.

SECTION 303 ZONING DISTRICTS

12-303-1 AG-1 (Agricultural) District
12-303-2 AG-2 (Transitional Agricultural) District
12-303-3 CP (Clustered Preservation) District
12-303-4 LS (Lone Star Lake Lot Residential) District
12-303-5 LB (Lake Oriented Business) District
12-303-6 RT(Rural Tourism Business) District
12-303-7 GB (General Business) District
12-303-8 LI(Light Industrial) District
12-303-9 GI(General Industrial) District
12-303-10 V (Village) District
12-303-11 BSC (Big Springs Community) District
12-303-12 Overlay Zoning Districts

12-303-1 AG-1 (AGRICULTURAL) DISTRICT

The AG-1 District is intended to accommodate a full range of agricultural activities such as the raising of crops or livestock as well as the processing and sale of agricultural products raised on the premises and, at the same time, to offer protection to agricultural land and land uses. Maintaining an inventory of productive, or potentially productive, agricultural land is a principal goal within the unincorporated portion of the county. The district is also intended to provide protection for watersheds and water supplies, forest areas, and scenic areas; to promote the conservation of fish and wildlife; and to prevent the untimely scattering of more dense urban development. The standards of the AG-1 District are designed to permit limited development that is compatible with the existing rural character and agricultural land uses.

12-303-1.01 Permitted Uses

a. A building or land shall be used only for the uses listed in the Permitted Use Table in Section 12-304-3. Uses intended to support and encourage agriculture, such as Agritourism, Value-Added Agriculture Business, Commercial Grain Storage, Small Scale Ag Related Research Facility, and Ancillary Agricultural Retail Sales are permitted in the AG-1 District.

b. Any request to change the use of land in the AG-1 (Agricultural) District from agriculture to a non-agricultural use will be evaluated with regards to the suitability of the property for agricultural uses in order to maintain a strong inventory of agricultural land and may require rezoning or approval of a conditional use permit.

12-303-1.02 Accessory Uses and Structures

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same dimensional standards as the principal use and structure.

12-303-1.03 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart below apply to all development in the AG-1 District. Additional dimensional standards are contained in Section 12-305.

AG-1	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75/60 [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	150’	100’	100’	75’	50
Interior Side Setback	30’	30’	30’	30’	30’
Rear Setback	30’	30’	30’	30’	30’
Minimum Parcel Area	20[2]	20[2]	20[2]	20[2]	20[2]
Minimum frontage	1320’ [3]	660’ [3]	660’/500’ [3] [4]	330’ [3]	250’ [3][5]
Minimum width at Minimum Depth	1188’	594’	594’/450’ [4]	297’	225’
Minimum Depth	300	250’	250’	250’	250’
Maximum Height	35’	35’	35’	35’	35’
Maximum Density	1 du/20 acres	1 du/20 acres	1 du/20 acres	1 du/20 acres	1 du/20 acres

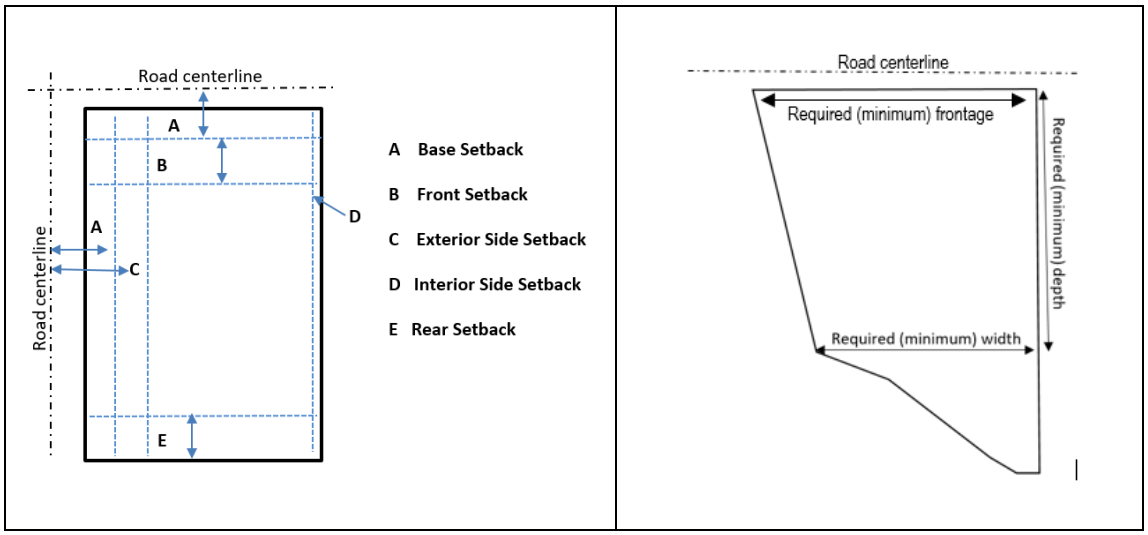
[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] Parcels with less area may be created when maximum density is maintained with an Agricultural Preservation Easement.

[3] Minimum frontage requirement applies along the road which the property fronts on and takes access to.

[4] 1st number is frontage required when the posted or design speed, as determined by the County Engineer, is greater than, or equal to, 55 mph/ 2nd number is frontage required when the posted or design speed, as determined by the County Engineer, is less than 55 mph.

[5] There is no minimum frontage or width requirement for properties served by Commission approved private roads established per Home Rule Resolution No. HR-09-10-3 or for properties that connect to, and take access from, the terminus of a ‘dead end’ road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.



12-303-1.04 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-1.05 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-2 AG-2 (TRANSITIONAL AGRICULTRAL) DISTRICT

a. The AG-2 (Transitional Agricultural) District will provide an appropriate zoning designation for low density development that retains the character of a rural area with limited residential development. This District is intended to accommodate low-density rural development in areas that are not well-suited for agriculture or development that has been designed to accommodate agricultural land uses in the area. For this reason, rezoning requests to this district will be evaluated on a case-by-case, site-by-site basis. Due to the unique purpose and nature of this district it may not be provided in uniform areas, as is common with most zoning districts, but may be provided in very small areas located throughout the unincorporated portion of the county.

b. In addition, the AG-2 District is intended to accommodate lands which are currently located in the A (Agricultural) District but have inadequate parcel area for the AG-1 District (e.g. land was divided into less than 20 acres, prior to the adoption of these regulations).

c. The AG-2 District will allow the zoning maps to more clearly represent the current land uses in an area. The AG-1 District will include larger parcels with agricultural or open space land uses and the AG-2 District will include smaller parcels and land that has been divided for residential development. Agriculture remains a permitted and encouraged use in the AG-2 District.

12-303-2.01 Applicability

Rezoning to the AG-2 District is required prior to the development of parcels with less than 20 acres that do not meet the exemption from the dimensional standards in the AG-1 District, Section 12-301.2 or Section 11-101(c)(vii) of the Subdivision Regulations. In addition to the criteria listed in Section 12-307-4.06 of these Regulations, rezoning applications to the AG-2 District shall be evaluated for the suitability of the property for agricultural uses to minimize the loss or conversion of agriculturally productive land, or potentially productive agricultural land.

12-303-2.02 Permitted Uses

A building or land shall be used only for the principal uses listed in the Permitted Use Table in Section 12-304-3.

12-303-2.03 Accessory Uses

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same dimensional standards as the principal use and structure.

12-303-2.04 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart below apply to development in the AG-2 District. Additional dimensional standards are contained in Section 12-305.

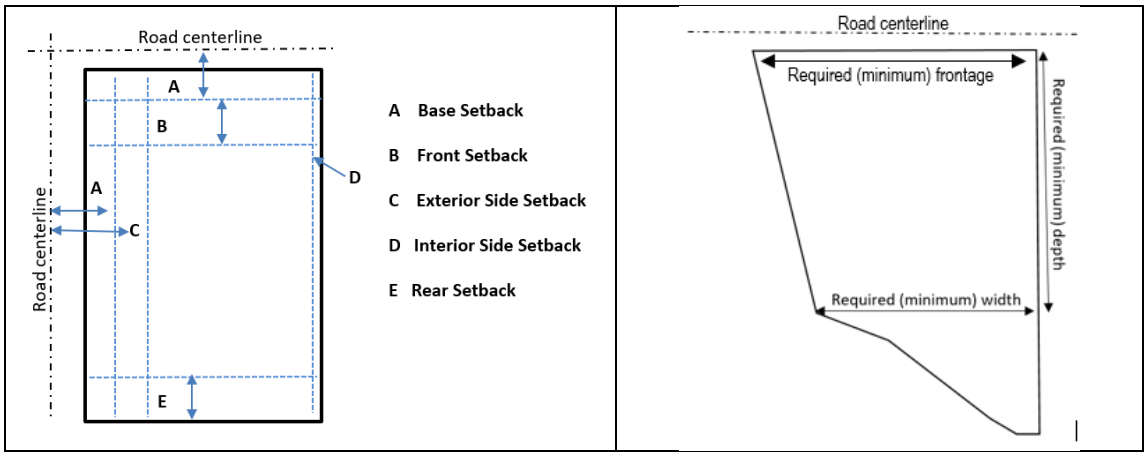
AG-2	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback	75/60 [1]	50’	40’	35’	35’
Front and Exterior Side Setback	150’	100’	100’	75’	50’
Interior Side Setback	30’	30’	30’	30’	30’
Rear Setback	30’	30’	30’	30’	30’
Minimum Area	10 acres [2]	10 acres [2]	10 acres [2]	10 acres [2]	10 acres [2]
Minimum frontage	1320’[3]	660’ [3]	660’/500’[][3][4]	330’[3]	250’[3]
Minimum width at Minimum Depth	1188’	594’	594’/450’[4]	297’	225’
Minimum Depth	300	250’	250’	250’	250’
Max. Height	35’	35’	35’	35’	35’
Maximum Density	1 du / 10 acres	1 du / 10 acres	1 du / 10acres	1 du / 10 acres	1 du / 10 acres

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] The minimum area requirement applies to properties divided after the effective date of these regulations. Parcels or lots that were legally created prior to the effective date that have less than this minimum area are vested. Parcels with less area may be created when maximum density is maintained with an Agricultural Preservation Easement.

[3] Minimum frontage requirements apply along the road which the property fronts on and takes access to. There is no minimum frontage for properties served by Commission approved private roads established per Home Rule Resolution No. HR-09-10-3 or for properties that connect to, and take access from, the terminus of a ‘dead end’ road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.

[4] 1st number is frontage required when the posted or design speed, as determined by the County Engineer, is greater than, or equal to, 55 mph/ 2nd number is frontage required when the posted or design speed, as determined by the County Engineer, is less than 55 mph.



12-303-2.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3. with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-2.06 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

g. General Development Standards – Section 12-314
h. Landscaping/Screening – Section 12-305
i. Off-Street Parking and Loading – Section 12-311
j. Sign Regulations – Section 12-314
k. Lighting Standards – Section 12-314
l. Additional Dimensional Standards-Section 12-305

12-303-3 (CP) CLUSTERED PRESERVATION DISTRICT

The CP (Clustered Preservation) District accommodates lands which were zoned A-1 (Suburban Home Residential) District and R-1 (Single-Family Residential) Districts within the Urban Growth Area or were divided through a cluster development certificate of survey prior to the effective date of these revised Zoning Regulations. The District also provides a suitable zoning district for medium density residential development within the Urban Growth Area while preserving agricultural lands and open space by clustering development. Existing A-1 Zoning outside of the urban growth area will convert to the CP District with the adoption of these regulations; however, no new rezoning to the CP District shall occur on any land outside the Urban Growth Area.

12-303-3.01 Applicability

a. Rezoning to the CP District is required within the Urban Growth Area prior to the development of residential uses at a higher density than is permitted in the AG-2 District (greater than 1dwelling unit per 10 acres). This district is intended to accommodate land divisions of up to 4 rural development parcels through a cluster development certificate of survey and the platting of residential subdivisions. Rezoning requests from the AG-1 or AG-2 District will be evaluated to minimize the loss or conversion of productive, or potentially productive, agricultural lands.

b. The district permits the clustering of residential development, thereby allowing agricultural or open space preservation on a minimum of 40% of the total property area. It may be possible to cluster development on smaller lots than required by the density and dimensional standards in this section, provided the Health Department approves an engineered wastewater system which is governed by an improvement district, a public water supply system is available, and a protected agricultural or open space area exceeding the required minimum of 40% of the total site area is provided.

c. Lots or Rural Development Parcels shall be clustered (contiguous), unless necessary to be separated to protect environmentally sensitive lands or productive agricultural land.

12-303-3.02 Permitted Uses

A building or land shall be used only for the principal uses listed in the Permitted Use Table in Section 12-304-3.

12-303-3.03 Accessory Uses

Accessory uses and structures are permitted by right in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same dimensional standards as the principal use and structure.

12-303-3.04 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart below apply to development in the CP District. Additional dimensional standards are contained in Section 12-305.

CP	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75/60 [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	150’	100’	100’	75’	50
Interior Side Setback	10’	10’	10’	10’	10’
Rear Setback	30’	30’	30’	30’	30’
Minimum Lot/Parcel Area*	3 acres [2]	3 [2]	3 [2]	3 [2]	3 [2]
Minimum frontage	1320’[3]	660’ [3]	660’/500’ [3][4]	330’[3]	250’[3][5]
Minimum width at Minimum Depth	1188’	165’	594’/450’[4]	297	225’
Minimum Depth	300	250’	250’	250’	250’**
Max. Height	35’	35’	35’	35’	35’
Maximum Density	1 du / 3 acres	1 du / 3 acres	1 du / 3 acres	1 du / 3 acres	1 du / 3 acres

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median.

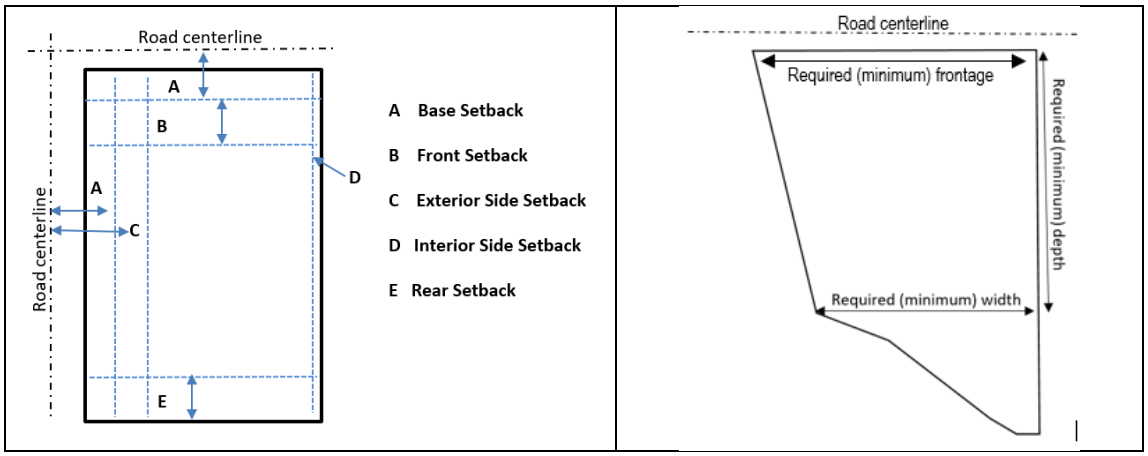
[2] Lot area must comply with Douglas County Sanitary Code requirements.

a. The minimum area requirement applies to properties divided after the effective date of these regulations. Properties divided prior to the effective date with less than this minimum area, will be subject to the nonconforming lot provisions of Section 12-308-4.

[3] Minimum frontage requirement applies along the road which the property fronts on and takes access to.

[4] 1st number is frontage required when the posted or design speed, as determined by the County Engineer, is greater than, or equal to, 55 mph/ 2nd number is frontage required when the posted or design speed, as determined by the County Engineer, is less than 55 mph.

[5] Minimum frontage of 50 feet is required for properties that take access from a cul-de-sac. There is no minimum frontage or width requirement for properties that connect to, and take access from, the terminus of a ‘dead end’ road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.



12-303-304 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-3.05 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-4 LS (LONE STAR LAKE LOT RESIDENTIAL) DISTRICT

The purpose of the LS (Lone Star Lake Lot Residential) District is to establish a district that recognizes the lake lots or tracts previously created by plat within Douglas County at Lone Star County Lake, which are unique and distinctive from other lake lot developments and which are each served by public water and private sewer, and to maintain overall density and development standards contained within said Douglas County Lake developments. The District is not to be used for the creation of additional lots or tracts of a similar nature.

12-303-4.01 Permitted Uses

A building or land shall be used only for the purposes shown in the Permitted Use Table in Section 12-304-3.

12-303-4.03 Accessory Uses and Structures

Accessory uses and structures are permitted by right in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use and structure.

12-303-4.04 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart apply to development in the LS District. Additional dimensional standards are contained in Section 12-305.

LS	Local Road
Front and Exterior Side Setback	20' from the right-of-way line
Interior Side Setback	6'
Rear Setback	10'
Max. Height	35'
Min. Area	1,600 sq ft

a. Lot Dimensions
No minimum lot area is established for legal lots of record as of the date of the adoption of these regulations; however, it is anticipated that every such lot shall provide sufficient setbacks as specified herein and still provide adequate building area.

b. Lot Area
No minimum lot area is established for legal lots of record as of the date of the adoption of these regulations. Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system.

12-303-4.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-4.06 Other Regulations

There are a number of other regulations that may apply to development in this district including

but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-5 LB (LAKE ORIENTED BUSINESS) DISTRICT

The LB (Lake Oriented Business) District is intended to accommodate the grouping of uses that serve the users of, or are dependent upon, the recreational lakes in the County (Clinton Lake, Lone Star Lake, Douglas County Lake, Ski Lake, and Lakeview Lake).

12-303-5.01 Permitted Uses

A building or land shall be used only for the purposes listed in the Permitted Use Table in Section 12-304-3.

12-303-5.02 Accessory Uses

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use or structure.

12-303-5.03 Dimensional Standards

Unless otherwise expressly stated, the Dimensional standards provided in the chart below apply to development in the LB District. Additional dimensional standards are contained in Section 12-305.

LB	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75'/60' [1]	50'	40'	35'	35'
Front and Exterior Side Setback (from Base Setback)	80'	40'	40'	40'	40
Interior Side	10'/20/ [2]	10'/20/ [2]	10'/20/ [2]	10'/20/ [2]	10'/20/ [2]
Rear	30'	30'	30'	30'	30'
Minimum Area	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]
Minimum frontage	75' [4]	75' [4]	75' [4]	75' [4]	75' [4][5]
Minimum Depth	125'	125'	125'	125'	125'
Maximum Height	35'	35'	35'	35'	35'

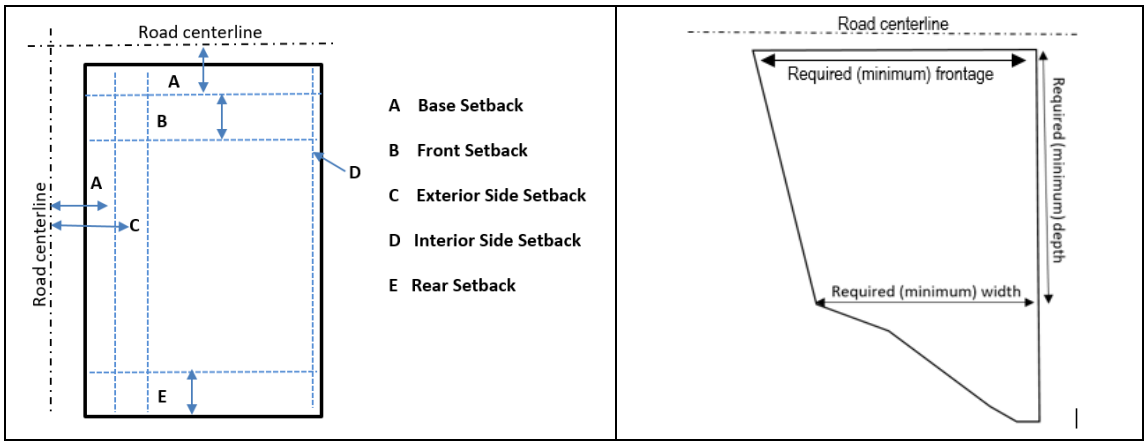
[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] First number is setback when adjacent to a non-residentially zoned or developed property. Second number is setback when adjacent to a residential use or residentially zoned property.

[3] Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system for properties platted after the effective date of these regulations.

[4] Minimum frontage requirements apply along the road which the property fronts on and takes access to.

[5] Minimum frontage of 50 feet is required for properties that take access from a cul-de-sac. There is no minimum frontage or width requirement for properties that connect to, and take access from, the terminus of a 'dead end' road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.



12-303-5.04 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-5.05 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-6 RT (RURAL TOURISM BUSINESS) DISTRICT

The RT District is intended to provide a suitable zoning district for uses associated with Rural Tourism, such as recreation and conference uses. The District is intended to accommodate Rural Tourism uses that occupy significant land areas or that may be more intense or larger in scale than uses than could be permitted as Agritourism or with a Conditional Use Permit. The regulations are designed to offer maximum flexibility for the use while insuring compatibility with nearby land uses and the rural character of the area.

12-303-6.01 Permitted Uses

A building or land shall be used only for the principal uses listed in the Permitted Use Table in Section 12-304-3.

a. The only uses permitted in the RT District are uses that the Zoning and Codes Director has determined constitute Rural Tourism Uses, as defined in this Section, and their accessory uses.

b. Accessory 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.

c. Rural Tourism uses may exist alone or may be several uses combined, and may include accessory uses. For instance, a corporate retreat (social assembly) may have meeting rooms, recreational facilities, and a restaurant.

d. Principal Rural Tourism Uses are the uses that make up the Rural Tourism component of the use. These uses include, but are not limited to, uses such as outdoor recreation, parks, areas for picnicking, riding stables, bike paths, hiking trails and other similar uses; open air theater (excluding drive-ins); places of social assembly; lodging such as lodges, cabins, bed and breakfasts, or campgrounds; libraries, museums, art galleries and other similar uses.

e. Accessory Rural Tourism uses are uses that do not constitute a Rural Tourism use on their own, but may enhance the rural tourism use.

1) These uses shall be incidental to the rural tourism use and must occur in conjunction with a principal rural tourism use.

2) Accessory uses that would enhance rural tourism uses could include, but are not limited to, personal service uses such as beauty salons/spas, photographic or artist studios, restaurants, retail stores (limited), indoor sports or recreation, including billiard parlors, physical fitness centers, swimming pools; residential dwellings when associated with the tourism use as caretaker or manager residence, or as part of a living museum; religious institutions, and community buildings.

f. A concept plan must be submitted with any rezoning request to the RT District.

1) The site plans submitted for the project, including the concept plan, must clearly identify the principal Rural Tourism uses and the accessory uses as defined in this Section.

2) Principal uses in the RT District shall be limited to those, and only those, approved with the rezoning by resolution. Any change in the principal uses shall require rezoning of the property.

3) Rural Tourism zoning is intended to accommodate larger scale commercial tourism projects that are compatible with, and benefit from, the rural character of the area.

12-303-6.02 Site Design Criteria

a. Uses in the Rural Tourism District 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;

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 uses in the Rural Tourism District:

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.

12-303-6.03 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart apply to development in the RT District. Additional dimensional standards are contained in Section 12-305.

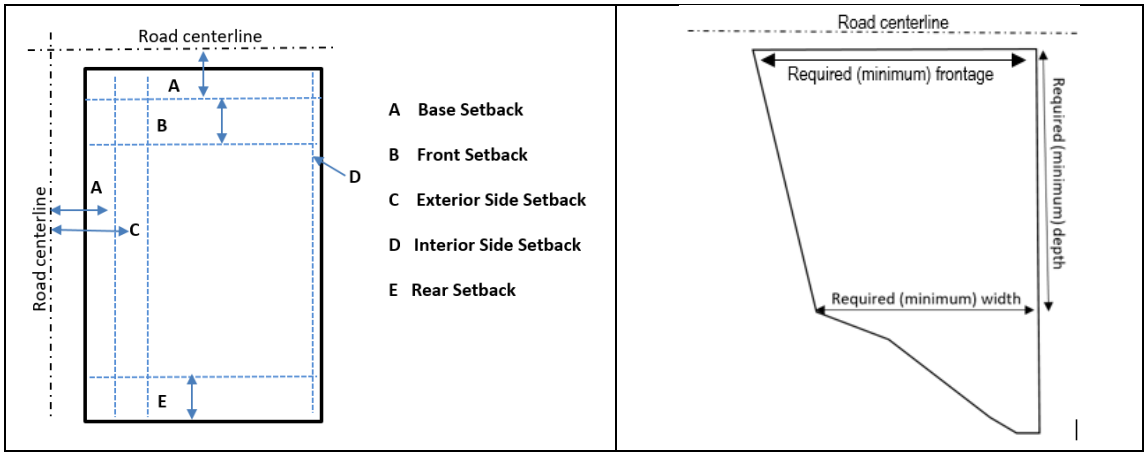
RT	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75’/60’ [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	40’	40’	40’	40’	40’
Interior Side	20’	20’	20’	20’	20’
Rear	30’	30’	30’	30’	30’
Minimum Area	10 acres	5 acres	5 acres	3 acres	3 acres
Min. Frontage	1320’ [2]	500’ [2]	500’ / 660’ [2] [3]	330’ [2]	250’ [2][4]
Max. Height	35’	35’	35’	35’	35’

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] Minimum frontage requirement applies along the road which the property fronts on and takes access to.

[3] 1st number is frontage required when the posted or design speed, as determined by the County Engineer, is greater than, or equal to, 55 mph/ 2nd number is frontage required when the posted or design speed, as determined by the County Engineer, is less than 55 mph.

[4] Minimum frontage of 50 feet is required for properties that take access from a cul-de-sac. There is no minimum frontage or width requirement for properties that connect to, and take access from, the terminus of a 'dead end' road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.



12-303-6.06 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-6.07 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-7 GB (GENERAL BUSINESS) DISTRICT

The purpose of the GB District is to provide commercial space in appropriate locations for a variety of business, commercial, and service uses along principal arterials and other major thoroughfares where a general mixture of commercial and service uses now exists, or where the businesses could serve the motoring public or residents in the area. General Business uses are not characterized by extensive warehousing; frequent heavy trucking activity; open storage of material, equipment or merchandise; or the nuisance factors of dust, odor, and noise associated with manufacturing.

12-303-7.01 Access

The district is intended for application along higher classification roads such as principal arterials or at the intersections of principal arterials with major collector or minor arterial roads, as designated in the Douglas County Access Management Map.

12-303-7.02 Permitted Uses

A building or land shall be used only for the purposes listed in the Permitted Use Table in Section 12-304-3.

12-303-7.03 Accessory Uses

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use and structure.

12-303-7.04 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart apply to development in the GB District. Additional dimensional standards are contained in Section 12-305.

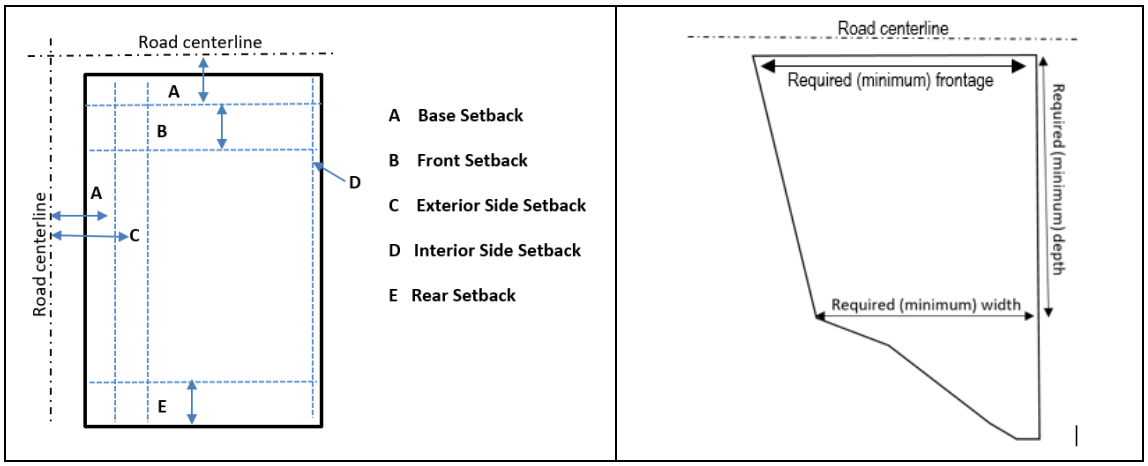
GB	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75’/60’ [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	80’	40’	40’	40’	40’
Interior Side	10’/20’ [2]	10’/20’ [2]	10’/20’ [2]	10’/20’ [2]	10’/20’ [2]
Rear Setback	30’	30’	30’	30’	30’
Minimum Area	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]
Minimum frontage	75’ [4]	75’ [4]	75’ [4]	75’ [4]	75’ [4]
Min. Depth	75’	75’	75’	75’	75’
Max. Height	45’	45’	45’	45’	45’

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] First number is setback when adjacent to a non-residentially zoned or developed property. Second number is setback when adjacent to a residential use or residentially zoned property.

[3] Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system for properties platted after the effective date of these regulations.

[4] Minimum frontage requirements apply along the road which the property fronts on and takes access to.



12-303-7.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-7.06 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-8 LI (LIGHT INDUSTRIAL) DISTRICT

The purpose of the Light Industrial District is to provide space in appropriate areas and locations for industrial and manufacturing uses that are relatively free from offense and are compatible with less-intense commercial and residential uses. This district is intended primarily for light manufacturing, fabricating, service industries, warehousing, and wholesale trade and distributing in areas with access by major thoroughfares or railroads.

12-303-8.01 Access

The district is intended for properties with access on arterial roads and highways and/or railroads.

12-303-8.02 Permitted Uses

A building or land shall be used only for the purposes shown in the Permitted Use Table in Section 12-304-3.

12-303-8.03 Accessory Uses

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use and structure.

12-303-8.04 Dimensional Standards

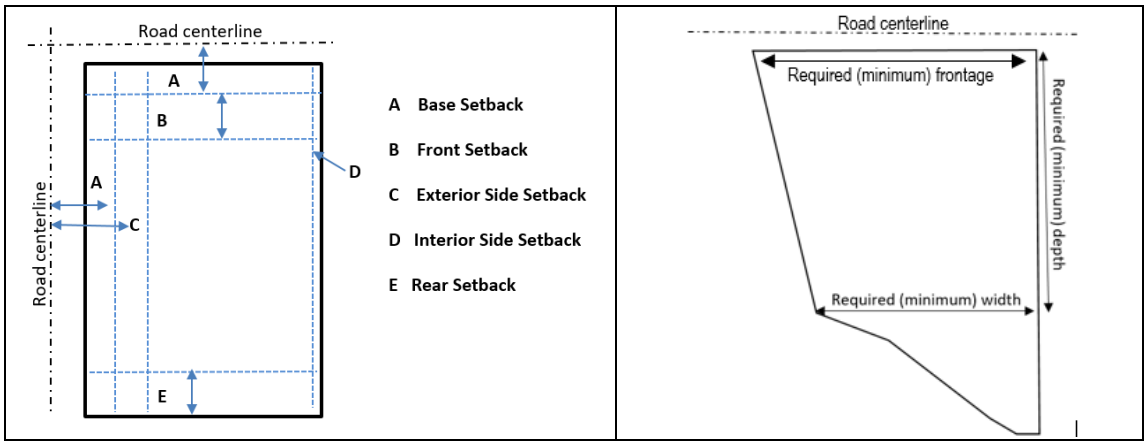
Unless expressly stated, the dimensional standards provided in the chart apply to development in the LI District. Additional dimensional standards are contained in Section 12-305.

LI	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75’/60’ [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	80’	50’	50’	50’	50’
Interior Side Setback	20’	20’	20’	20’	20’
Rear Setback	30’	30’	30’	30’	30’
Minimum Area	20,000 sq ft [2]	20,000 sq ft [2]	20,000 sq ft [2]	20,000 sq ft [2]	20,000 sq ft [2]
Minimum frontage	75’ [3]	75’ [3]	75’ [3]	75’ [3]	75’ [3]
Minimum Depth	200’	200’	200’	200’	200’
Maximum Height	55’	55’	55’	55’	55’

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system for properties platted after the effective date of these regulations.

[3] Minimum frontage requirements apply along the road which the property fronts on and takes access to.



12-303-8.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-8.06 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-9 GI (GENERAL INDUSTRIAL) DISTRICT

The purpose of the General Industrial District is to accommodate moderate- and high-impact industrial uses for which space is not available or the use is not appropriate for location within the urbanized areas of the county, including large-scale or specialized industrial operations requiring good transportation access, and ready access to public facilities and services

12-303-9.01 Access

This district is intended for application along principal arterial roads and freeways, as designated in the Douglas County Access Management Map.

12-303-9.02 Permitted Uses

A building or land shall be used only for the purposes shown in the Permitted Use Table in Section 12-304-3.

12-303-9.03 Accessory Uses

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use and structure.

12-303-9.04 Dimensional Standards

Unless expressly stated, the Dimensional standards provided in the chart apply to development in the GI District. Additional dimensional standards are contained in Section 12-305.

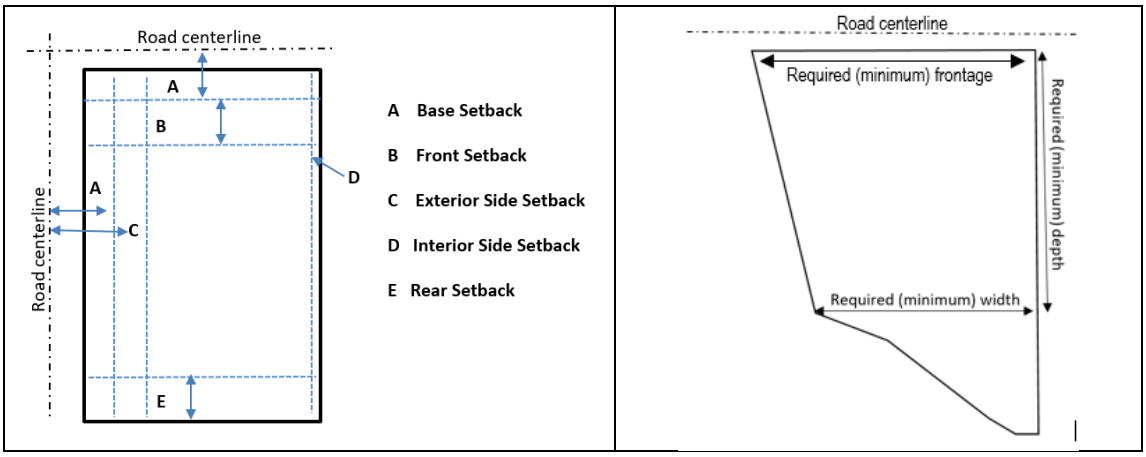
GI	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75'/60' [1]	50'	40'	35'	35'
Front and Exterior Side Setback (from Base Setback)	150'	100'	100'	75'	50'
Interior Side	15'/25/ [2]	15'/25/ [2]	15'/25/ [2]	15'/25/ [2]	15'/25/ [2]
Rear Setback	20'/30' [2]	20'/30' [2]	20'/30' [2]	20'/30' [2]	20'/30' [2]
Minimum Area	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]	15,000 sq ft [3]
Minimum frontage	100' [4]	100' [4]	100' [4]	100' [4]	100' [4]
Minimum Depth	150'	150'	150'	150'	150'
Maximum Height	75'	75'	75'	75'	75'

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median

[2] First number is setback when adjacent to a non-residentially zoned or developed property. Second number is setback when adjacent to a residential use or residentially zoned property.

[3] Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system for properties platted after the effective date of these regulations.

[4] Minimum frontage requirements apply along the road which the property fronts on and takes access to.



12-303-9.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-9.06 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-10 V (VILLAGE) DISTRICT

The purpose of the V (Village) District is to encourage the continued existence of small unincorporated towns by establishing a unique set of dimensional and density standards and allowing a variety of uses without the requirement to rezone. Any non-residential development proposed in the Village District shall be evaluated for compatibility with the historic character of the unincorporated town.

a. The development of new villages is not contemplated under these provisions.

b. The boundaries of the village zoning district shall be as established with these zoning regulations. Expansion of villages is not encouraged but may occur when the expansion is squaring off the Village District boundary or allows for the expansion of an existing use onto an undeveloped adjacent parcel.

12-303-10.01 Permitted Uses

A building or land shall be used only for the purposes shown in the Permitted Use Table in Section 12-304-3.

12-303-10.03 Accessory Uses And Structures

Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use and structure.

12-303-10.04 Dimensional Standards

Unless otherwise expressly stated, the dimensional standards provided in the chart apply to development in the V District. Additional dimensional standards are contained in Section 12-305.

V	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75/60 [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	25’	25’	25’	25’	25’
Interior Side Setback	10’	10’	10’	10’	10’
Rear Setback	30’	30’	30’	30’	30’
Min. Area	10,000 sq ft [2]	10,000 sq ft [2]	10,000 sq ft [2]	10,000 sq ft [2]	10,000 sq ft [2]
Min. frontage	75’ [3]	75’ [3]	75’ [3]	75’ [3]	75’ [3][4]
Min. depth	120	120	120	120	120
Max. Height	35’	35’	35’	35’	35’

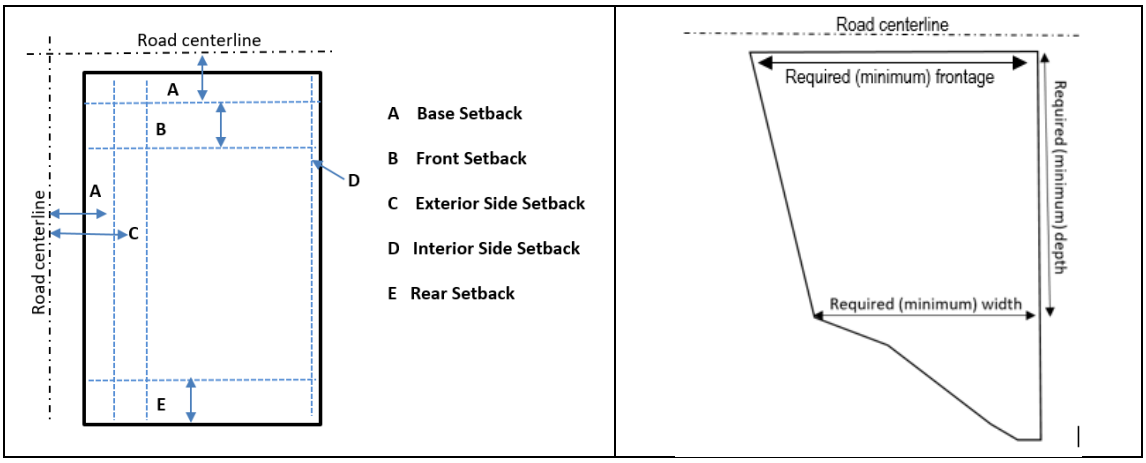
[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median.

[2] Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system

for properties platted after the effective date of these regulations.

[3] Minimum frontage requirements apply along the road which the property fronts on and takes access to.

[4] Minimum frontage of 50 feet is required for properties that take access from a cul-de-sac. There is no minimum frontage or width requirement for properties that connect to, and take access from, the terminus of a 'dead end' road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.



12-303-10.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-10.06 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-11 BSC (BIG SPRINGS COMMUNITY) DISTRICT)
The purpose of the BSC (Big Springs Community) District is to encourage the continued existence and growth of Big Springs, a mixed use community, by establishing a unique set of dimensional and density standards and allowing a variety of uses without the requirement to rezone.

a. The boundaries of the Big Springs Community zoning district shall be as established with these zoning regulations. Expansion of the district is not encouraged but may occur when the expansion is squaring off the district boundary or allows for the expansion of an existing use onto an undeveloped adjacent parcel.

12-303-11.01 Permitted Uses
A building or land shall be used only for the purposes shown in the Permitted Use Table in Section 12-304-3.

12-303-11.02 Accessory Uses and Structures
Accessory uses and structures are permitted in connection with any lawfully established principal use, except as otherwise expressly provided in these Zoning Regulations. Accessory uses and structures are subject to the same regulations as the principal use and structure.

12-303-11.03 Dimensional Standards
Unless otherwise expressly stated, the dimensional standards provided in the chart apply to development in the BSC District. Additional dimensional standards are contained in Section 12-305.

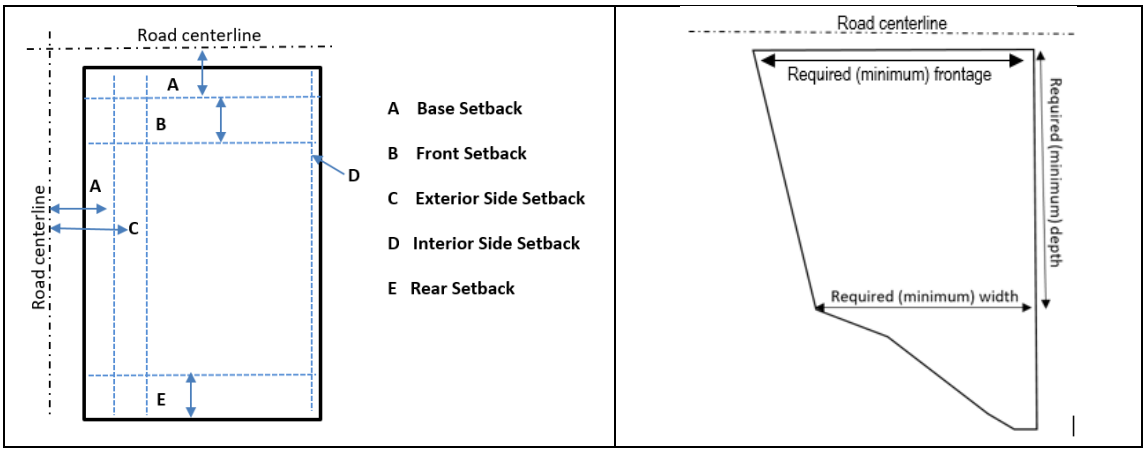
BSC	Principal Arterial	Minor Arterial	Major Collector	Minor Collector	Local
Base Setback (from road centerline)	75/60 [1]	50’	40’	35’	35’
Front and Exterior Side Setback (from Base Setback)	25’	25’	25’	25’	25’
Interior Side Setback	10’	10’	10’	10’	10’
Rear Setback	30’	30’	30’	30’	30’
Min. Area*	10,000 sq ft [2]	10,000 sq ft [2]	10,000 sq ft [2]	10,000 sq ft [2]	10,000 sq ft [2]
Min. frontage	75’ [3]	75’ [3]	75’ [3]	75’ [3]	75’ [3][4]
Min. depth	120	120	120	120	120
Max. Height	35’	35’	35’	35’	35’

[1] 1st number is base setback for principal arterial with median/ 2nd number is base setback for principal arterial without median.

[2] Additional area may be required per the Douglas County Sanitary Code for on-site sewage management system for properties platted after the effective date of these regulations.

[3] Minimum frontage requirements apply along the road which the property fronts on and takes access to.

[4] Minimum frontage of 50 feet is required for properties that take access from a cul-de-sac. There is no minimum frontage or width requirement for properties that connect to, and take access from, the terminus of a 'dead end' road; however, a means for turnaround of emergency and road maintenance vehicles must be provided at the end of dead end roads, e.g. enough public road right-of-way and a wide entrance to permit 3-point turns, or a bulb cul-de-sac.



12-303-11.05 Use Specific Regulations

Use Specific Regulations are noted in the Permitted Use Table in Section 12-304-3 with an asterisk and the pertinent section of the Zoning Regulations is referenced in the column to the right labeled 'Use Standards'.

12-303-11.06 Other Regulations

There are a number of other regulations that may apply to development in this district including but not limited to the following:

a. General Development Standards – Section 12-314
b. Landscaping/Screening – Section 12-305
c. Off-Street Parking and Loading – Section 12-311
d. Sign Regulations – Section 12-314
e. Lighting Standards – Section 12-314
f. Additional Dimensional Standards-Section 12-305

12-303-12 OVERLAY ZONING DISTRICTS

The purpose of Overlay Zoning Districts is to provide a tool for addressing special development situations or accomplishing special zoning goals. Overlay districts are a layer of additional performance standards or requirements that are added to, or 'overlaid' on top of the requirements in the underlying Zoning District.

12-303-12.01 Floodway and Floodway Fringe Overlay Districts (FW) (FF)

The Floodplain Management Regulations are implemented as an overlay district. The provisions for the FW (Floodway) and FF (Floodway Fringe) Overlay Districts are contained in Section 12-312, Floodplain Management Regulations. The standards of the overlay district apply in addition to the base district. Where there is a conflict the provisions of the overlay district govern.

12-303-12.02 Eudora Source Water Protection Overlay District (EWP)

a. A Source Water Protection Overlay District has been identified to implement the City of Eudora's Source Water Protection Plan. The standards and regulations established by the Overlay District shall apply in addition to the underlying zoning district restrictions. Where there is a conflict, the Overlay District standards and regulations shall govern.

b. This Overlay District encompasses the City of Eudora'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 District (EWP) 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.

c. For development applications within the City of Eudora's Source Water Protection Overlay District which include the following uses, 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.

Use	Water Quality Protection Measure
Repair Services, Not Elsewhere Classified	Discharge to POTW.

12-303-12.04 Airspace Overlay District (ASO)

The airspace protection standards and regulations established by this overlay zone shall apply in addition to the underlying zoning district restrictions. Where there is a conflict, the overlay district standards and regulations shall apply.

a. Purpose

The ASO, Airspace Overlay District, is intended to prevent the creation and establishment of hazards to life and property in the vicinity of any public airport within Douglas County, to protect users of the airport, and prevent any unreasonable limitation or impairment on the use and expansion of the airport.

b. Authority

The regulations of this District are adopted under the authority granted by K.S.A. Sections 3-701 through 3-713.

c. Applicability

The Airspace Overlay District regulations apply to all land or water area lying within the established Airport Control Instrument Approach Zones, Non-Instrument Approach Zones, Transition Zones, Horizontal Zones, and Conical Zones as shown on the Airspace Overlay District Map.

d. Sub-zones Established

In order to carry out the provisions of this Overlay District, the following Airspace Zones are established. The Airspace Zones shall be included in the Airspace Overlay District and shown on the Official Zoning District Map.

1) Instrument Approach Zone. The Instrument Approach Zone is established at each end of all runways used for instrument landings and takeoffs. The Instrument Approach Zones have a width of 1,000 feet at a distance of 200 feet beyond the end of each instrument runway, widening thereafter uniformly to a width of 16,000 feet at a distance of 50,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway. The Approach Zone extends outward and upward at a slope of 50 ft (horizontal) to 1 ft (vertical) for a horizontal distance of 10,000 ft and at a slope of 40 ft (horizontal) to 1 ft (vertical) to a point 50,200 ft from the end of the runway.

2) Non-Instrument Approach Zone. The Non-Instrument Approach Zone is established at each end of all runways used for non-instrument landings and takeoffs. This zone has a width of 500 feet at a distance of 200 feet beyond the end of each non-instrument runway, widening thereafter uniformly to a width of 2,500 feet at a distance of 10,200 feet beyond each end of the runway, its centerline being the continuation of the centerline of the runway. The surface slope is 20 ft (horizontal) to 1 ft (vertical).

3) Transition Zone. The Transition Zone is established adjacent to each instrument and non-instrument runway and approach zone as indicated on the Official Zoning District Map. Transition Zones symmetrically located on either side of runways have variable widths as shown on the Official Zoning District Map. Transition Zones extend outward

from a line of 250 feet on either side of the centerline of a non-instrument runway for the length of such runway plus 200 feet on each end; and 500 feet on either side of the centerline of an instrument runway for the length of such runway plus 200 feet on each end; and are parallel and level with such runway centerlines. The Transition Zones along such runways slope upward and outward 1 foot vertically for each 7 feet horizontally to the point where they intersect the surface of the Horizontal Zone. Further, Transition Zones are established adjacent to both Instrument and Non-Instrument Approach Zones for the entire length of these Approach Zones. These Transition Zones have variable widths, as shown on the Official Zoning District Map. Such transition zones flare symmetrically with either side of the runway Approach Zones from the base of such zones and slope upward and outward at the rate of 1 foot vertically for each 7 feet horizontally to the points where they intersect the surfaces of the Horizontal and Conical Zones. Additionally, Transition Zones are established adjacent to the Instrument Approach Zone where it projects through and beyond the limits of the Conical Zone, extending a distance of 5,000 feet measured horizontally from the edge of the Instrument Approach Zones at right angles to the continuation of the centerline of the runway.

4) Horizontal Zone
A Horizontal Zone is that area within a circle with its center at the Airport Reference Point and having a radius of 7,000 feet. The Horizontal Zone does not include the Instrument and Non-Instrument Approach Zones or the Transition Zones.

5) Conical Zone
A Conical Zone is the area that commences at the periphery of the Horizontal Zone and extends outward a distance of 5,000 feet. The Conical Zone does not include the Instrument Approach Zone and Transition Zones.

e. Height Limitations
No structure may be erected, altered, or maintained in any Airspace Zone to a height in excess of the height limit established for such Zone, except as otherwise provided in this section. The following height limitations are hereby established for each of the Airspace Zones:

1) Instrument Approach Zone
One foot in height for each 50 feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the instrument runway and extending to a distance of 10,200 feet from the end of the runway; thence 1 foot in height for each 40 feet in horizontal distance to a point 50,200 feet from the end of the runway.

2) Non-Instrument Approach Zone
1 foot in height for each 20 feet in horizontal distance beginning at a point 200 feet from and at the centerline elevation of the end of the non-instrument runway and extending to a point 10,200 feet from the end of the runway.

3) Transition Zone
One foot in height for each 7 feet in horizontal distance beginning at any point 125 feet normal to (perpendicular) and at the elevation of the centerline of non-instrument runways, extending 200 feet beyond each end thereof, and 500 feet normal to (perpendicular) and at the elevation of the centerline of the instrument runway, extending 200 feet beyond each end thereof, extending to a height of 150 feet above

Airport elevation. In addition to the foregoing, there are established height limits of 1 foot vertical height for each 7 feet horizontal distance measured from the edges of all Approach Zones for the entire length of the Approach Zones and extending upward and outward to the points where they intersect the horizontal or conical surfaces. Further, where the Instrument Approach Zone projects through and beyond the Conical Zone, a height limit of 1 foot for each 7 feet of horizontal distance shall be maintained beginning at the edge of the Instrument Approach Zone and extending a distance of 5,000 ft from the edge of the Instrument Approach Zone measured to normal to (perpendicular to) the centerline of the runway extended.

4) Horizontal Zone
Height may not exceed 150 feet above the Airport elevation.

5) Conical Zone
One foot in height for each 20 feet in horizontal distance beginning at the periphery of the Horizontal Zone, extending to a Height of 400 feet above the Airport elevation.

f. Performance Standards
Notwithstanding any other provision of this section, no use or development activity may occur on land within any Airspace Overlay District that:

1) creates electrical interference with radio communications between the airport and aircraft, including radio and television transmitting towers or studios and large radiation or X-ray equipment;

2) includes aboveground storage of petroleum or any other explosive material;

3) emits smoke or odor;

4) contains lights or signals that may be confused with airport navigational lights;

5) results in glare to pilots approaching, leaving or circling the airport or that impairs visibility in the District;

6) provides private airfields or runways for the use of aircraft other than those used in the principal airport in the district; or

7) otherwise endangers the landing, taking-off, or maneuvering of aircraft.

g. Nonconformities

1) The regulations set forth in this section do not require the removal, lowering, or other change of any structure not conforming to these regulations or otherwise interfere with the continuance of any nonconforming use, except as provided in Section 12-303-12.04(k), exceptions, and 12-303-12.04(m),hazard marking and lighting.

2) The County may require, upon 30-days written notice, any person, firm, association, or corporation owning and maintaining any nonconforming pole or pole line upon the roads and highways immediately adjoining the airport to remove, lower, change, or alter said nonconforming pole or pole line. Prior to the removal, lowering, or changing of the pole or pole line, the owner or owner of the airport, shall pay said person, firm, association or corporation the reasonable and necessary expense of removing,

lowering or changing said pole or pole lines; or in lieu thereof shall execute good and sufficient bond with corporate surety thereon as security for the payment of the reasonable and necessary expense of removing, lowering or changing such pole or pole lines. The reasonable and necessary expense of removing, lowering or changing said pole or pole lines may include, among other items of expense, the actual cost of:

a) constructing underground conduits and the construction of such wires and equipment in such conduits; and

b) rerouting wires together with the poles, cross arms, and other equipment connected thereto, together with the cost, if any, of new right-of-way made necessary by such rerouting.

h. Airspace Overlay Permits

1) Except as specifically provided by the exceptions stated in 12-303-11.04(k), no material change may be made in the use of land and no structure may be erected, altered, or otherwise established in any Airspace Overlay District unless an Airspace Overlay District permit (ASO permit) has been applied for and granted.

2) Each application for an ASO permit shall indicate the purpose for which the permit is desired, with sufficient information to allow a determination as to whether the resulting use or structure would conform to the regulations set forth in this section. If such determination is in the affirmative, the permit shall be granted.

3) No ASO permit may be granted that would allow the establishment or creation of an Airport Hazard or permit a nonconforming use, or structure to be made or become higher, or become a greater hazard to air navigation than it was on the effective date, or the effective date of any amendments hereto, or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

i. Nonconforming Structures

Before any nonconforming structure may be replaced, substantially altered or repaired, rebuilt, or increased in height, an ASO permit shall be obtained authorizing such replacement, alteration, change or repair.

j. Exceptions

1) In the area lying within the limits of the Horizontal Zone and the Conical Zone, no ASO permit will be required for any structure less than 75 feet in vertical height above the ground, except where, because of terrain, land contour or topographic features, such structure would extend above the height limits prescribed for such zones.

2) In the areas lying within the limits of the Instrument and Non-Instrument Approach Zones but at a horizontal distance of not less than 4,200 feet from each end of the runways no ASO permit will be required for any structure less than 75 feet in vertical height above the ground, except where, because of terrain, land contour or topographic features, such structure would extend above the height limits prescribed for the Instrument or Non-Instrument Approach Zone.

3) In the areas lying within the limits of the Transition Zones beyond the perimeter of the Horizontal Zone, no ASO permit will be required for any structure less than 75 feet in

vertical height above the ground except where such structure, because of terrain, land contour or topographic features would extend above the height limit prescribed for such Transition Zones.

4) Nothing contained in any of the foregoing exceptions will be construed as permitting or intending to permit any construction, or alteration of any structure in excess of any of the height limits established by this section.

k. Variances

Any person desiring to erect any structure or increase the height of any structure, or otherwise use his property in violation of the Airspace Overlay District regulations, may apply to the Board of County Commissioners of Douglas County for a variance from the zoning regulations in question. Such variances will be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of this section: Provided, that any variance may be allowed subject to any reasonable conditions that the Board of County Commissioners may deem necessary to effectuate the purposes of this section.

l. Hazard Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to achieve the purposes of this section and be reasonable in the circumstances, be so conditioned as to require the owner of the structure in question to permit the City of Lawrence, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an Airport Hazard.

m. Administration and Enforcement

For the purposes of this section and pursuant to K.S.A. 3-707, the Lawrence/Douglas County Metropolitan Planning Commission shall be the Airport Zoning Commission and will have responsibility for administering and enforcing the regulations set forth in this section.

1) In particular, the Airport Zoning Commission shall review all ASO permit applications and determine if such should be granted. If an application is found to conform to all the Airspace Overlay District regulations, the Airport Zoning Commission shall grant the permit.

2) Applications for permits and variances shall be made to the Planning Director upon forms furnished by the Planning Director.

   a) Applications for permits shall be submitted at least 35 days prior to a regular meeting of the Planning Commission.

   b) Applications for variances shall be submitted at least 35 days prior to a regular meeting of the Board of County Commissioners.

n. Conflicting Regulations

In the event of conflict between the Airspace Overlay District regulations and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures, use of land, or any other matter, and whether such other regulations were adopted by Douglas County or any other unit of local government, the more stringent limitation or requirements as to Airport Hazards will govern and prevail.

SECTION 304 PERMITTED USE TABLE
12-304-1 Permitted Use Table
12-304-2 Unlisted Uses
12-304-3 Permitted Use Table

12-304.1 PERMITTED USE TABLE

The Permitted Use Table in Section 12-304(b) lists the principal uses allowed within each of the Zoning Districts. The symbols used in the Use Table are explained below:

a. [P] Permitted Uses
A 'P' indicates that a use is permitted by-right, subject to compliance with all applicable local, state and federal regulations including the requirements of the Zoning Regulations.

b. [C] Conditional Uses
A 'C' indicates that the use is allowed only if reviewed and approved in accordance with the Conditional Use procedures of Section 12-307-2.

c. A ['P'/'C'] indicates that in some instances the use is permitted-by-right, while in others a Conditional Use Permit is required. The use specific standards will provide the criteria for each.

d. [A] Accessory Uses
An 'A' indicates that a use is only permitted as accessory to a principal use, subject to compliance with all applicable local, state and federal regulations, including the requirements of the Zoning Regulations.

e. [-] Uses not permitted.
A dash indicates that the use is not permitted within that Zoning District.

f. [*] Use-Specific Standards
Many permitted uses, whether permitted by-right, or as conditional or accessory uses, are subject to compliance with use-specific standards and conditions. An asterisk after the 'P', 'C', or 'A' use code identifies that the use is subject to use-specific standards and conditions. The sections in which these standards and conditions are located are identified in the far right column titled 'Use Specific Standard'.

12-304-2 UNLISTED USES

a. If an application is submitted for a use that is not listed in the Permitted Use Table, the Director of Zoning and Codes is authorized to classify the unlisted use into an existing land use category that most closely fits the unlisted use using the following factors:

1) The description of each activity in relationship to the characteristics of each use category;

2) The relative amount of site or floor space and equipment devoted to each activity;

3) Relative amounts of sales from each activity;
4) The relative number of employees in each activity;
5) Hours of operation;
6) Classification of the use in the North American Industry Classification System (NAICS);
7) Building and site arrangement;
8) Number and types of vehicles used with each activity;
9) The relative number of vehicle trips generated by each activity;
10) How the use advertises itself; and
11) Whether each individual activity would be likely to be found independent of the other activities on the site.

g. If no similar use determination can be made, the Planning Director shall begin the initiation process to the text of the Zoning Regulations to define the use, establish any necessary use-specific standards, and clarify where such use shall be allowed.

h. If a specific use in a district requires a Conditional Use Permit, that specific use shall not be interpreted to fall within a more general use permitted by right in such district. The specific use shall require a Conditional Use Permit

12-304-3 PERMITTED USE TABLE

A = Accessory use **P** = Permitted use **C** = Requires Conditional Use Permit **PG**-Parking Group *=Specific Use Standards	**AG-1**	**AG-2**	**CP**	**LS**	**LB**	**RT**	**GB**	**LI**	**GI**	**V**	**BSC**	**USE STDS**
Agricultural												
Agriculture	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306-3
Hobby Farm	P	P	P*	P	-	A	-	-	-	P	-	306-4
Agritourism	P*/C*	P*/C*	-	-	-	-	-	-	-	-	-	306-5 PG 2
Ancillary Agricultural Retail sales	P*/C	P*/C	-	-	A	A	P	-	-	C	P	306-7 PG 6
Commercial Grain Storage	C*	C*	-	-	-	-	P	P	P	C	C	PG 4
Commercial Riding Stable or Academy	C*	C*	-	-	P	P	P	-	-	C	P	306-35 PG 3
Commercial Slaughtering/ Processing General	-	-	-	-	-	-	-	-	C	-	-	PG 4
Commercial Slaughtering/ Processing Limited	C	C	-	-	-	-	C	C	C	-	C	PG X
Farm Stand	A*	A*	A*	A*	P*	P*	P*	P*	-	P*	P*	306-17 PG 6
Farmer's Market	C*	C*	A*	-	P*	P*	P*	P*		P*	P*	306-18 PG 5
Sale Barn/Auction House	C*	C*	-	-	-	-	P*	P*	P*	C*	P*	306-36 PG 17
Value Added Agricultural Business	P*/C*	P*/C*	-	-	A*	A*	C*	P*	P*	C*	P/C*	306-42 PG 14
Residential												
Accessory Dwelling Unit	A*	A*	A*	-	-	-	-	-	-	A*	A*	306-1 PG 1
Caretaker/Manager's Residence	-	-	-	-	A*	A*	A*	A*	A*	P*	A*	306-11 PG 1
Detached Dwelling including Residential Design Manufactured Homes	P*	P*	P*	P*	-	-	-	-	-	P*	P*	306-14 306-34 PG 1
Group Home, General	C*	C*	C*	C*	-	-	-	-	-	C	C	PG 1
Group Home, Limited	P*	P*	P*	P*	-	-	-	-	-	P	P	PG 1

A = Accessory use **P** = Permitted use **C** = Requires Conditional Use Permit **PG**-Parking Group ***=Specific Use Standards	**AG-1**	**AG-2**	**CP**	**LS**	**LB**	**RT**	**GB**	**LI**	**GI**	**V**	**BSC**	**USE STDS**
Home Occupations, Type 1	P*	P*	P*	P*	-	-	-	-	-	P*	P*	306-21 PG 14
Home Occupations, Type 2	P*	C*	C*	C*	-	-	-	-	-	C*	C*	306-22 PG 14
Farm Employee Housing	C*	C*	-	-	-	-	-	-	-	-	-	PG 1
Commercial Uses												
Bank/Financial Institution	-	-	-	-	P	A	P	-	-	C	P	PG 7
Bar or Tavern	-	-	-	-	P	A	P	-	-	C	P	PG 10
Boat or Other Recreational Vehicles Sales/ Rental/ Service	-	-	-	-	P	A	P	P	P	C	P	PG 18
Contractor Shop/Yard	-	-	-	-	-	-	P	P	P	C	P	PG 9
Construction Sales & Services	-	-	-	-	-	-	P	P	P	-	P	PG 9
Commercial Dog Kennel	C*	C*	-	-	-	-	P*	P*	P*	-	P*	306-23 PG 17
Animal Services	-	-	-	-	-	-	P	P	-	C	P	PG X
Fireworks Sales	P*	P*	-	-	P*	-	P*	P*	P*	P*	P*	306-19
Gas and Fuel Sales	-	-	-	-	P	A	P	P	P	C	P	PG8
Heavy Equipment Sales and Rentals	-	-	-	-	-	-	P	-	P	-	P	PG 20
Animal Hospital or Clinic	C*	C*	-	-	-	A*	P*	P*	P*	C*	P*	306-8 PG X
Landscape and Lawn Care Businesses	-	-	-	-	-	-	P	P	P	C	P	PG 14
Light Equipment Sales and Rentals	-	-	-	-	-	-	P	P	P	-	P	306.24 PG 20
Offices	-	-	-	-	-	-	P	-	-	C	P	PG 7
Personal Services	-	-	-	-	P	A	P	-	-	C	P	PG 7
Meat Lockers	-	-	-	-	P	-	P	P	P	C	P	PG X
Restaurant	-	-	-	-	P	A	P	-	-	C	P	PG 9
Retail Sales	-	-	-	-	P*	A*	P*	-	-	C*	P*	306-46 PG 6
Sexually Oriented Business	-	-	-	-	-	-	C*	C*	-	-	C*	306-38 PG 9
Community Facilities												
Cemeteries	C	C	-	-	-	-	-	-	-	C	-	PG X
Colleges and Schools	-	C	-	-	-	-	P	P*	P*	C	P	306-47 PG 11

A = Accessory use **P** = Permitted use **C** = Requires Conditional Use Permit **PG**-Parking Group ***=Specific Use Standards	**AG-1**	**AG-2**	**CP**	**LS**	**LB**	**RT**	**GB**	**LI**	**GI**	**V**	**BSC**	**USE STDS**
Day Care Center	-	C*/A*	C*/A*	C*	C*	A*	P*	P*	P*	C*	P*	306-12 PG 14
Day Care Home	P*	P*	P*	P*	-	-	-	-	-	P*	P*	306-13 PG 14
Day Care Home Non-occupant Provider	C	C	C	C	-	-	-	-	-	C	P	PG 14
Fairgrounds	C	C	-	-	-	P	C	P	-	C	P	PG X
Community Center, Libraries, Museums or Art Galleries	C	C	-	-	P	P	P	-	-	C	P	PG 7
Non-profit Educational or Philanthropic Institutional Uses	C	C	-	-	-	-	P	-	-	C	P	PG X
Government Buildings	C	C	C	C	P	-	P	P	P	C	P	PG 7
Religious Institution, Small	C*	C*	C*	C*	P*	A*	P*	-	-	P*	P*	306-33 PG 13
Religious Institution, Large	-	C*	-	-	-	-	P*	-	-	C*	P*	306-33 PG 13
Industrial/Warehouse												
Asphalt or Concrete Batch Plant	-	-	-	-	-	-	-	P	P	-	-	PG 4
Boat/RV Storage	-	C	-	-	P	C	P	P	P	-	P	PG X
Landfill	C*	C*	C*	-	C*	C*	C*	C*	C*	-	C*	306-24 PG 14
Exterior Storage	-	-	-	-	A*	A*	A*	A*	P*	A*	A*	306-16 PG X
Farm Implement Repair Service	C	C	-	-	-	-	P	P	P	C	P	PG 18
Heavy Equipment Repair/Service	-	-	-	-	-	-	-	P	P	C	-	PG 18
Equipment Storage (Light or Heavy)	C*	C*	-	-	-	-	-	P*	P*	C*	-	306-25 PG 14
Light Equipment Repair/Service	-	-	-	-	-	-	P	P	P	C	P	PG 18
Manufacturing & Production, General	-	-	-	-	-	-	-	-	P*	-	-	306-26 PG 4
Manufacturing & Production, Light	-	-	-	-	-	-	-	P*	P*	C*	-	306-26 PG 4
Mini- or Self-Storage	-	C*	-	-	C*	-	P*	P*	P*	-	P*	306-28 PG 19
Small Scale Industrial Uses	C*	C*	-	-	-	-	P*	P	P	C*	P*	306-39 PG 14
General Service and Repair Establishment	-	-	-	-	-	-	P	P	P	C	P	PG 14

A = Accessory use **P** = Permitted use **C** = Requires Conditional Use Permit **PG**-Parking Group ***=Specific Use Standards	**AG-1**	**AG-2**	**CP**	**LS**	**LB**	**RT**	**GB**	**LI**	**GI**	**V**	**BSC**	**USE STDS**
Mining, Excavation and/or Extraction of Natural Resources	C*	C*	-	-	C*	C*	C*	C*	C*	-	C*	306-27 PG 4
Salvage Yards	-	-	-	-	-	-	-	-	C*	-	-	306-37 PG 14
Wholesale Storage & Distribution/ Warehousing	-	-	-	-	-	-	P*	P	P	-	P	306-43 PG 4
Research Facility, Ag Related	P/C	P/C	-	-	-	-	P	P	P	-	P	PG 4
Medical												
Medical or Dental Clinics or Offices	-	-	-	-	-	-	P	-	-	C	P	PG 7
Extended Care Facility	-	-	-	-	-	-	C*	-	-	C*	C*	306-29 PG 16
Utilities												
Major Utilities	C	C	C	-	-	-	-	P	P	C	-	PG 4
Minor Utilities	P	P	P	P	P	P	P	P	P	P	P	PG 14
Wind Turbine/Residential or Accessory	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	
Wind Energy Conversion System/ Commercial	C*	-	-	-	-	-	C*	C*	C*	-	C*	306-44 PG 14
Communications												
Amateur and Receive Only Antennas	P	P	P	-	P	P	P	P	P	P	P	
Radio, Television, and Microwave Towers	C*	C*	C*	-	C*	C*	C*	C*	C*	C*	C*	306-31 PG 14
Wireless Facilities	C*	C*	C*	-	C*	C*	C*	C*	C*	C*	C*	306-45 PG 14
Temporary												
Special Event	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306-40 PG X
Temporary Business Use	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306-41 PG X
Temporary Housing During Construction	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306-2 PG X
Lodging (transient accommodations)												
Vacation Rentals	C	C	C	C	C	P	-	-	-	C	P	PG 1
Bed & Breakfast	C*	C*	C*	-	P*	P*	-	-	-	C*	P*	306-9 PG15
Campgrounds, Developed and Primitive	C*	-	-	-	P*	P*	-	-	-	-	-	306-10
Camping, Personal and Special Event	P*/A*	A*	A*	-	P*	P*	-	-	-	-	P*	306-10
Motel/Hotel	-	-	-	-	P	P	P	-	-	C	P	PG 15
Recreation and Entertainment												
Event Center/ Public Assembly	C	C	-	-	P	P	P	-	-	C	P	306-15 PG 13

A = Accessory use **P** = Permitted use **C** = Requires Conditional Use Permit **PG**-Parking Group ***=Specific Use Standards	**AG-1**	**AG-2**	**CP**	**LS**	**LB**	**RT**	**GB**	**LI**	**GI**	**V**	**BSC**	**USE STDS**
Indoor Sports or Recreation Facility	-	C	-	-	-	A	P	P	C	C	P	PG 13
Nature Preserve	P	P	P	P	P	P	P	P	P	P	P	
Outdoor Sports or Recreation Facility	-	C*	-	-	P*	P*	C*	P*	-	C*	C*	306-30 PG X
Public Parks/ Playgrounds	P/C	P/C	P/C	-	P	P	P	P	P	P	P	PG X
Recycling												
Commercial Compost	C	C	-	-	-	-	-	P	P	-	-	PG 14
Recycling Collection Center	C*	C*	C*	-	P*	P*	P*	P*	P*	P*	P*	306-32 PG 9
Recycling Processing	-	-	-	-	-	-	-	P	P	-	-	PG 4
Transportation												
Private Airstrip/ Heliport (Public or Private)	C*	C*	-	-	-	-	-	C*	C*	-	-	306-6 306-20

SECTION 12-305 ADDITIONAL DIMENSIONAL STANDARDS

The standards listed in this section qualify or supplement the dimensional standards provided for each zoning district in Section 3 or dimensional standards provided elsewhere in these regulations.

12-305-1 REQUIRED SETBACKS

12-305-1.01 Exceptions to Required Setbacks

Required setbacks extend the full width and depth of a lot and shall be unobstructed from the ground to the sky with the following exceptions:

a. Ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and other architectural features may project up to 2.0 feet into a required yard.

b. Open or lattice-enclosed fire escapes, exterior 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 5 feet, but only where the same are so placed as not to obstruct light and ventilation on adjacent properties.

c. Gas and fuel station pumps and pump islands may be located in the required setback; provided, however, that they are no closer than 25 feet from the base setback.

d. An ornamental fence or wall up to 3.5 feet in height may be located within a required front setback but may not extend beyond the base setback or within the road right-of-way.

e. Ornamental fences or walls up to 7 feet in height may be located within a required rear setback or the portion of a required side setback behind the required front setback.

f. Security fences up to 7 feet in height may be located within any required setback in the LI or GI Districts or with any use requiring a CUP, provided it is approved by the Board of County Commissioners, but may not extend beyond the base setback or within the road right-of-way.

g. Open, horizontal structures such as uncovered decks and patios, that are no more than 30 inches in height may be located within a required rear or side yard; provided they are not located closer than 5 feet to the rear or side property line and may extend up to 5 feet into the required front yard.

12-305-1.02 Measurement of Setbacks

a. Front Setback

1) The front setback is measured from the Base Setback as defined in Section 12-315-2 or from the road right-of-way or road easement line if an area has been designated for the future opening or widening of a road that exceeds the Base Setback.

2) On through lots or eligible parcels (lots or parcels with road frontage on both the front and the rear), the required front setback shall be provided on both the front and rear of the lot or parcel.

b. Side Setbacks

1) The exterior side yard is measured from the Base Setback as defined in Section 12-305(a) or from the road right-of-way or road easement line if an area has been

designated for the future opening or widening of a road that exceeds the Base Setback.

2) For the purpose of the side setback regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot or eligible parcel.

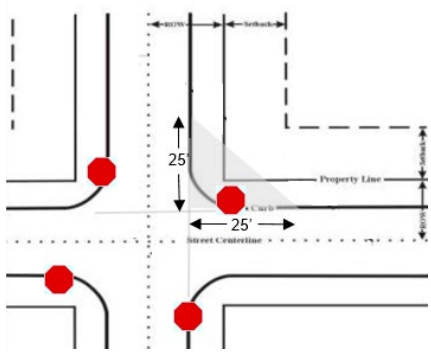
c. Additional Setback for Corner Visibility
No sign, fence, wall, hedge, landscaping or other material or structure or other obstruction to vision, extending to a height in excess of 3 feet above the established road grade shall be erected, planted, or maintained within the area of a corner lot identified as the 'clear sight triangle'.

1) At intersections, the clear sight triangle is the triangle formed by the connection of imaginary lines along each leg of each intersecting road (measured from the edge of the roadway), extending:

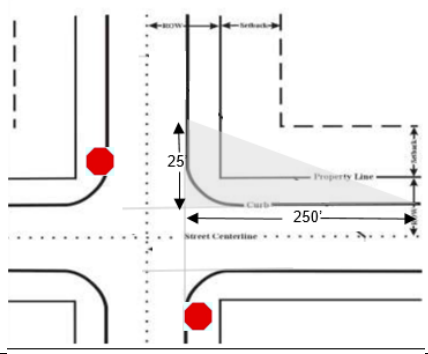
a) 25 feet along each leg of a road that has STOP signs;

b) 250 feet along each leg of a road that does not have a STOP signs; or

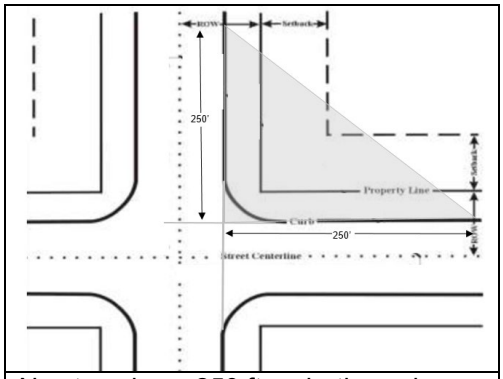
c) 25 feet along each leg of both roads located at an ALL-WAY STOP intersection.



All way stop. Triangle sides, 25 feet on all roads.



One road stops. Triangle sides, 25 ft on road with stop sign, 250 ft on road without stop sig.



No stop signs. 250 ft on both roads.

12-305-2 DIMENSIONAL STANDARDS

12-305-2.01 Exception to Minimum Area Requirement:

Minimum area requirements shall not apply to those parcels created through an approved Agricultural Lot Split or Homestead Survey in accordance with the Douglas County Subdivision Regulations and which are subject to the Agricultural Protection Agreement (APA) filed with the Douglas County Register of Deeds; with the exception of area requirements established with the Douglas County Sanitary Code.

12-305-2.02 Exceptions and Modifications to Height Standards

a. The maximum height standards do not apply to the following features: chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flag poles, grain elevators, silos, wireless facilities, radio and other towers, wind conversion energy systems, smoke stacks, water towers and standpipes.

b. Except in the Airspace Overlay District, the height regulations in these Zoning Regulations shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flag poles, grain storage structures, monuments, ornamental towers and spires, radio and television antennas, silos, smoke stacks, stage towers or scenery lofts, tanks, or water towers and standpipes.

c. Whenever any building in the LI (Light Industrial) District adjoins or abuts upon a residential district, or residentially developed property, such building shall not exceed 35 feet in height, unless it is set back 1 foot from all required side and rear yard lines for each foot of additional height above 35 feet.

d. Whenever any building or structure in the GI (General Industrial) District adjoins or abuts a residential district or residentially developed property, such building or structure shall not exceed 50 feet in height unless set back 1 foot from all required side and rear yard lines for each foot of additional height above 50 feet.

SECTION 12-306 USE SPECIFIC STANDARDS

12-306-1 Accessory Dwelling Units
12-306-2 Accessory Structures
12-306-3 Agriculture
12-306-4 Hobby Farm
12-306-5 Agritourism
12-306-6 Airstrips, Private
12-306-7 Ancillary Agricultural Retail Sales
12-306-8 Animal Hospital or Clinic
12-306-9 Bed and Breakfasts
12-306-10 Campgrounds
12-306-11 Caretaker/Manger Residence
12-306-12 Day Care Center
12-306-13 Day Care Home
12-306-14 Detached Single-Family Dwelling
12-306-15 Event Center/Public Assembly
12-306-16 Exterior Storage
12-306-17 Farm Stand
12-306-18 Farmer's Market
12-306-19 Fireworks Sales
12-306-20 Heliports
12-306-21 Type 1 Home Occupation
12-306-22 Type 2 Home Occupation
12-306-23 Kennel, Dog, Commercial
12-306-24 Landfill
12-306-25 Equipment Storage
12-306-26 Mfg and Production Uses (Light or General)
12-306-27 Mining and Excavation
12-306-28 Mini- or Self-Storage
12-306-29 Extended Care Facility
12-306-30 Outdoor Sports or Recreation Facility
12-306-31 Radio, Television, and Microwave Towers
12-306-32 Recycling Collection Facilities
12-306-33 Religious Institutions and Assembly
12-306-34 Residential Design Manufactured Homes
12-306-35 Riding Stable/Academy, Commercial
12-306-36 Sale Barn/Auction House
12-306-37 Salvage/Junk Yards
12-306-38 Sexually Oriented Business
12-306-39 Small Scale Industrial Uses
12-306-40 Special Events
12-306-41 Temporary Business Uses
12-306-42 Value Added Agricultural Business
12-306-43 Wholesale Storage & Distribution/Warehouse
12-306-44 Wind Energy Conversion Systems
12-306-45 Wireless Facilities
12-306-46 Retail Sales
12-306-47 Schools and Colleges
12-306-48 Cluster Housing (Reserved)

12-306-1 ACCESSORY DWELLING UNITS.

12-306-1.01 Purpose

Accessory Dwelling Units are allowed in certain situations to create additional housing options for a relative/family member, caregiver, or farm employee while maintaining the rural character of unincorporated Douglas County.

12-306-1.02 Occupancy.

a. The Accessory Dwelling Unit shall be occupied by one of the following for not less than three years following the issuance of the certificate of occupancy for the Accessory dwelling Unit:

(1) a relative/family member,
(2) a caregiver, or a
(3) farm employee.

b. An Affidavit of Occupancy shall be provided to the Zoning and Codes Director prior to the issuance of a Certificate of Occupancy.

c. The length of occupancy can be reduced in the instance that the Accessory Dwelling Unit was occupied initially by a relative and the relative is deceased or the Accessory Dwelling Unit was initially occupied by a caregiver and the recipient of the care no longer lives in the home or is deceased.

12-306-1.03 Means of Establishment

An Accessory Dwelling Unit may be established by one of the following means:

a. Conversion of existing space within a principal dwelling or construction of an addition to a principal dwelling.

b. Conversion of existing space within an accessory structure or construction of an addition to an accessory structure.

c. Construction of a separate accessory structure which will include the Accessory Dwelling Unit.

12-306-1.04 Standards that apply to all Accessory Dwelling Units:

a. One Accessory Dwelling Unit is permitted on a vested parcel, platted lot or a Residential Development Parcel, which contains a dwelling. This dwelling will be considered the principal dwelling.

b. An Accessory Dwelling Unit shall not be allowed within, or attached to, a mobile home but may be allowed within a manufactured home.

c. All Accessory Dwelling Units, whether new construction or conversion of existing space, shall comply with the Douglas County Construction Codes.

d. An Accessory Dwelling Unit may be located within a structure which the Zoning and Codes Director has determined is a legal nonconforming structure with respect to building height or setbacks provided any addition to the structure does not extend or increase the degree of nonconformity.

e. The Accessory Dwelling Unit, if located in a newly constructed detached accessory structure, shall be located a minimum distance of 25 ft from the primary structure.

f. An Accessory Dwelling Unit that is located within, or attached to, the principal dwelling may utilize the same septic system as the principal dwelling provided the septic system is adequately sized per the Douglas County Health Department requirements.

g. Solid waste management systems for Accessory Dwelling Units must comply with the Douglas County Sanitary Code.

h. The Accessory Dwelling Unit and the principal dwelling unit shall share a common access point on the adjacent road unless site conditions prohibit the use of the shared access point. In that case, a separate entrance requires approval by the County Engineer. To the greatest extent feasible, existing access points shall be utilized.

1) A shared access point/driveway must be used whenever possible to maintain the appearance of a single dwelling.

i. An Accessory Dwelling Unit may have an area of up to 1,000 sq ft. This area may be increased to 1,400 sq ft provided the area of the Accessory Dwelling Unit is not greater than 80% of the area of the primary dwelling.

j. Separate sale or ownership of an Accessory Dwelling Unit is prohibited, unless the parcel or lot is subdivided in accordance with the Subdivision Regulations, creating a separate lot or Residential Development Parcel for each dwelling.

k. The accessory dwelling unit shall not be used as a short term lodging use such as a bed & breakfast.

l. An Accessory Dwelling Unit is subject to the same occupancy limits as the principal dwelling. (one family, or group living as a household unit--limited to 4 adults if any of the residents are not related).

m. The following area requirements apply to a detached Accessory Dwelling Unit:

1) A minimum of 3 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (6 acres total) if the dwellings are served by Rural Water or other public water source.

2) A minimum of 5 acres outside the regulatory floodplain must be provided for the septic systems of the principal dwelling and Accessory Dwelling Unit (10 acres total) if the dwellings are served by well water.

12-306.1.05 Additional Standards for Accessory Dwelling Units in the AG-2 and CP Districts:

a. The Accessory Dwelling Unit, if detached, should be located behind the front plane of the principal dwelling whenever possible.

b. Either the Accessory Dwelling Unit or the principal dwelling shall be occupied by the owner of the property.

12-306.1.06 Accessory Dwelling Unit Permit:
Accessory Dwelling Units must be permitted by the Zoning and Codes Director prior to their

establishment. This process is administrative unless the Accessory Dwelling Unit is located on a property which also has a Conditional Use or a Type 2 Home Occupation.

a. The Permit application, available from the Zoning and Codes Office, shall be provided to the Zoning and Codes Office along with a plot plan with the following information, at a minimum:

1) Locations of both the principal and accessory dwellings;

2) Property boundaries. For large properties, the boundaries in the area of the dwellings may be shown;

3) The distance between the structures and the property boundaries.

4) Location of access drive.

5) Area and height of the principal and accessory dwellings.

6) Locations of the septic system(s);

b. The Zoning and Codes Director shall review the \application to insure compliance with the Accessory Dwelling Unit Standards and the required setbacks.

c. When approved, the permit is completed with the filing of an Affidavit of Occupancy with the Zoning and Codes Director.

1) The affidavit shall note that the occupant of the Accessory Dwelling Unit shall be either a relative/family member, caregiver, or farm employee for not less than 3 years after the Certificate of Occupancy is issued for the Accessory Dwelling Unit.

2) In the AG-2 and CP Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property.

d. <u>Accessory Dwelling Unit Permit requiring Board of County Commission Approval.</u>
A permit for an Accessory Dwelling Unit on a property with a Conditional Use Permit or a Type 2 Rural Home Occupation Business may not be administratively approved, but requires approval by the Board of County Commissioners.

1) The permit application shall be reviewed by the Zoning and Codes Director for compliance with the standards in this section and a recommendation forwarded to the Board of County Commissioners.

2) The Board of County Commissioners may approve the Accessory Dwelling Unit in addition to the other uses on the property if they determine the combined uses are compatible with nearby land uses.

3) The applicant shall provide written notice of the Accessory Dwelling Unit as noted below:
   i. The applicant shall obtain a list of property owners within 2,640 ft of the vested parcel, Residential Development Parcel, or platted lot on which the Accessory Dwelling Unit is proposed from the Douglas County Clerk's Office. If the notification area includes land within the corporate limits of a city, the list shall

extend 400 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.

ii. The applicant shall mail a letter which contains the information below to the property owners on the list to advise them of the proposed Accessory Dwelling use and provide them the opportunity to contact the applicant or the Zoning and Codes Department if they have questions:

"An Accessory Dwelling Unit at ____(ADDRESS)___is in the process of being permitted by Douglas County. The property at __(ADDRESS)___also contains_____(NAME OF BUSINESS)____ a Type 2 Rural Home Occupation Business or Conditional Use and therefore requires approval of the Douglas County Board of County Commissioners. Please contact me at ____(PHONE NUMBER, EMAIL ADDRESS)____ with any questions regarding this registration or the Douglas County Zoning and Codes Department at 785-331-1343 for information."

iii. A copy of the notification letter, the certified property owner list, and certification of the dates the letters were mailed to the addresses on the list shall be included with the Accessory Dwelling Unit registration materials noted in Section 12-306-1.06(a).

iv. The Accessory Dwelling Unit permit application will be placed on a Board of County Commissioner's agenda for consideration a minimum of 20 days following the date of the letter.

4) When approved, the permit is completed with the filing of an Affidavit of Occupancy with the Zoning and Codes Director that includes the legal description of the property and identifies the structure as an Accessory Dwelling Unit subject to the standards in Section 12-306-1 of the Zoning Regulations.

i. The affidavit shall note that the occupant of the Accessory Dwelling Unit shall be either a relative/family member, caregiver, or farm employee for not less than 3 years after the Certificate of Occupancy is issued for the Accessory Dwelling Unit.

ii. In the AG-2 and CP Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property.

12-306-2 ACCESSORY STRUCTURES:

12-306-2.01 Construction and Use

Accessory structures shall be constructed in conjunction with or after the principal building and no accessory structure shall be used when the main building on the eligible parcel is not being used with the following exceptions:

a. A temporary Certificate of Occupancy has been issued by the Zoning and Codes Director for use as storage or temporary dwelling during an active building permit.

b. An accessory structure located without a principal structure on a Residential Development Parcel (RDP) as a result of a Certificate of Survey may continue to be used until the Residential Development Parcel has transferred to different ownership; however, the use will be regulated as a nonconforming use per Section 12-308-2.

c. A structure that is accessory to a use of the land, such as a shed for athletic equipment on a property with an athletic field.

12-306-2.02 Accessory Structure Standards

a. Accessory structures shall not be constructed or placed within a dedicated easement.

b. Accessory structures shall be constructed on the same lot or parcel as the principal structure or use of the land.

c. An accessory structure shall be used for a use that is accessory to the use of the principal structure or the land.

d. Off-site fabricated storage structures or containers, including steel cargo containers can be used as accessory structures provided the following standards are met:

1) The structures/containers shall be securely anchored, per building code.

2) The structures are not permitted in regulatory floodplain, unless approved with a floodplain development permit and securely anchored with an engineered tie-down system.

3) No stacking of containers is allowed.

4) The structures/containers are painted and well maintained.

5) No more than two structures/containers are permitted on a property.

6) The structures/containers are subject to the structure setbacks applicable to the zoning district in which the container is located and shall be located behind the front plane of the house on residentially developed properties or properties zoned AG-2 or CP.

12-306-3 <u>AGRICULTURE</u>

Agricultural uses which meet the exemption criteria of Resolution 08-25 are exempt from the provisions of these Regulations except as noted below:

a. Agricultural structures must comply with the Floodplain Management Regulations and setbacks from adjacent road right-of-way.

b. An Agricultural Use Exemption application for an agricultural building must be submitted to the Zoning and Codes Office prior to construction so the exempt status can be documented.

12-306-4 <u>HOBBY FARM</u>

The following standards apply to this use in the CP Zoning Districts:

a. A Hobby Farm is permitted, to such an extent as not to be objectionable to surrounding residents by reason of odor, dust, noise, or other factors.

b. No retail or wholesale business office or store shall be maintained on the property.

12-306-5 AGRITOURISM

Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety, and welfare are protected.

12-306-5.01 Purpose

a. Agritourism profits from the rural experience and should be designed and operated in such a manner as to maintain or enhance the rural character. These regulations were developed to allow Agritourism within the Agricultural Zoning District with adequate review to insure compatible development with the nearby land uses and the character of the area.

b. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur as permitted in this section without any additional review under Section 12-307-2, Conditional Use Permits; Section 12-307-3, Site Plan Regulations; or Section 12-306-39, Special Event Permits, although other State and local regulations shall apply.

12-306-5.02 Determination of use

Agritourism Registration forms shall be jointly reviewed by the Director of Zoning and Codes and the Planning Director within 7 working days of submittal to determine if the proposed use(s) meet the definition of Agritourism set forth in these Regulations.

a. If additional descriptive information is necessary for the determination, this information will be provided by the registrant and kept as a part of the registration.

b. The applicant for the Agritourism registration may file an appeal from the Director's determination. Appeals from the determination shall be made to the Board of County Commissioners. An appeal must be filed within 30 days of notification of the determination to the applicant. The appeal will be considered at the next available Commission meeting.

12-306-5.03 Levels of Agritourism Uses

a. Agritourism uses which the Zoning and Codes Director determines meet the definition of 'Agriculture,' provided in Section 12-315 are subject to Section 12-306.3 of these regulations.

b. Tier 1 (low intensity) Agritourism Uses

Tier 1 Agritourism involves low intensity uses that are not expected to generate noise, or other impacts, to the level that they would have negative impacts on surrounding properties. Tier 1 Agritourism uses include, but are not limited to the following:

1) Farmers Markets with 10 or fewer vendors,
2) Seasonal Corn Mazes and Pumpkin Patches visits and activities,
3) Farm-related Interpretative Facilities, Exhibits, and Tours,
4) Historical, Cultural, or Agriculturally Related Educational and Learning Experiences
5) Recreation-related Operations (Fishing, Hunting, Bird Watching, Hiking, etc.),
6) Equestrian Facilities,
7) Farm Stays,
8) Farm Winery Tours and Events,

9) Small scale assembly type uses such as weddings, receptions, etc.,
10) Small-scale entertainment such as the integration of music, theatre, or arts to enhance the rural experience,
11) Ancillary Retail Sales; and,
12) Other uses that may be determined on a case-by-case basis to meet the intent of the Tier 1 definition.

c. Tier 2 (medium intensity) agritourism uses
Tier 2 uses include higher intensity activities or have higher attendance than Tier 1 uses. Examples of Tier 2 Agritourism uses include, but are not limited to:
1) Uses that would be considered a Tier 1 use that do not meet the Tier 1 standards provided in this section;
2) Farmers Markets with more than 10 vendors;
3) Overnight stays such as Bed and Breakfasts, Farm Stays, or camping.
4) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related.
5) Other uses that may be determined on a case-by-case basis to meet the intent of the Tier 2 definition.

12-306-5.04 Standards that apply to both tier 1 and tier 2 agritourism uses

a. The Agritourism use is located on a parcel, or one of a number of contiguous parcels under the same ownership as land uses which meet the definition of 'Agriculture" or on a working farm or ranch as determined by the Zoning and Codes Director. (Contiguous shall mean lands that are adjacent and road, railroad, and other rights-of-way and easements shall not exclude parcels from being contiguous.)

b. The Agritourism operator, the person with the financial and legal responsibility for the Agritourism activity, shall be limited to the property owner or operator, his/her family members and employees (whether paid or unpaid).

c. Adequate parking including ADA parking (where applicable) shall be provided on-site for the use.

1) No parking may occur on adjacent roads or adjacent road right-of-way.

2) For the purpose of calculating parking requirements, parking is calculated at a rate of 1 parking space per 2 attendees.

d. No motors or motorized vehicles, with the exception of agricultural machinery and vehicles or electric motors, will be utilized for the Agritourism Use.

e. Parking areas (excluding overflow areas) that are within view of residences or the road right-of-way shall be screened from view with landscaping and/or fencing. Screening materials may not be located within or along the right-of-way. Alternate forms of screening may be utilized, provided the Zoning or Codes Director or the Board of County Commissioners, as applicable, determine they will provide effective screening of the parking area.

f. Exterior lighting should be limited as much as possible to maintain the rural character and should be on only when the use is occurring. If exterior lighting is proposed, a plan shall be

provided which shows the location of lighting for the Agritourism activity and the type of lighting fixtures being used as well as means taken to shield the lighting to insure no trespass or glare to adjacent properties.

g. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements for the proposed use and anticipated attendance.

12-306-5.05 Tier 1 Agritourism Use Standards

a. The Agritourism operator, the person with the financial and legal responsibility for the Agritourism activity, must reside on the parcel, or one of a number of contiguous parcels (as defined in this section), containing the Agritourism use.

b. Parking for the Agritourism use is limited to no more than 40 parking spaces;

c. In order to minimize noise from the agritourism use the Outdoor amplification of sound: such as auctioneering speakers or amplified music (with the exception of a stereo or radio) is prohibited.

d. Ancillary retail sales shall be a subordinate and ancillary portion of the Agritourism Use. The area designated for ancillary retail sales shall not exceed 500 sq ft.

12-306-5.06 Administrative waiver provision

The Director of Zoning & Codes may waive the standards for a Tier 1 Agritourism use if it is determined that the Agritourism use, by virtue of the size or type of use proposed, the location of the use, or other site specific characteristics, will not generate noise or other impacts that negatively impact surrounding properties.

12-306-5.07 Tier 1 agritourism registration process

a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:

1) Submitted State Agritourism Registration.

2) Completed Douglas County Agritourism Registration form.

3) Site plan which illustrates the use and its conformance with the Zoning Regulations as well as the relationship of the use to the surrounding properties or right-of-way. At a minimum, the following items must be included:

i. All structures to be utilized for the agritourism use identified on the plan with dimensions, including the distance to the nearest property line.

ii. Areas where the agritourism use will occur and any areas where visitors would be allowed shown and labeled on the plan.

iii. Access and parking areas shown and dimensioned, noting the number of spaces provided. For determination of parking requirements, parking is calculated at a rate of 1 parking space per 2 attendees.

iv. The water and sanitation facilities provided per the County Health Department approval.

v. Locations where exterior lighting for the Agritourism use is proposed, including the height and direction of the lighting, the type of lighting fixtures, and the means taken to shield the lighting to prevent or reduce trespass or glare to adjacent properties.

vi. Hours of operation noted.

vii. Anticipated attendance noted based on building occupancy determined by a licensed professional based on the building code or limited occupancy established with the restrictions of use. Attendance is not necessarily limited to that which can be served by available parking, as participants may arrive by bus or alternative forms of transportation.

viii. Materials required as part of the required public notice.

b. A 20 day property owner notification period is required. Notice of the proposed Agritourism Use must be provided to the property owners as follows:

1) The applicant shall obtain a list of property owners within ½ mile (2,640 ft) of the property on which the Agritourism activity is to occur from the Douglas County Clerk's Office.

i. If the notification area includes land within the corporate limits of a city, the list shall include owners of property within the ½ mile (2,640 ft) notification area that extend 400 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.

ii. The list shall have been obtained within 30 days of the date the registration is submitted.

2) The applicant shall mail a letter which contains, at a minimum, the information below to the property owners on the list to advise them of the proposed Agritourism use and provide them the opportunity to contact the applicant or the Zoning and Codes Department if they have any questions.

"An Agritourism use located at _____ is in the process of being registered with Douglas County. The Agritourism use will consist of (brief description of the event) . Please contact me at (phone number, email) with any questions regarding this registration or the Douglas County Zoning and Codes Department at 785-331-1343."

3) A copy of the letter, the property owner list, and certification of the date the letters were mailed to the address on the list shall be submitted as part of the registration.

c. The registration materials shall be reviewed by the Director of Zoning and Codes with the following approval criteria:

1) The nature of the use is compatible with adjacent land uses and enhances or maintains the rural character of the unincorporated portion of the county.

2) The proposed arrangement of buildings, off-street parking, access, and lighting is compatible with adjacent land uses and maintains the rural character of the area;

3) Adequate screening is provided between the parking area and adjacent residences or road rights-of-way.

4) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic;

d. The Zoning and Codes Director may apply conditions to the registration, such as limitation on the hours, location, or the activity itself if, in the Director's opinion, the conditions are necessary to mitigate off-site impacts or to protect the health, safety, and welfare of the Agritourism participants.

12-306-5.08 Tier 1 agritourism change of use

Only those activities specifically listed in the registration form and approved by the Director are allowed to occur as Agritourism. Any change in proposed uses such as a new activity, increased parking, or expanded area of activity would require:

a. The modification of the registration with the State, if necessary.

b. Resubmittal of the Douglas County Registration Form and revised site plan to the Zoning and Codes Office for a determination of compliance with the definition of Agritourism (if a new use is proposed) and registration through the processes established in this section.

c. Engaging in any activity not listed on the registration or operating out of compliance with the plans and conditions approved with the registration would be considered a violation subject to the enforcement provisions of Section 12-319.

12-306-5.09 Tier 1 agritourism duration and re-registration

The Agritourism use may continue as long as the use complies with the conditions and standards that were applied with the registration.

a. The Douglas County Agritourism Registration coincides with the State Registration. Re-registration with the County is required when the State registration is renewed, every 5 years.

b. To re-register the use, the Agritourism operator shall submit an updated State Registration to the Director of Zoning and Codes.

12-306-5.10 Tier 2 agritourism use standards

The following use standards apply to all Tier 2 Agritourism uses:

a. The area designated for ancillary retail sales shall not exceed 500 sq ft unless a larger area is approved by the Board of County Commissioners.

b. With the exception of agricultural activities, no activities associated with the Agritourism use may occur within 50 ft of a property line of the subject parcel or the perimeter of a group of contiguous parcels. The County Commission may vary this separation requirement depending on the nature of the Agritourism activity and the adjacent property.

12-306-5.11 Waiver provision

The Board of County Commissioners may waive the Tier 2 use standards if they determine that the Agritourism use, by virtue of the size or type of use proposed, the location of the use, and other site-specific characteristics, will not significantly impact surrounding properties.

12-306-5.12 Tier 2 agritourism uses registration process

a. The Agritourism operator shall submit the following materials to the Zoning and Codes Office:

1) Copy of the submitted State Agritourism Registration.

2) Completed Douglas County Agritourism Registration form.

3) Site plan meeting the requirements outlined in Section 12-306-5.07.

4) Information from the applicable fire department regarding access to the proposed Agritourism Activity area.

b. A minimum 20 day notification period is required. The Commission will hold a public hearing on the proposed use at the time and place listed in the public notice.

1) The County Zoning and Codes Office shall mail notice to all property owners within ½ mile (2,640 ft) of the proposed use and the date and time the use will be considered by the Board of County Commissioners.

2) If the notification area includes land within the corporate limits of a city, the list shall include owners of property within the ½ mile (2,640 ft) notification area that extend 400 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.

3) For Agritourism uses that will be located on an unpaved road, the Zoning and Codes Office shall mail notices to all property owners of residentially developed property on an unpaved road which would be considered the most direct route to the nearest hard-surfaced road.

c. The Director of Zoning and Codes shall review the registration application with the criteria noted in this section and provide a report with recommendation to the Commission.

1) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;

2) Adequate screening is provided between the parking area and adjacent residences or road rights-or-way.

3) The vehicular ingress and egress to and from the site provides for safe, efficient and convenient movement of traffic including emergency vehicles;

4) The nature of the use is compatible with adjacent land uses and enhances or maintains the rural character of the unincorporated portion of the county.

5) Suitability of the existing road network system for the traffic expected to be generated by the Agritourism use. Road improvements may be required in some cases.

d. The Board of County Commissioners may take one of the following actions on the registration:

1) Approve the registration, including waiving any standard deemed reasonable to waive;

2) Approve the registration with conditions/restrictions such as limitation on the size of buildings and parking areas, establishment of operating hours; establishment of buffering, limitation on activities; road improvements; etc;

3) Return the registration to staff with request for more information; or

4) Deny the registration.

12-306-5.13 Change of Use

Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as Agritourism. Any change in proposed uses such as a new activity, increased parking, expanded area of activity would require:

1) The modification of the registration with the State, if necessary.

2) Resubmittal of the revised registration form and revised site plan to the Zoning and Codes Office for a determination of compliance with the definition of Agritourism provided in this Section by the Director of the Zoning and Codes Office and the Planning Director and registration through the processes established above.

3) The Zoning and Codes Director, following notification of neighbors within 2,640 feet, may approve minor changes to the plan (changes that do not include an additional use or an increase in agritourism activity or parking area above 25% of the previous activity or parking area) administratively.

4) Engaging in any activity not listed on the registration, or operating out of compliance with the plans and conditions approved with the registration shall be considered a violation subject to the enforcement provisions of Section 12-313-9.

12-306-5.14 Duration and Review

The Agritourism Use may continue as long as the use complies with the conditions and standards that were applied with the registration. Re-registration is required.

1) The Douglas County Agritourism Use registration coincides with the State Registration. Re-registration with the County is required when the State registration is renewed, every 5 years.

2) A Tier 2 use that received County Commission approval may be re-registered administratively by the Zoning and Codes Director if the use remains the same as on the original registration and no unresolved complaints are on file.

12-306-6 AIRSTRIPS, PRIVATE

Private runways and airstrips are limited to small airplanes of 12,500 pounds or less. Each runway or airstrip is evaluated in the Conditional Use Permit approval process so that safety issues and the impact of the airstrip on surrounding land uses can be considered.

12-306-6.01 Design Standards

The airstrip design must comply with the standards provided in from the Federal Aviation Administration (FAA) regulations particularly Federal Aviation Regulation (FAR) Part 77 *Airspace Obstruction Analysis* and FAA Advisory Circulars 150-5300-14 and 150-5325-4; or new guidelines as they are adopted by the FAA. At a minimum the following standards shall apply, unless these guidelines conflict with new guidelines adopted by the FAA:

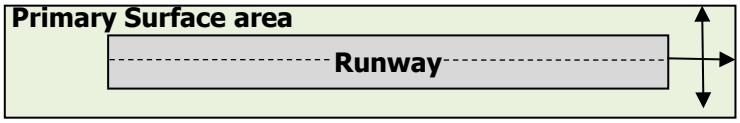
a. Minimum Length of Airstrip

Approach Speed less than 30 knots …..... 300 ft
Approach Speed between 30 and 50 knots, inclusive 800 ft

b. Obstacle Free Zones

The runway primary surface, the approach surface, and the transitional zone as defined by the FAA in FAR Part 77 shall be obstacle free.

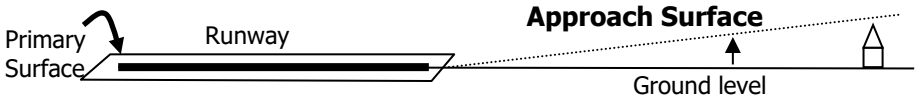
1) The Primary Surface is centered longitudinally on a runway centerline in the dimensions shown in the following chart:



Primary Surface (aerial view). The Primary Surface is centered longitudinally on runway. Width measurement is from side to side and the length measurement may extend beyond the end of the runway.

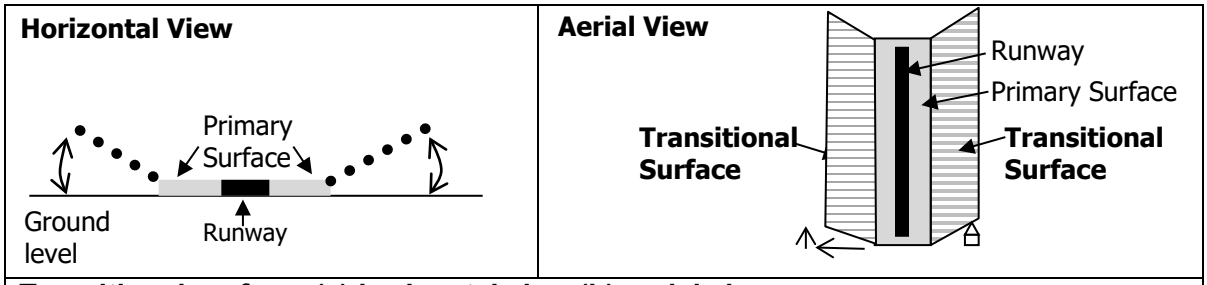
Primary Surface Dimensions	
Type of airstrip surface	**Length:**
improved, hard surface	200' beyond each end of runway
unimproved, not hard surface	ends with the runway
Type of approach	**Width:**
utility/visual	250'
utility w/non-precision instrument approaches	500'

2) The Approach Surface is longitudinally centered on the extended runway centerline and extends outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The width of the approach surface is equal to the width of the primary surface at each end of the runway. Dimensions of the approach surface for different types of runway are noted in the table below:



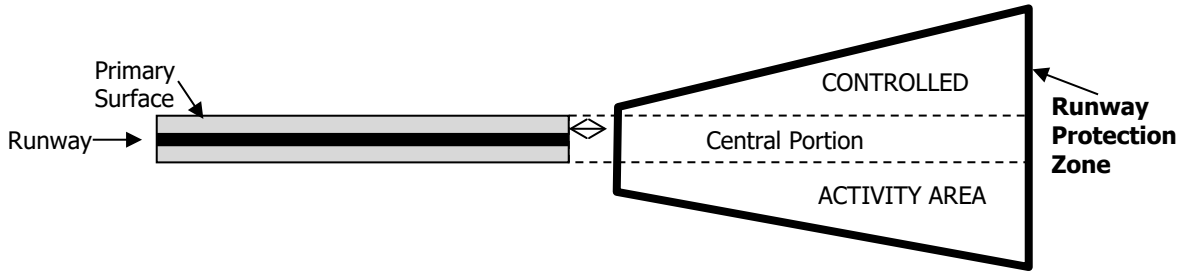
Approach Surface (shown on one end of the runway, but applies to both)			
Type of Approach	**Width**	**Length**	**Slope**
Utility w/visual	1,250’	5,000’	10 to 1
Utility w/non-precision instrument	2,000’	10,000’	50 to 1

3) Transitional surfaces extend outward and upward at right angles to the runway centerline and the runway centerline, extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces until it reaches 150 feet above the highest point on any runway (airstrip elevation).



Transitional surface. (a) horizontal view (b) aerial view

4) The Runway Protection Zone (RPZ) is an area off the runway end which is intended to enhance the protection of people and property on the ground. There may be obstacles within the controlled activity area but an airstrip will not be permitted if incompatible objects and activities exist in the RPZ Zone. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The controlled activity area and a portion of the runway Obstacle Free Area are the two components of the RPZ. The RPZ dimension for a particular runway end is a function of the type of aircraft and approach visibility minimum associated with that runway end. The RPZ begins 200 ft beyond the end of the area usable for takeoff or landing. When determining if a location is suitable for an airstrip, the RPZ area must be evaluated for incompatible uses which include: churches, schools, office buildings, fuel storage facilities, parking areas and other similar uses.



Runway Protection Zone

Dimensions of Runway Protection Zone

Approach Visibility Minimums	Length (feet)	Inner Width (feet)	Outer Width (feet)	Acres
Visual and not lower than 1 mile	1,000	250	450	8.035
Not lower than ¾ mile	1,700	1,000	1,510	48.978
Lower than ¾ mile	2,500	1,000	1,750	78.914

5) A driveway which the public may access may not also be used as a private airstrip.

12-306-6.02 Compatibility with Area Land Use

a. Noise is a negative impact associated with airstrips. The Board of County Commissioners shall consider the proximity of residences or places of assembly to determine if the noise associated with the proposed airstrip may be detrimental.

b. Additional conditions restricting the hours of use or intensity of use may be placed on the airstrip if it is determined that the noise may negatively impact surrounding properties.

12-306-6.03 Faa Notification Required

a. As required in FAA Regulation 14 CFR Part 157: Notice of Construction, Alteration, Activation, and Deactivation FAA, Form 7480-1 must be filed at least 90 days before the proposed construction or modification of any airstrip. This notification serves as the basis for evaluating the effects of the proposed action on the safe and efficient use of airspace by aircraft and the safety of persons and property on the ground.

b. The FAA will return written determination of Form 7480-1 to the applicant. The CUP approval is contingent upon the FAA determination of Form 7480-1. The applicant must provide a copy of the form sent to the FAA with the CUP application.

12-306-6.04 Approval Criteria for Private Airstrip

a. The FAA shall be notified by submitting FAA Form 7480-1. Copy of submittal and all correspondence with FAA shall be provided to the Planning Office with the Conditional Use Permit application.

b. A Conditional Use Permit application shall be filed with Planning Office. An airstrip layout plan shall be provided which shows the width and length of the airstrip and the imaginary zones. The type of runway and approach being proposed must be noted within the application materials.

c. The Primary Surface must be owned by the owner of the airstrip or runway. The Approach Surface, Transitional Surface, and the Runway Protection Zone should also be on property which is owned by the airstrip or runway owner. If these areas are not owned by the owner of the airstrip, the CUP may be approved if they are under the control of the airstrip owner through a permanent easement or if the CUP is conditioned so that any construction within these zones will require a re-evaluation of the airstrip.

d. CUP approval will be contingent upon determination by FAA and will not be considered final until the FAA determination has been provided to the Planning Office. If a determination of 'no objection'-- approval will be granted; if 'conditional determination' rendered by FAA, CUP will be approved when the conditions have been met; if 'determination with objections', CUP will be denied.

e. For determining if obstacles are located within the obstacle free areas, a roadway will be considered to contain an obstacle of 14 ft (the height of a large farm vehicle or implement).

f. The following land uses are prohibited from the Runway Protection Zone: residences, places of public assembly, and fuel storage facilities.

g. An airstrip shall not be approved if there are obstructions in the obstacle free zones (primary surface, approach surface, or transitional surface).

h. The CUP approval of an airstrip does not constrain the development potential on adjacent properties, unless easements have been put in place. The airstrip CUP approval is contingent upon the maintaining of obstacle free zones. If structures or other obstacles are constructed in obstacle free zones, the airstrip CUP approval will be re-evaluated. If it is possible, the airstrip can be reconfigured to avoid conflict with the new structures/items. If reconfiguration isn't possible, the airstrip CUP will be returned to the Board of County Commissioners for amendment, if it is possible to reconfigure or relocate the airstrip to avoid conflict in the obstruction free zones, or for revocation of the CUP approval if it isn't possible to resolve the conflict.

12-306-7 ANCILLARY AGRICULTURAL RETAIL SALES

a. Ancillary non-agricultural retail sales associated with a greenhouse, nursery, or other agricultural use is permitted with site plan approval for up to 500 sq ft of sales area. Sales area greater than 500 sq ft for ancillary retail goods requires approval through a Conditional Use Permit.

b. Ancillary retail sales associated with an Agritourism use are permitted when registered as part of the Agritourism use.

12-306-8 ANIMAL HOSPITAL OR CLINIC

a. Standards that apply in all districts in which they are permitted:

1) A hospital or clinic for large animals shall be located on a lot or eligible parcel containing 5 acres or more.

2) All buildings, structures, pens for large animals, or open pens, runs, cages or kennels for small animals shall be located at least 200 feet from any property lines.

3) The site plan shall include a drainage plan to show how cleaning water and stormwater runoff will leave the property.

4) KDHE approval of waste water management plan.

b. Standards that apply in the GI District:

1) Permitted only as an accessory use to a research facility.

12-306-9 BED AND BREAKFASTS

a. A Bed and Breakfast with 3 or fewer guest bedrooms may be operated as an accessory use to the principal use of an owner-occupied structure or may have an on-site resident manager.

b. A Bed and Breakfast establishment with 4 or more guest bedrooms is required to have a full-time resident manager or owner on the site and must be licensed by the State of Kansas to do business.

c. The establishment shall not contain restaurant facilities but may provide food service for overnight or other transient guests only.

12-306-10 <u>CAMPGROUNDS</u>

12-306-10.01 General Standards

a. Campgrounds may not be located on properties/parcels that are less than 5 acres.

b. Gross density shall not exceed 20 campsites per acre with no more than 2 camping units on any campsite.

c. The water supply system and sewage management measures shall be designed, constructed, and maintained in compliance with the Lawrence-Douglas County Health Department regulations and recommendations.

d. An attendant or caretaker shall be available at all times to keep the park, its facilities and equipment in a clean, orderly, and sanitary condition. (Primitive campgrounds are exempt from this requirement.)

e. No camping units/camp sites may be rented or occupied by the same party for periods that exceed 14 days and are not to be for individual sale or ownership.

f. Fires will be permitted only in facilities which have been provided for such purposes. All fire or cooking facilities shall be located, constructed, maintained, and used to minimize fire hazard and smoke nuisance in the campground and the neighboring properties.

g. No campfires permitted when the County Burn Ban is in effect.

h. All camping spaces shall be graded nearly level, except that each space shall be designed to provide drainage to a stormwater detention area, as required by the County Engineer. (Primitive and Family/Personal campgrounds are exempt from this requirement.)

i. Campsite ID numbers, at least 4” in height, shall identify each space and shall remain visible when in use. (Primitive and Family/Personal campgrounds are exempt from this requirement.)

j. Campsite Design Standards;

1) Campsite width: 20 ft

2) Campsite set back: 25 ft from local road right-of-way,
50 ft from collector or arterial,
20/30 ft from side and rear property lines.
50 ft from river bank
20 ft from interior drive
8 ft from fire pit, or other source of open flame

3) Landscaping
   i. The campground shall be adequately landscaped to provide a buffer from nearby properties and roadways, and to prevent erosion.

   ii. A minimum 100 ft landscaped buffer is required for park areas adjacent to private lands in a Residential zoning district.

   iii. If the proposed campground would be visible from a residence on an abutting property, fencing and/or buffering vegetation shall be installed. Fences shall be no less than six feet in height, and shall be sight obscuring. (This requirement may be waived if the recreational vehicle park or campground owner is also the owner of the contiguous residence.)

4) Access
   i. Access drives must have all weather surfacing and a minimum width of 24 feet for two-way traffic and 15 feet for one-way traffic with a vertical clearance of at least 13 feet, 6 inches. (Primitive campsites with no vehicular access are exempt from this parking requirement.)

   ii. Campgrounds must be designed so that vehicles wait on the interior access drive, rather than the adjacent road, for access into the campground.

   iii. All interior drives shall be looped, or a turnaround meeting fire apparatus access requirements shall be provided at the end of all roads.

5) Parking
   i. Minimum of 1 parking space required per campsite. (Primitive campsites with no vehicular access are exempt from this parking requirement.)

   ii. Adequate barriers shall be provided to confine vehicles to driveways and parking spaces.

12-306-10.02 Standards specific to campgrounds which permit camping vehicles (RV campgrounds)

a. Each RV campsite shall provide at least 900 sq ft of space.

b. Wheels and tires shall not be removed from any RV nor skirting applied.

c. RV pad area must use an all-weather surface (such as gravel, asphalt, etc.) as approved by the County Engineer.

d. All camping vehicles (RVs) shall have current licensing and registration and be in operable road worthy condition, as applicable.

e. Each RV campsite shall abut an internal road which provides unobstructed access to a public road.

f. Sewage disposal methods shall comply with the Douglas County Sanitary Code and require approval of the Health Code Official.

12-306-10.03 Standards specific to tent camping.

a. Each tent campsite shall provide at least 600 sq ft of space.

b. Group tent sites shall be permitted as long as the maximum number of sites of the group site is designated and the group site density does not exceed 20 campsites per acre.

12-306-10.04 Table

Type of campground	Family/Personal camping	Special Event Campgrounds	Primitive Campground	Developed Campground
Purpose and needs	To allow property owners, the use of their property for their own, and their families and friends, camping purposes.	To provide for safe and temporary housing accommodations for tourists and guests during an event which is permitted as a Special Event	To provide for safe and enjoyable camping facilities in areas which have minimal development to maximize the natural character of the area	To provide for safe and enjoyable camping facilities which have been developed to accommodate campers in any type of camping unit. May also include amenities such as showers.
Time limits	14 cumulative days in a calendar year. More requires a no-fee permit from the Zoning and Codes Director.	Time frame approved for the Special Event	14 days per visit. Each visit must be separated by 1 week.	14 days per visit. Each visit must be separated by 1 week.
SITE PLAN REQ.	No	Yes	Yes	Yes
Types of accommodations	Tents, campers, recreational vehicles, etc.	Tents, campers, recreational vehicles, etc.	Tents, yurts, and other low impact camping units	Any type of camping unit such as a tent, cabin, RV, motor home, no permanent housing
Type of facilities and amenities	Any accessory uses permitted with the principal use of the land	Any facilities/uses that are approved as part of the Special Event Permit	Minimal facilities/uses needed to accommodate campers, that are approved as part of the Conditional Use permit	Any facilities/uses permitted in the applicable zoning district that are approved as part of the Conditional Use Permit
Minimum area needed to have a campground	n/a	As approved with the Special Event Permit	5 acres	5 acres
Maximum density		As approved with the Special Event Permit	20 campsites per acre	20 campsites per acre
Approval	Zoning and Codes permit required for camping beyond 14 days per year	Special Event Permit with Board of County Commissioners approval	Conditional Use Permit (Camping that is accessory to an Agritourism use would be included in the Agritourism registration, which require Board of County Commissioners approval.	

12-306-10.05 <u>Family /Personal)Camping</u>:

a. Camping units shall comply with setback requirements for the zoning district in which they are located.

b. Private camping may occur up to 14 cumulative days in a calendar year without a permit.

1) After those 14 days, property owners may request a no-fee permit to camp for up to 30 days in a calendar year. (One renewal may be granted) The permit will require Health Department approval of sanitary provisions.

c. Private camping may be permitted for an extended time frame, beyond 30 days, when approved by the Director of Zoning and Codes as being an accessory use to the construction

of a residence. The camping unit may not be used as a dwelling after the residence is issued a Certificate of Occupancy.

d. For properties without a principal residence, camping units must be moved on and off (or stored within an enclosed structure) when not used for camping

12-306-11 CARETAKER/MANAGER RESIDENCE

a. A caretaker/manager residence may be located within a detached dwelling or within the principal structure.

b. The caretaker/manager living in the residence must be employed on the premises.

12-306-12 DAY CARE CENTER

a. A wall or fence at least 4 feet in height must be maintained around the perimeter of any play area.

b. A Day Care Center requires approval of a Conditional Use Permit except when it operates as an accessory use to a school, religious institution, or other use that was approved with a site plan.

12-306-13 DAY CARE HOME,

a. A day care home is limited to the care of 12 or fewer individuals.

b. A day care home must be an accessory use to an occupied residence.

12-306-14 DETACHED SINGLE-FAMILY DWELLING

Only one principal detached single-family dwelling may be constructed on any platted lot or vested parcel with the following exception:

a. Multiple Farm Employee Housing units may occur on a parcel when approved with a Conditional Use Permit.

12-306-15 EVENT CENTER/PUBLIC ASSEMBLY

Roads on primary route to property will be evaluated through the site planning process to determine the size of event which may be accommodated or the types of road improvements which may be necessary.

12-306-16 EXTERIOR STORAGE

a. Standards that apply in the V, BSC, LB, RT, and GB Districts:

Material storage yards, in connection with retail sales of products where storage is incidental to the approved occupancy of a store, is permitted provided:

1) All products and materials shall be stored in a completely enclosed building, or enclosed by a masonry wall, fence, or hedge, or a combination of these features which is at least 6 feet in height. Stored materials and equipment shall not exceed the height of the enclosure.

2) Storage of vehicles and equipment used in connection with the permitted trade or business is permitted within a wall, fence or hedge. This does not include the storage of heavy equipment, such as road-building or excavating equipment.

3) Exterior storage areas shall be located in compliance with the setbacks in the applicable zoning district.

b. Standards that apply in the LI and GI Districts:

1) Material storage yards are permitted as an accessory or principal use of the site provided exterior storage is screened from adjacent residential zoning districts or residentially developed property, and the adjacent road by a wall, fence or hedge or a combination of these features which is at least 6 feet in height.

2) Exterior storage areas shall be located in compliance with the setbacks in the applicable zoning district.

12-306-17 FARM STAND

12-306-17.01 General Standards

a. Any structure used for the farm stand shall be located a minimum of 25 ft from the edge pf the roadway.

b. Any structure used for the farm stand shall be located so that it does not interfere with sight distance for a corner property (Section 12-305)

c. Adequate area shall be provided on the site to allow one customer vehicle parking space.

d. No parking associated with the farm stand shall occur along the roadway or in the road right-of-way.

12-306-17.02 Standards that apply in the CP District

No farm stand shall be permanently maintained on the property. Stands are permitted from March 15th through October 31st.

12-306-18 FARMER'S MARKET

a. Adequate off-street parking shall be provided so that customers are parking on private property rather than road right-of-way. Customer parking in the road right-of-way is prohibited.

b. Structures are subject to the Dimensional Standards in Section 12-303.

12-306-19 FIREWORKS SALES

A permit must be obtained from the Zoning and Codes Office for any fireworks sales operations within the unincorporated area of Douglas County. The fireworks sales may operate only on the times and dates listed on the permit. In addition to the permit the following conditions apply:

a. No shooting of fireworks shall be permitted within 100 feet of the fireworks stand.

b. A temporary stand shall be located at least 25 feet from road or highway right-of-way.

c. Sales cannot occur in an Agricultural Exempt building.

d. Off-street parking must be provided for employees and customers.

e. Weeds and grass must be cut back within 100 feet of the stand.

f. The stand may not be located in any area where its proximity to other explosive or flammable materials will create safety hazards.

g. Temporary identification or advertising signs shall be placed as authorized in writing on the permit.

h. The temporary stand and signs shall be removed on or before the 8th day of July.

i. Sale or other distribution of fireworks, under the permit, shall be limited to fireworks authorized under the laws of the State of Kansas, with the exception that the sale or other distribution of fireworks known as 'bottle rockets' is prohibited.

12-306-20 HELIPORTS

a. Only heliports developed for exclusive use of the owner and persons authorized by the owner are permitted within the unincorporated portions of Douglas County.

b. Each heliport is evaluated in the Conditional Use Permit approval process so that safety issues and the impact of the heliport on surrounding land uses can be considered.

c. FAA Notification is required for new heliports or changes to the heliport through the submittal of FAA Form 7480-1 (Figure 1-1), a heliport layout diagram, and a heliport location map. The applicant must provide a copy of the form sent to the FAA with the CUP application. A copy of the FAA determination must be provided to the Planning Office as a condition of the Conditional Use Permit approval.

12-306-21 TYPE 1 HOME OCCUPATIONS

Type I Home Occupations include 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. Type I 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.

a. Typical Type I Home Occupations include uses such as fine art studios or instruction; small educational classes, home crafts; professional offices; office facilities for salespersons when no sales occur on the premises; offices for service-type businesses such as insurance agents, decorators, and tax advisors; and personal services such as seamstresses and beauty or barber shops.

b. The following uses are expressly prohibited as Type I Home Occupations. This list of prohibited uses is not intended as an exhaustive list. Uses that are similar to those listed below may be prohibited and other uses may 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 offices, clinics, or hospitals, which generate or results in biohazardous materials.
4) Renting of trailers, cars, or other equipment;
5) Restaurants;
6) Tourist homes; Vacation Rentals
7) Contractor's equipment and material storage;

12-306-21.01 Type 1 Home Occupation Standards

a. The operator of the home occupation must reside on the site of the home occupation.

b. A Type I Home Occupation shall not occupy more than 50% of the gross square footage of the principal dwelling unit.

c. 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.

d. There shall be no visible evidence of the conduct of a Type I 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.

e. A maximum of 2 non-resident employees are allowed.

f. No inventory of products shall be displayed or sold on the premises other than what has been produced on the premises or the incidental sale of goods that are associated with the Home Occupation (beauty products with a beauty salon or art supplies for an art class, for example).

g. The home occupation activity shall be conducted wholly within the dwelling unit.

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

i. Classes are limited to no more than 6 students at one time.

12-306-21.02 Registration of Home Occupations

a. Home Occupations must be registered with the Zoning and Codes Office. The application form is available from the Douglas County Zoning and Codes Office. The registration and approval process is an administrative procedure.

b. Upon submittal of a completed application, the Zoning and Codes Director will verify that the requested use is compliant with the provisions of the standards in Section 12-306-21.01.

c. If the operator/owner of a Home Occupation does not own the real estate on which the Home 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.

d. A Home Occupation permit will be issued for a use if it is found to be compliant with the conditions and standards in Section 12-306-21.01.

e. The Home Occupation use permit is valid for a period of twelve months from the date of issuance.

f. To renew the permit, a renewal application form must be filed at the Douglas County Zoning and Codes Office. Renewal of a Home Occupation Permit for the same use can be requested either by mail or in person.

1) It is the responsibility of the Home Occupation business owner to annually renew the

use permit.

g. The fees charged for the initial permit and for the renewal permit are based on a separate Fees and Enforcement Policy resolution adopted by the Board of County Commissioners. A fee schedule is available at the Zoning and Codes Office.

12-306-21.03 Appeals Of Decisions Concerning Home Occupations

a. Any applicant for a home business that is dissatisfied with the final determination of the Douglas County Zoning and Codes Director as it relates to Home Occupation registration may appeal such determination to the Board of County Commissioners.

1) The provisions in Sections 12-306-21 are not provisions that can be appealed to the County Board of Zoning Appeals.

b. The Board of County Commissioners may appoint a hearing officer to hear and decide appeals made from subsection (a) in this section. 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 Board of County Commissioners and the aggrieved person shall have no right to appeal to the entire Commission.

c. Any person who is dissatisfied with the decision of the Board of County Commissioners may appeal such decision to the District Court, as provided by law.

d. A final determination of the Board of County Commissioners shall not be a prerequisite to the commencement of any enforcement action against any person allegedly violating the Zoning Regulations.

12-306-21.04 Permit Non-Transferable

The Home Occupation Permits are valid 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.

12-306-22 <u>TYPE 2 HOME OCCUPATIONS</u>

Type II 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. Type II Home Occupations are more intense occupations in that they have more employees than the Type 1 Occupations or occur in an accessory structure that is ancillary to the primary residential use of the property. Type 1 occupations that exceed the Type 1 standards are considered Type 2. Such occupations are often service-oriented or involve production of materials for sales off premises.

a. Type 2 Home Occupations include the assembly, distribution, maintenance, and repair of agricultural implements and equipment; assembly of mechanical devices and components; automobile painting, upholstering, and other mechanical or body repairs; welding and machine shops; and contractor's equipment and material storage, or uses that the Director of Zoning and Codes determines to be similar in impacts to nearby land uses, in addition to uses permitted as Type 1 Home Occupations that do not meet the standards for a Type 1 Home Occupation.

b. The following uses are expressly prohibited as Type 2 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 offices which result in, or generate, biohazardous materials.
4) Renting of trailers, cars, or other equipment;
5) Restaurants;
6) Tourist homes;
7) Exterior storage of Contractor's equipment and material;

12-306-22.01 Type 2 Home Occupations standards:

a. A maximum of 4 Nonresident Employees;

b. The home occupation activity shall be conducted within 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 Type 2 Home Occupations 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 Type 2 Home Occupation regulations);

c. The majority of work related to agricultural implement repair or grading and earthwork activities must be conducted off premises;

d. 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;

e. All equipment, materials, and vehicles used for the home occupation shall be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way;

f. No inventory of products shall be displayed or sold on the premises other than what has been produced on the premises; or the incidental sale of goods that are associated with the Home Occupation (beauty products with a beauty salon or art supplies for an art class, for example).

g. A minimum site area of 5 acres is required for all Type 2 Home Occupations established after August 16, 2000.

h. The site containing the Type 2 Home Occupation must have direct access to a public road.

i. A minimum of one parking space shall be provided for each non-resident employee, based on the maximum number of employees present at any one time.

j. 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 to minimize visibility from the public rights-of-way or from adjacent residences.

k. All automotive, welding, and machine shop work must be conducted entirely inside an enclosed structure without any outdoor storage of vehicles, parts or equipment.

l. Contractor's equipment and material storage shall be totally enclosed in a building without

any outdoor storage of vehicles, parts, or equipment.

12-306-22.02 Registration of Home Occupations

a. Home Occupations must be registered with the Zoning and Codes Office. The application form is available from the Douglas County Zoning and Codes Office. The registration and approval process is an administrative procedure.

b. Upon submittal of a completed application, the Zoning and Codes Director will verify that the requested use is compliant with the provisions of the standards in or Section 12-306-22.01.

c. If the operator/owner of a Home Occupation does not own the real estate on which the Home 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.

d. A Home Occupation permit will be issued for a use if it is found to be compliant with the conditions and standards in Section 12-306-22.01.

e. The Home Occupation use permit is valid for a period of twelve months from the date of issuance.

f. To renew the permit, a renewal application form must be filed at the Douglas County Zoning and Codes Office. Renewal of a Home Occupation Permit for the same use can be requested either by mail or in person.

i. It is the responsibility of the Home Occupation business owner to annually renew the use permit.

g. The fees charged for the initial permit and for the renewal permit are based on a separate Fees and Enforcement Policy resolution adopted by the Board of County Commissioners. A fee schedule is available at the Zoning and Codes Office.

12-306-22.03 Appeals Of Decisions Concerning Home Occupations

a. Any applicant for a home business that is dissatisfied with the final determination of the Douglas County Zoning and Codes Director as it relates to Home Occupation registration may appeal such determination to the Board of County Commissioners.

1) The provisions in Sections 12-306-22 are not provisions that can be appealed to the County Board of Zoning Appeals.

b. The Board of County Commissioners may appoint a hearing officer to hear and decide appeals made from subsection (a) in this section. 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 Board of County Commissioners and the aggrieved person shall have no right to appeal to the entire Commission.

c. Any person who is dissatisfied with the decision of the Board of County Commissioners may appeal such decision to the District Court, as provided by law.

d. A final determination of the Board of County Commissioners shall not be a prerequisite to the commencement of any enforcement action against any person allegedly violating the Zoning Regulations.

12-306-22.04 Permit Non-Transferable

The Home Occupation Permits are valid 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.

12-306-23 <u>KENNEL, COMMERCIAL DOG</u>

12-306-23.01 Standards that apply in all districts:

a. Any open pens, runs, cages or kennels shall be located at least 500 feet from any property lines.

b. A minimum of 20 acres is required for a kennel.

c. Adequate water supply must be provided for drinking and cleaning and appropriate sewage and waste management measures, approved by the Health Department, must be followed to eliminate odor.

d. The site plan must show contours so appropriate drainage of cleaning water and stormwater runoff can be determined.

e. Shelters must be provided with heating and cooling units to protect the animals from extreme temperatures.

f. An exercise area such as an individual dog run or an exercise yard which may also be used for training and obedience classes must be provided.

g. Runs shall be adequately fenced and roofed to contain animals.

h. The building design, site layout, and/or other features must result in a facility that does not create noise which negatively impacts nearby properties.

12-306-23.02 Standards that apply in the AG-1 District

Must be located on a property with a residence or veterinary clinic and be operated by the resident or veterinarian staff.

12-306-24 <u>LANDFILL</u>

A landfill is generally defined as a place to dispose of refuse and other waste material by burying it and covering it over with soil, especially as a method of filling in or extending usable land. The term 'landfill' encompasses many types of landfills such as Sanitary, Industrial, Solid Waste, Construction and Demolition Waste, and Clean Rubble. Definitions for the various types of landfills are provided in Chapter 10 of the County Code, 'Solid Waste Management'.

a. All landfills require approval of a Conditional Use Permit with the exception of landfills that meet both of the following criteria:

1) The waste materials being disposed were produced on site (i.e. were not hauled to the site); and

2) The waste materials consist only of Clean Rubble, as defined in Chapter 10 of the County Code.

b. The following general standards shall apply to all landfills which require CUP approval:

1) For all landfills that require a KDHE permit, the applicant shall hold a valid, state-issued permit at all times such landfill is in operation.

2) For all landfills that require a County permit, per Chapter 10 of the County Code, the applicant shall hold a valid, County-issued permit at all times such landfill is in operation.

3) The landfill operation shall be limited to the disposal of waste included in the definition of that type of landfill in K.S.A. 65-3424.

4) The applicant shall submit complete plans for the design and operation of the landfill, providing detail as to such matters as noise and dust control, stormwater drainage and detention or retention, hours of operation, truck route, interior roads, fire suppression, security, lighting, screening, and reclamation.

5) Minimum setbacks for any excavation**,** or fill, associated with the landfill shall be established at a rate of 1 ft for each ft of depth excavated, in accordance with K.S.A. 49-501 and shall be a minimum of 100 ft from any road right-of-way and 30 ft from all other property lines. Additional setbacks may be required based on topography, visibility of site, adjacent land use, drainage issues, etc. Setbacks must be maintained free of any activity, either surface or subsurface.

6) If the County determines that any road associated with the use is inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, the applicant shall be required to improve and maintain the road(s) to a standard acceptable to the County. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the road(s) used by the operation will be appropriately improved and maintained.

7) Landfill operations may require screening, depending on the location, and as determined by the Board of County Commissioners.

8) If more than 1 acre of land is to be disturbed, a Storm Water Pollution Prevention Plan (SWP3) must be submitted to KDHE and approved prior to commencement of the landfill. A copy of the approved SWP3 must be provided to the Planning Office prior to final approval of the CUP to insure the CUP complies with the provisions of the SWP3.

9) At a minimum, the reclamation plan shall show the finished grade of the property, note the amount of top soil to be placed over the landfill, the type of vegetation to be installed (seed mix, etc.), and the proposed use following reclamation.

10) Landfills shall not be located within a special hazard flood area except that:

    i. Clean Rubble Landfills may be used to fill in ponds, borrow pits, or other depressions in the special hazard flood area. Grading (fill or excavation), dredging, and any development must comply with Douglas County Floodplain Management Regulations.

i. If approved, the CUP shall be limited to a specific timeframe. If the landfill activity is not completed within this timeframe, the applicant may request in writing that the CUP be placed on the County Commission agenda for consideration of renewal. The request for renewal should be made prior to the expiration date and public notification of the meeting shall be provided by staff.

12-306-25 EQUIPMENT STORAGE

a. Open or enclosed storage must meet the minimum yard requirements of the district in which it is located.

b. Open storage must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and residences.

12-306-26 MANUFACTURING AND PRODUCTION USES (LIGHT OR GENERAL)

12-306-26.01 Standards that apply in the GB District

a. No outside storage of material is permitted.

b. No industrial use in the GB District shall occupy more than 6,000 sq. ft of floor area.

12-306-26.02 Standards that apply in the GI District

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

12-306-26.03 Standards that apply in the LI District

a. All industrial 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.

b. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from the road and adjacent residential property by landscaping, fences, or walls.

12-306-26.04 Standards that apply in all districts:

a. Adequate parking and loading space shall be provided on-site for all employees and traffic to the facility.

b. Loading operations shall be conducted at the side or rear of buildings.

c. The front yard shall be landscaped with trees, grass, shrubs, or pedestrian walks and maintained in a neat and attractive condition.

d. All fencing shall have a uniform and durable character and shall be properly maintained.

12-306-27 MINING AND EXCAVATION

12-306-27.01 Existing Uses

Mining and excavation of mineral or raw materials including, but not limited to: stone, sand, gravel or other building materials and the manufacturing, processing, storage and selling of said minerals and materials shall be permitted to continue in operation in the AG-1(Agricultural) District; and Floodway and Floodway Fringe Overlay Districts only on those areas under lease and on record at the time countywide zoning went into effect, September 23, 1966.

12-306-27.02 Standards

The following standards apply to all mining and excavation activities:

a. All mining and excavation activities shall observe the following setbacks:

1) No excavation or other quarrying or mining activity shall be permitted within 300 ft of a residence or 200 ft of a residential zoning district, whichever is greater.

2) No excavation or other quarrying or mining activity shall be located closer than 50 ft from any adjoining property under separate ownership.

3) No excavation or other quarrying or mining activity shall occur closer than 100 ft from any right-of-way.

4) The setback areas may be used for the erection of berms or other screening features required by the conditional use permit.

b. Berms at a maximum of 3:1 slope shall be installed along the right-of-way adjacent to any quarrying activity and along the property lines between the use and any adjacent residential use to screen activities from the right-of-way or adjacent residential property unless the existing vegetation or topography provides an effective screen.

1) As an alternative, berms may be installed within the interior of the site if the berms provide an effective screen for activities from the right-of-way or adjacent residential use.

c. If blasting is to occur, a pre-excavation seismology study shall be conducted at the property boundaries and at any residence within 1,000 feet that requests it prior to the commencement of the quarry use.

1) Notice of this study shall be mailed to all property owners as identified on the Certified Douglas County Property Owner List required for the Conditional Use application.

2) A copy of the study shall be provided to the Zoning and Codes Office to be maintained in the file and a copy shall be maintained on site.

d. The Applicant or operator shall provide a surety bond, reclamation bond, Certificate of Deposit or Letter of Credit, in a format acceptable to the Planning Director, to ensure that the site is reclaimed as outlined in the approved Reclamation Plan.

1) The bond amount shall be established based on engineering or contractor estimates for reclamation of the mined area, or area proposed to be mined, as shown on the reclamation plan.

12-306-27.03 Application materials

a. The plans submitted with the application must show relevant information including specific setbacks, phasing, prevailing winds, road networks, dust management plan, water use, ground water table, drainage study, and other information as may be deemed necessary to make an informed decision. At a minimum the plans shall include:

1) The boundary of the entire tract;

2) Vehicular access routes and surfacing;

3) The lateral extent and area, in acres, of the proposed excavation;

4) Distances from the lateral extent of the excavation to all property lines;

5) The depth of the proposed excavation;

6) Existing topography;

7) Existing ground cover and location of any environmentally sensitive lands as identified in Section 20-810(i) of the Subdivision Regulations; and

8) Information regarding the blasting being proposed.

b. An operation plan which indicates the excavation method to be utilized, provisions for the storage and handling of overburden, the location of over burden piles, the location and phasing of mining activities, storage areas for top soil, the location of berms and information regarding the removal of the berms shall be submitted with the application.

c. A drainage study which shows the pre-mining drainage, the mining drainage, and the post-reclamation drainage. Shall be submitted with the application.

1) The County Engineer shall evaluate the drainage study to insure that off-site impacts are minimized.

2) More detailed drainage studies will be provided prior to mining in any phase.

d. A reclamation plan that described in general how the excavated area will be reclaimed shall be provided with the application. This plan shall show the remaining water features on the property and contours so it can be determined that proper drainage is provided. The following standards apply to the reclamation:

1) Sequential reclamation shall be utilized whenever possible.

2) The reclamation plan shall include a proposed schedule for completion of operations and reclamation.

3) The type of reclamation proposed will depend on the final use anticipated for the property.

4) Any remaining water bodies shall have banks with a maximum slope of 3:1 for the first 5 feet below water level. Banks above the anticipated water level shall have a maximum slope of 3:1 unless the County Engineer determines slopes of higher ratio are stable.

5) Up to 10 acres may be opened and mined from in a subsequent phase prior to the approval of the reclamation of the previous phase. Before moving into the subsequent phase, a detailed reclamation for the current phase must be provided to the Planning Office for review and approved by the County Commission.

e. A dust control plan which describes the precautions and maintenance activities the operator will undertake to prevent fugitive dust contamination from the site and from the principal access route to the site.

1) The principal access route will be defined as the route of least distance between the furthest entrance to the property involved and a paved public highway approved by the County Engineer. The principal access route to be used will be designated by the County Engineer and may not be deviated from except upon prior written approval of the County Engineer.

2) Fugitive dust contamination from the site and/or from the access road must be minimized by the application of dust palliative measures approved by the County Engineer at appropriate intervals. The applicant shall describe in detail what methods they will use and at what intervals. The County engineer shall determine if the proposed plan is adequate to alleviate off-site impacts from fugitive dust contamination resulting from the operation. If the measures prove to be ineffective, additional dust control methods may be required by the County Commission.

f. A traffic study evaluating the expected impact of the operation on all township and county roads that could be affected by the activity. As a requirement of the conditional use permit the operator shall agree to reimburse the township or county for any repair of damage to the principal access route due to ongoing truck traffic resulting from the operation and to bring the road to the condition that existed prior to the operation. The following procedure shall be used to determine the extent of the damage and to accomplish the appropriate reimbursement:

1) The extent of reimbursement to be paid for the repair of damages shall be determined by the County Engineer by conducting an assessment of the road conditions, in cooperation with the operator/property owner, prior to the activity commencing and following the completion of the activity or the development of significant road damage, whichever occurs first. Any funds collected from the operator/property owner for damages to the road shall be used solely to repair the damages caused by the operation and for no other purposes. The repairs to the damaged roads shall be completed no later than 1 year after the damage occurs or the completion of the activity; or the funds shall be returned to the operator/property owner. In lieu of the financial measures, the operator/property owner may execute an agreement, running in favor of the county, that would require the operator/property owner to repair the road damages directly, using the operator/property owner's resources upon notification by the County. Failure to perform the repair immediately upon notification would constitute a violation of the conditions of the CUP and excavation or processing activities approved with the CUP would cease until the repairs had been made.

2) The operator/property owner may appeal the decision of the County Engineer to the County Commissioners. A decision by the Board of Commissioners will be made no later than 60 days after the appeal request has been filed with the Zoning and Codes Office.

12-306-28 <u>MINI- OR SELF-STORAGE</u>

Mini- or self-storage facilities shall meet the following locational criteria and development standards:

a. Mini-or self-storage facilities shall be located within an Urban Growth Area or within an appropriate zoning district.

b. Facility should be located within a ¼ mile of a hard surfaced road classified as ‘collector’ or higher.

c. Security fencing and lighting shall be provided for the entire facility. Security fencing is fencing which permits visibility while obstructing access. An example would be a 6 foot 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 shall 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. No light poles may be higher than 15 ft. Photometric plans shall be submitted with the site plan. Maximum illumination at lot line is as follows:

1) .2 foot-candles, or less, if adjacent to a residentially zoned or developed property.

2) 1 foot-candle if adjacent to non-residentially zoned or developed property.

e. Screening, must be provided on any side which abuts a residentially zoned district or residentially developed property with a view reducing wall, fence, berm landscaping materials or a combination of these.

f. Access drives shall be a minimum of 20 feet wide for one-way traffic and 25 feet 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 shall 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 recreational vehicles, including motor homes.

1) Exterior storage of unregistered and/or disassembled vehicles is prohibited.

2) Any covered (non-enclosed) or exterior vehicle storage shall be screened from adjacent public roads, residentially zoned properties or residentially developed property with a view reducing wall, fence, landscaping materials or a combination of these measures.

i. Access drives and parking spaces must be shown on the site plan and physically designated on the site. One vehicle and trailer will be permitted per stall.

j. 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.

k. The area shall be properly policed by the owner or operator for removal of trash and debris.

l. Keyless keypad entry system is required, or a similarly secure entry system with monitoring ability.

m. All storage units shall be oriented toward the interior of the site. Doors may not be located along or visible from the perimeter of the site.

12-306-29 EXTENDED CARE FACILITY

a. The facility must be located on a hard-surfaced road.

b. The facility must be in an area which is served by fire/medical emergency vehicles.

c. Adequate on-site sewage management system must be provided and approved by the Lawrence-Douglas County Health Department.

d. Water supply must be approved by the Lawrence-Lawrence-Douglas County Health Department.

12-306-30 OUTDOOR SPORTS OR RECREATION FACILITY

Excluded from these use standards are recreation facilities that are accessory to a residence.

a. Game fields, and courts shall not be located within 25 feet of the side or rear property lines.

b. View reducing fencing and/or landscaping shall be provided to screen outside uses and parking areas from abutting residentially developed properties. Parking areas outside the fenced area shall be screened with hedges at least three and one-half feet (3 ½') in height around parking area to screen adjoining residentially developed properties, or roadway from headlights.

c. Any above-ground pumps and filters shall be at least 50 ft from abutting properties and screened to minimize noise trespass to adjoining properties.

d. Dispensing of food, beverages, candy, tobacco, ice cream and sandwiches shall be from vending machines or small snack bar, concession stand or dining facility operated on the premises during the hours the recreational facility is open for use and shall not be open to the general public.

1) The dispensing of food and concessions is to be operated as an accessory use to the recreational use.

2) Drive-thru facilities are expressly prohibited.

3) Food preparation and dispensing shall comply with the Douglas County Health Code and regulations of the State of Kansas.

4) Off-site advertising of food or food services is prohibited.

12-306-31 RADIO, TELEVISION, AND MICROWAVE TOWERS.

12-306-31.01 Purpose.

This section establishes 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 with the exception of Wireless Facilities.

12-306-31.02 Development Plan Required.
At the time of application for Conditional Use Permit 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:

a. Written authorization from the property owner of the proposed tower site.

b. 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.

c. A report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications prepared by a qualified professional engineer, licensed to practice in the State of Kansas 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.

12-306-31.03 Additional Public Notice

a. In addition to the written notice to owners within ½ mile (2,640 ft) of the tower request which is provided by the Planning Office, 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:

1) A brief description and location of the proposed tower;

2) Projected date for construction;

3) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;

4) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;

5) 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 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.

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

12-306-31.04 General Provisions

a. 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.

b. The owner at the owner's expense shall remove any tower that is not in use for a period of one year, unless a request for an extension has been approved by the Board of County Commissioners.

c. 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.

12-306-31.05 Setbacks

a. A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower.

b. The setback for a tower mounted on the roof of a building or on top of other structures may be determined from either the edge of the property line or the edge of the roof as follows:

1) The tower shall be set back a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or

2) If the overall setback above is not met, the tower shall be set back a distance equal to the height of the tower above the roof/structure from the edge of the roof.

c. The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:

1) The waiver will not adversely affect the public health, safety, or general welfare of the community;

2) The waiver will not adversely affect the rights of adjacent property owners or residents;

3) Strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and

4) The waiver is appropriate under the circumstances.

d. 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. Setbacks shall apply to

all tower parts including guy wire anchors, and to any accessory facilities.

12-306-31.06 Development Standards

a. The height of a tower shall meet the setback requirements as stated in this chapter.

b. 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.

c. 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.

12-306-32 <u>RECYCLING COLLECTION FACILITIES</u>

The standards below apply to all recycling facilities with the exception of a recycling facility which is located within a building:

a. Recycling collection facilities shall be limited to one area per property, parcel or tract of land under common ownership dedicated to such facilities.

b. Any recycling collection facility shall be located within the designated area as shown on the approved site plan.

12-306-33 <u>RELIGIOUS INSTITUTIONS AND ASSEMBLY</u>

Access should be limited to roads with a classification of ‘collector’ or higher but can be taken from a local road provided it is within close proximity, less than 0.25 miles or 1,320 feet, from an intersection with a collector or arterial road.

12-306-34 <u>RESIDENTIAL DESIGN MANUFACTURED HOMES</u>

Same conditions apply as for single family homes with the following additional conditions:

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; and

f. The home shall be permanently mounted on a foundation or basement which meets the provisions of the Building Code.

12-306-35 RIDING STABLE/ACADEMY, COMMERCIAL

12-306-35.01 Standards that Apply in the AG-1 and AG-2 Districts:

a. Stables may be used for the commercial boarding of horses or one-on-one instruction by the property owner or manager without requiring a site plan or approval as a Home Occupation.

b. Stables that have any other commercial components, such as renting horses for rides, riding classes, or other uses will require site planning or approval as a Home Occupation.

c. Any buildings for keeping of animals shall be located at least 200 feet from any side or rear property lines that abut residentially zoned or developed property.

12-306-36 SALE BARN /AUCTION HOUSE

a. Adequate off-street parking areas must be provided to accommodate both vehicles and trailers.

b. Loading area must be screened from view of road rights-of-way or residential properties with a fence, wall or view reducing landscaping or a combination of these features.

c. Livestock sales must have sewage and waste disposal measures approved by the Lawrence-Lawrence-Douglas County Health Department or Kansas Department of Health and Environment identified in their site plan.

12-306-37 SALVAGE/JUNK YARDS

a. All exterior storage and processing areas shall be screened as follows:

1) A salvage yard abutting a collector or arterial road must be screened from the road right-of-way or road easement by a solid masonry wall or solid wood fence at least 6 feet in height and be designed and located to prevent visibility of stored or stacked material. The fence shall be located no closer than 15 feet to any road right-of-way or road easement. In no case shall the height of the solid fence exceed 10 feet.

2) A salvage yard abutting a local road must be screened from the road right-of-way or road easement through view reducing means, such as fencing or landscaping.

3) Fencing shall be placed along the side and rear of all processing and storage areas and may be of any approved type. Live screening may be used in lieu of fencing where deemed appropriate.

b. No open burning of junked, salvaged, or discarded materials is permitted. Incinerators may be used for burning of wastes or the conducting of salvage operations if such incinerators are of a type approved by the Kansas State Department of Health and Environment.

c. Salvage, junked, and/or discarded materials shall not be placed in environmentally sensitive areas, nor shall they be buried.

12-306-38 SEXUALLY ORIENTED BUSINESS

Sexually Oriented Businesses include, but are not limited to, the following: Adult arcades, Adult media outlet, Adult cabarets, Adult motion picture theaters, Adult retail establishment, Adult theaters, Escort agencies, Nude model studios, and Sexual encounter centers.

12-306-38.01 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 a Sexually Oriented Business. A Conditional Use Permit cannot be granted if these standards are not met.

a. Sexually Oriented Businesses shall not be located within 1,000 feet of any other Sexually Oriented 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. Sexually Oriented 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 a Sexually Oriented Business shall be adequately lighted (as defined in Subsection vi 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 a Sexually Oriented 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 (2) 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 uses for adult entertainment business or of a vacant building formally used for such purpose upon adoption of this regulation.

f. All areas within a Sexually Oriented Business shall be illuminated at a minimum of one and one/forth (1.25) 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 (2') above the primary level of the customer floor level and at least six (6) 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 Sexually Oriented Businesses shall permit law enforcement and code enforcement officers to inspect the premises at any time without advance notice during normal business hours.

l. All Sexually Oriented Businesses shall comply with all laws regarding the protection of minors from harmful materials.

m. All Sexually Oriented 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.

12-306-38.02 Expansion of Use

a. Any substantial enlargement of the use area shall be subject to compliance with the Sexually Oriented Business operation and locational standards set forth in this section, prior to such alteration or expansion.

b. Any nonconforming Sexually Oriented Business proposed to be substantially enlarged shall first be required to obtain a Conditional Use Permit.

12-306-38.03 Criminal Offense

The violation of any law, which is a criminal offense for which the operator or owner of a Sexually Oriented 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 Sexually Oriented Business.

12-306-39 <u>SMALL SCALE INDUSTRIAL USES</u>

a. A small scale industrial use is an industrial use that is operated on residential property and was originally registered as a Home Occupation but now exceeds the standards of the Type II Home Occupation. The use is of such a scale as to be compatible with nearby land uses, while maintaining the rural character of the area.

b. Small Scale Industrial Uses permitted as Conditional Uses include establishments primarily engaged in on-site production or assembly of goods by hand manufacturing involving the use of hand tools and small-scale equipment. Typical uses include:

1) On-site production of goods by hand or artistic endeavor;

2) Placement of digital or analog information on a physical or electronic medium;

3) Light manufacturing, predominately from previously prepared materials, of finished

products or parts, provided the noise, light, smell, or vibration does not extend beyond the site;

4) Research of an industrial or biotechnical nature;

5) Food Production, such as a bakery or a meat processing facility with no on-site slaughter;

6) Moving picture production such as movies, videos, and television; and

7) Similar small scale industrial uses 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 that that which is generally associated with light industrial uses of the type specifically permitted.

c. Standards to maintain consistency with the Comprehensive Plan recommendations for Industrial uses and to insure compatibility with nearby land uses and the character of the area are listed below:

1) The proposed use shall be located primarily outside of the regulatory floodplain.

2) Vegetative cover and wildlife habitat on the site shall be preserved, along with other environmentally sensitive areas to act as buffers and site amenities.

3) The site shall have adequate utilities, infrastructure, and services for the proposed use.

4) The total square footage of all buildings used in the operation and storage shall not exceed 10,000 sq. ft. unless a larger area is approved by the Board of County Commissioners.

5) The establishment may employ up to 15 full-time, non-resident employees.

6) All business activity shall be conducted within the structure with no outdoor storage of materials or product.

7) Parking spaces for all employees and loading areas must be provided on the site. No loading activity or parking is to occur on the adjacent roadway.

8) The use does not require Federal air quality discharge permits.

9) The use shall not generate offensive off-site external effects (such as noise, glare, vibrations, etc.)

10) The site shall be located on a full maintenance public road.
    i. Traffic information shall be provided, as requested by the County Engineer, to insure the suitability of the adjacent roads to handle the anticipated traffic to be generated by the use.

    ii. Improvements to the access point to meet current standards, or roadway improvements needed due to traffic generated by the use, or spacing of access

drives, all as identified by the County Engineer, shall be required as part of the Conditional Use.

iii. The property must, at a minimum, meet the Access Management Standards for residential properties.

11) Exterior lighting associated with the use shall be limited. The Conditional Use site plan shall show the location of proposed exterior lighting with the height noted. Lighting spec sheets shall be provided with the plans to illustrate the means taken to eliminate glare. Full cut-off fixtures shall be provided; however, low level lighting (less than 2,600 lumens or 150 watt incandescent bulb) does not require full cut-off fixtures.

12) New structures for the use should be of a type that is common to the rural area, rather than industrial, to maintain the rural character of the area.

13) No shift work/24 hour a day businesses shall be permitted. Business shall operate with defined working hours.

12-306-40 SPECIAL EVENTS

The term "Special Event" shall mean a short-term use of land or structures which is not otherwise included as a permitted or accessory use by these Zoning Regulations.

12-306-40.01 Purpose and Intent

a. The purpose of this section is to establish procedures and standards for conducting short-term Special Events on private property within the unincorporated area of Douglas County.

b. The regulations in this section are intended to provide an efficient procedure for processing Special Event applications while promoting the health, safety and welfare of all persons in the county by ensuring that Special Events do not create disturbances, become nuisances, disrupt traffic, or threaten or damage persons or property.

12-306-40.02 Exempt Events

The following types of events are exempt from the requirement to have a Special Event Permit:

a. Private gatherings held by the property owner or resident for which no admission or fee is charged for use of the property or facilities and no admission or entrance fee is charged, (such as wedding receptions or family reunions).

b. Garage sale, estate or farm auction, or similar event. A maximum of 2 of these events are permitted through this exemption per calendar year.

c. Fundraising or non-commercial events for nonprofit religious, political, educational or community service organizations which meet all of the following criteria and standards:

1) Event is conducted entirely on private property;

2) Any structure used in conjunction with the Special Event shall meet all applicable yard setbacks and shall be subject to a valid building permit;

3) The event shall be restricted to hours of operation between 8 AM and 11 PM;

4) Maximum duration of 7 days;

5) Maximum of 4 events on a property per calendar year; and

6) Signs displayed in conjunction with use shall comply with sign regulations for the Zoning District in which the property is located.

12-306-40.3 Events Which Require Special Event Permits

a. Events which do not meet the criteria for exemption listed in Section 12-306-40.02 require a Special Event Permit.

1) These include events which are open to the general public, whether or not an admission or entrance fee is charged. These events include, but are not limited to auctions, markets, sporting events, rallies, concerts, performances, festivals, fairs, carnivals, fundraisers, or similar public gatherings.

b. Events may occur either with or without the sale or provision of alcoholic liquor or cereal malt beverages. The property owner or sponsor of the event is responsible for obtaining necessary liquor licenses.

12-306-39.04 Permit Approval Process

a. Special Event Permits may be approved administratively or may require approval by the Board of County Commissioners, depending on the nature of the activity and the potential impacts to the surrounding properties.

b. Special Events which do not meet the criteria listed in Section 12-306-40.05 or the standards listed in Section 12-306-40.06 or have characteristics that the Director of Zoning and Codes determines may constitute a nuisance or danger shall require approval of the Board of County Commissioners.

12-306-40.05 Criteria for Administrative Review

The permit may be processed administratively if the Director of Zoning and Codes determines the Special Event Permit application meets all of the following criteria:

a. The principal route to the event is on a road network suitable for the anticipated attendance, per the determination of the County Engineer or township official;

b. Event hours between 8 AM and 11 PM;

c. The event lasts no more than 14 days;

d. Expected attendance on site at one time no more than 100 persons.

e. Up to 4 events within the calendar year may be permitted administratively for a property. Additional events require approval by the Board of County Commissioners; and

f. The event does not propose any overnight sleeping or camping, whether or not accommodations are provided.

12-306-40.6 General Standards

In addition to the criteria noted above, all Special Events shall comply with the following performance standards and any additional conditions deemed necessary by the Director of

Zoning and Codes, or the Board of County Commissioners, if applicable, in order to minimize any negative impacts to surrounding properties and protect the public health, safety and welfare.

a. Noise
The County Noise Regulations (including Section 7-201 *et seq*. of the Douglas County Code, as amended) shall be observed.

b. Parking
Adequate off-street parking areas (including accessible parking) are provided for the event.

1) Accessible parking must be located as near to the event area as possible.

2) Parking shall be provided on the same property as the event to the fullest extent possible.

3) No parking shall occur on the public right-of-way

4) Parking may be located on adjoining property with advance written consent of the affected landowner. A copy of the written consent shall be provided to the Director of Zoning and Codes prior to approval of the permit.

c. Location of Event
1) The event shall not interfere with access into the site for emergency vehicles.

2) No Special Events are permitted to be located within the regulatory floodway.

d. Health and Sanitation
All requirements of the Lawrence-Douglas County Health Department shall be met.

e. Lighting.
All lighting sources shall be shielded or aimed so the direct illumination is confined to the property on which the Special Event is located.

1) The operation of searchlights or similar lighting sources is prohibited.

2) Flashing light source is prohibited.

3) Animated or lighted signs are prohibited.

f. Other Permits and Laws
Any required local or state permits or licenses, etc., shall be obtained before the Special Event Permit is issued and the event shall comply with all applicable sales tax and other laws of Douglas County.

g. Structures
Any structure used for a Special Event must comply with Douglas County Construction Codes.

h. Site Restoration

The site shall be left free of debris, litter or any other unsightly evidence of the use upon completion or removal of the use and shall thereafter be used only in accordance with the applicable provisions of the zoning regulations.

12-306-40.7 Review and Approval Procedure

Special Events which do not meet the exemption criteria listed in Section 12-306-40.02 shall obtain a Special Event Permit through the following procedure:

a. Submittal of a completed Special Event Permit application, and the appropriate application fee to the Douglas County Zoning and Codes Department.

1) The application must be provided at least 28 days prior to the event to allow time for a review of the application and notification of neighbors. The Director of Zoning and Codes shall make a determination within 7 calendar days of the submittal as to whether the permit may be approved administratively or requires Board of County Commissioners approval.

2) Applications which are referred to the Board of County Commissioners for approval will be reviewed and placed on the next available agenda.

b. The applicant shall obtain a list of property owners within ½ mile (2,640 ft) of the property on which the Special Event is proposed from the Douglas County Clerk's Office. If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 400 feet into the corporate limits of the city. The applicant shall mail a letter which contains the information below to the property owners on the list to advise them of the proposed event and provide them the opportunity to contact the applicant or the Zoning and Codes Department if they have any questions.

A Special Event Permit is being proposed for property located at _____. The event will consist of (brief description of event) and will run from _____ to _____between the hours of _____. A Special Event Permit application will be submitted to the Douglas County Zoning and Codes Department.

Please contact me at _____ with any questions regarding this event, or the Douglas County Zoning and Codes Department at 785-331-1343.

The applicant must provide a copy of the letter, the property owner list and certification of the date the letters were mailed to the addresses on the list with their application.

c. A Special Event Permit may be administratively issued by the Director of Zoning and Codes if the criteria listed in Section 12-306-40.05 and the standards listed in Section 12-306-40.06 are met and the Director determines the event will not create a public nuisance or danger.

d. Special Events which do not meet the criteria for administrative approval, or are determined to constitute a potential nuisance or danger to the public, shall be referred to the Board of County Commission for action.

e. Following the approval of the Special Event, a permit shall be issued to the applicant at no additional charge. The permit shall be kept on the premises during the duration of the event.

12-306-41 TEMPORARY BUSINESS USES

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.

12-306-41.01 Temporary Business Use defined.

a. "Temporary business use" shall mean the carrying on of any of the activities enumerated in subparagraph (2) of this Section 12-319-5.01on 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 groups for such activity. An activity enumerated in subparagraph (b), 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 conducted only for a temporary and specified duration for projects occurring within Douglas County:

1) Batching or rock-crushing plant, including concrete or asphalt.

2) Construction building or construction materials yard.

3) Real estate tract sales office.

4) Flea market or swap meet.

5) Movie or video filming operations involving a combined crew, cast and extras of greater than ten (10) persons, except that one permit may be acquired for a single movie or video filming operation at different locations over a six (6) month period provided the applicant therefore informs the Douglas County Sheriff of each filming location twenty-four (24) hours prior to commencing filming operations.

6) Any other similar business use of a temporary and specified duration generating no more traffic or other effects on neighboring property than the foregoing.

12-306-41.02 Application Procedure

a. An applicant for a Temporary Business Use Permit shall make application to the Zoning and Codes office no less than 28 days before the date of commencement of the proposed Temporary Business Use.

1) For good cause shown, the Board of County Commissioners may allow an application to be filed on shorter notice.

b. All applications shall be accompanied by a non-refundable application fee in an amount set by resolution of the Board of County Commissioners. A fee schedule is available in the Zoning and Codes Office.

c. The application shall identify each sponsor of the temporary business use or other persons with a financial interest in the proposed activity.

d. The application shall be accompanied by a Traffic Impact Study which evaluates the amount and type of traffic expected with the temporary business use and the impact on the nearby road network.

e. Each temporary business use application shall be accompanied by a temporary business use plan.

12-306-41.03 Temporary Business Use Plan

The temporary business use plan shall explain 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:

a. Controlling traffic, parking, and road conditions during the temporary business use, including provision for off-road parking;

b. Addressing health and sanitation concerns at the site, including toilet and drinking water facilities and supplies adequate to meet the anticipated employees, customers, etc., including certification by the Lawrence-Douglas County Health Department that all sanitation and health concerns have been adequately addressed in the applicant’s plans

c. Providing adequate illumination at the site if the temporary business use occurs at night.

d. Providing security at the site, if needed, including the hiring of private security guards.

e. Providing adequate fire safety precautions at the site, including consultation with the township fire department and approval prior to the commencement of the temporary business use.

f. Evidence that the applicant has secured, or can secure, adequate general liability and property insurance coverage for the temporary business use.

12-306-41.04 Public Notice Requirements

a. Upon receipt of the application for a temporary business use permit, the Director of Zoning and Codes shall notify the applicant of the date scheduled for a public hearing on such application before the Board of County Commissioners.

b. No less than 10 days prior to the public hearing the Director of Zoning and Codes 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 ½ mile (2,640 ft) of the boundaries of the site at which the proposed use will occur.

2) If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 400 feet into the corporate limits of the city.

3) If the foregoing area includes area within an adjacent county, the applicant shall provide a certified list of property owners within the notification area from the County Clerk or other designated department in the adjacent county.

4) 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 1 mile of the main entrance to such site.

5) The public notice provided shall also contain a copy of the temporary business use plan required in Section 12-306(b)(2)(i) or a summary thereof and shall include a statement that additional information may be obtained from the Zoning and Codes Office.

6) The failure of any of the above described persons to receive the notice shall not invalidate any proceedings held concerning a temporary business use permit application.

7) 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 Director of Zoning and Codes.

12-306-41.05 Public Hearing and Decision by Board

a. Each application for a Temporary Business Use Permit 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 Section 12-307(b)(2)(ii)

b. After the public hearing, the Board may approve or deny the permit, or the Board may continue the hearing or defer a decision on the permit application until a subsequent meeting.

c. In making its 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.

d. 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.

1) If a bond was required, 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.

12-306-41.06 Permit

When the conditions of approval have been met, the Zoning and Codes Director shall issue a Temporary Business Use Permit.

a. The Permit shall list the conditions of approval and the time frame of the approved use.

b. The Temporary Business Use Permit issued shall be available on site for inspection for the duration of the business use.

c. 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.

12-306-42 VALUE ADDED AGRICULTURAL BUSINESS

12-306-42.01 Approvals required

A Value Added Agricultural Business may be permitted by right, with a Conditional Use Permit or as a Home Occupation based on the following criteria:

a. A Value Added Agricultural Business that is determined by the Zoning and Codes Director to meet the agricultural exemption criteria as defined in Section 12-301-2 and that utilizes only commodities that are produced on-site is a use permitted by right and no additional approvals are required.

1) Per Section 12-301-2, an Agricultural Exemption application must be submitted to the Zoning and Codes Director for determination of agricultural use.

b. A Value Added Agricultural Business that utilizes any commodities which are not produced on-site shall require registration as a Home Occupation, approval of a Conditional Use Permit or rezoning to a zoning district that permits the use.

12-306-42.02 Standards

Value Added Agricultural Businesses which require a Conditional Use Permit or rezoning shall meet each of the following location and development standards (Value Added Agricultural businesses which register as a home-occupation are subject to the home occupation regulations):

a. A maximum of 4 non-resident, full-time employees shall be allowed.

b. The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 square feet.

c. Structures are required to be upgraded to meet County building code requirements if used for more than storage of raw agricultural materials.

d. 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. 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.

f. The associated noise and vibrations from the production operation shall not be perceptible at the site boundary/property lines.

g. Storage of products shall be enclosed within a building or structure or screened so that it is not visible from the site boundary/property lines.

h. The site must have direct access to a full maintenance public road.

i. Properties must meet the same Access Management Regulations as residential dwellings, at a minimum Additional standards may be applied following the review traffic study which evaluates the anticipated traffic generated by the use and resulting traffic safety impacts.

12-306-43 WHOLESALE STORAGE & DISTRIBUTION/WAREHOUSE

12-306-43.01 Standards that apply in the GB District:

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.

12-306-44 WIND ENERGY CONVERSION SYSTEMS

12-306-44.01 Definitions

a. Small Wind Energy Conversion System (SWECS). Small wind turbines for personal or small commercial use described as:

1) Wind Turbine – a device or structure used to convert energy from the wind into electric power. May also be known as windmill or wind pump; devices used to power or run machinery or for pumping ground water; and

2) Maximum capacity to produce up to 50 kW of electrical power, for consumption on site and not for transfer or sale to a third party.

b. Large Wind Energy Conversion System (CWECS). A single wind turbine or system, collection or group of large wind turbines, connected to transmission, collector or feeder lines and energy conversion uses that collect, transmit and store electrical energy for use in a larger electrical network exclusive of individual use. Also known as Commercial Wind Energy Conversion System Project.

c. Prescribed Burning. The controlled application of fire to naturally occurring or naturalized vegetative fuels under specified environmental (weather) conditions in accordance with a written prescription that is designed to confine the fire to a predetermined area and to accomplish planned land management objectives.

d. Road agreement for maintenance. An agreement executed between the applicant and governing body, having jurisdiction over said roads, identifying the responsibilities, cost, upkeep, fees for maintenance of a specific route used for the construction, operation, and decommissioning of a wind energy conversion system.

e. Extraordinary Events. Any of the following with respect to an approved Large Wind Energy Conversion System: Tower collapse, Turbine failure, Thrown/broken blade or hub, Collector/feeder line failure, Injured worker or citizen, Kills of threatened or endangered species, or Discovery of an unexpectedly large number of dead birds of any variety on site.

12-306-44.02 Large Wind Energy Conversion System (Commercial Wind Energy Conversion Systems).

a. Purpose of Regulations. It is the purpose of this section to provide details related to any application for a Commercial Wind Energy Conversion System (CWECS) Project; create a process to permit the development of a CWECS; provide a basis for public discussion and informed comment on the CWECS; and identify significant environmental, social, and economic effects related to the CWECS Project.

b. Intent of Regulations. It is the intent of this section to address major issues associated with the project; however, issues not listed may be deemed significant and issues may emerge as significant during the course of review.

1) These regulations are not intended to restrict installation of Small Wind Energy Conversion Systems authorized and governed by Chapter 13 Construction Codes of

Douglas County Kansas. Small Wind Energy Conversion Systems (SWECS) are expressly exempt from the Conditional Use Permit process.

2) These requirements specify the maps, information surveys, and studies that must be submitted as part of the Conditional Use Permit (CUP) application. If approved, one CUP will be issued for the entirety of real property included within the perimeter of the proposed CWECS Project. In the event the application includes multiple properties, the applicant shall provide written evidence of land owner consent for any parcel contained within the CUP application.

3) At the time of application for a Conditional Use Permit the applicant shall be required to make surrounding property owners aware of a potential development application. In addition to notifying property owners within 1,000 feet of the CWECS project per section 12-324, the applicant must provide written notice to all owners of record of unincorporated property located within one mile radius of the proposed request. 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 the application. The notice shall be sent by regular mail and shall include a brief description of the project, proposed construction date, date the application will be submitted to the planning office, the person with contact information (phone, address) designated by the applicant to respond to questions concerning the proposed application and the following statement:

> *This letter is being sent to the owners of nearby property for the purpose of informing the property owners and other interested parties about the proposed CWECS project described 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.*

4) Location Criteria. The purpose of this section is to identify appropriate location criteria for siting wind turbines. Wind turbines shall be subject to section 12-328 of the County Zoning Regulations and are prohibited from location within any federally designated floodway [F-W Overlay District].

12-306-44.03 Conditions Required for Approval.

In addition to the findings of fact listed in section 12-307-2.07 the additional considerations shall be evaluated.

a. The applicant shall demonstrate its ability to strictly conform to all applicable performance standards detailed in these Regulations as well as applicable State and Federal law and regulations.

b. Key Issues. Key issues relating to CWECS include, but are not limited to:

1) Visual Impact;

2) Noise Impact;

3) Wildlife Habitat/ Native Flora and Fauna/ “Heritage Habitat Areas” [A Natural Areas Inventory of Douglas County in Northeast Kansas Prepared by the Kansas Natural Heritage Inventory, Kansas Biological Survey];

4) Bird migration/strike;

5) Endangered or Threatened Species;

6) Water Quality and Soil Erosion;

7) Infrastructure, including roads and bridges for construction access;

8) Aviation/FAA;

9) Reception Interference;

10) Cultural Heritage;

11) Maintenance of the Rural Character;

12) Cumulative Impact;

13) Company experience, reputation, and financial ability;

14) Removal/Reclamation;

15) Bond agreement; and

16) Specific requirements for building and construction.

12-306-44.04 Development/Site Plan Requirements.
As part of the CUP application, the applicant shall submit a CWECS Development Plan.

a. Each CWECS plan shall include the following:

1) Name of the project;

2) Name / address of land owner and land developer;

3) Narrative describing phases of construction (if applicable);

4) Concept plan showing the general location of turbines, electric collector and feeder lines, electrical equipment, substations, maintenance roads, and other associated facilities to be located on the subject property; equipment storage buildings or exterior storage areas;

5) Extent of area of subject property to be disturbed or cleared for access, construction, operation and maintenance;

6) Boundaries of the 100-year floodplain as identified on the Federal Insurance Administration's "Flood Hazard Boundary Maps" of Douglas County, Kansas; and,

7) The location of any underground pipelines and other utility easements**.**

8) Provision of the following notes on the plan that state:

i. *Decommissioned equipment shall be removed from the site and the foundations shall be removed to a depth of four (4) feet below the ground surface.*

ii. *The CWECS and its associated facilities shall not be operated so as to cause microwave, television, radio, telecommunications or navigation interference contrary to Federal Communications Commission (FCC) regulations or other law*.

iii. *During site clearance and construction, silt fences and other temporary erosion controls shall be installed and left in place until new native vegetation covers the bare ground around the turbines*.

iv. *This CUP shall not be transferred from one party to a different person or entity without approval of the Board of County Commissioners. Applicant shall notify the Board of County Commissioners and the Director of Zoning and Codes, in writing, of a transfer from one party to another. All CUP transferees shall be required to meet the same conditions as the original Applicant. The transferee shall also meet the surety bond/escrow requirement to ensure the CWECS is decommissioned and removed to CUP specifications at the end of the project's useful lifespan or in case of abandonment The Commission may, in its discretion, provide for conditions that allow bank financing of a CWECS project, including a mortgage or lien on project assets, but any transfer or assignment of an interest in the CUP will remain subject to prior approval of the Board of County commissioners.*

b. Supplemental information. All detailed technical information that supports the proposal should be included in appendices. The following information must be submitted with the application:

1) Vicinity Map. Two (2) maps showing project location and vicinity within Douglas County.

2) Demonstration of Qualifications to include the following information:
   i. Name and address of the developer, and

   ii. Statement from the developer providing relevant information regarding:

      (a) Qualifications and experience in commercial wind energy development;

      (b) Environmental management history of the company;

      (c) Financial information regarding the applicant's ability to construct, operate, and maintain the CWECS; and

      (d) Financial information regarding applicant's ability to meet the decommissioning escrow-bond requirements. (Note to Applicant: K.S.A. 45-221, Section 33 generally exempts financial information submitted by contractors in qualification statements from being open to the public.)

3) Relevant background information on the project, including a general overview of the project location, timeframe and project life, phases of development, and possibilities for future expansion.

4) Map of residential uses and structures within 1000' of the site boundary [for each individual wind turbine included in the application];

5) Environmental guidelines and industry codes of practice that will be followed if the project is approved.

6) An inventory of existing wildlife, endangered and threatened species, wetlands, flora, fauna and geoconservation areas and other biologically sensitive areas within the site.

7) Soil Erosion, Sediment Control, and Storm Water Runoff. Applicant shall develop a Soil Erosion, Sediment Control, and Storm Water Runoff Plan, per the approval of the County Public Works Director or his designee.

8) Archeological reconnaissance survey within the site that will be impacted by the construction or operation of the CWECS. The survey shall be provided to the State Historic Preservation Office (SHPO) to determine if cultural resources are present. Any unrecorded cultural resources that are found shall be evaluated for integrity and potential listing on the National Register of Historic Places. Undocumented resources that are eligible for listing on the National Register of Historic Places shall be avoided. All archaeological investigations shall meet the SHPO standards and guidelines.

9) A transportation route plan to be used for construction shall be coordinated with the Douglas County Department of Public Works. Execution of a road agreement, approved by the Department of Public Works, prior to issuance of a building permit for construction. Dust control plan to be implemented during construction phase and for regular maintenance as needed.

10) A plan detailing all off-site construction improvements needed for the project including, but not limited to, the following:
    i. Requirements for new transportation infrastructure and/or upgraded, realigned, or new roads.

    ii. Proposed agreement for road maintenance requirements as applicable for the development and continued operation of the CWECS.

    iii. Changes to electrical substations.

    iv. Changes to existing power transmission systems, including any upgrades to existing transmission lines within Douglas County.

    v. Requirements for the realignment of other utilities affected by the project.

11) A plan detailing the Mitigation Measures used to demonstrate reasonable efforts to address the following:

i. Fire Safety: Show how the towers and equipment are protected from fire within the site and from fire originating from outside the site such as with prescribed burning and non-prescribed burning (natural or accidental).

ii. High angle rescue.

iii. Extraordinary Event response plan: Within 48 hours of the occurrence of an Extraordinary Event, the Applicant shall notify the Director of Zoning and Codes. In the event of extraordinary avian mortality, the Applicant shall, within 30 days of the occurrence, submit a report to the Director of Zoning and Codes, to the Kansas Department of Parks and Wildlife, and to the U.S. Fish and Wildlife Service describing the cause of the occurrences and the steps taken to avoid future occurrences.

iv. Noise impact.

v. Applicant shall submit proof of having submitted FAA form 7460 (notice to build) at the time of application.

c. Operation and Maintenance Plan. Operation and maintenance requirements (including frequency of maintenance activities) for the turbines and transmission lines. Width of transmission line easements required, and any restrictions necessary on land use, development, and access within said easement.

12-306-44.05 Design Standards.

The following design standards are applicable to Commercial Wind Energy Conversion Systems Projects (CWECS) and are not intended to be applicable to SWECS**.** The following design standards may be modified, for a particular project, by the governing body (County Commission) following a public hearing held by the Planning Commission. It is the applicant's burden to demonstrate that the public health, safety, welfare, will be preserved and maintained if the standards are modified.

a. Setback. This section governs the setback of a tower from adjacent property lines not within the CUP. Interior setbacks of properties within the CUP may be reduced at the discretion of the governing body

1) A setback shall be equal to 110% of the height of tower plus length of blade.

2) No turbine shall be located closer than 1500 feet to a residential structure.

3) Additional or reduced setback requirements may be imposed as conditions to the project, depending on the circumstances.

b. Lowest point. The rotor blades shall be at least 100 feet above ground level at the base of the tower.

c. Lighting. All turbines and accessory facilities shall be sited to minimize adverse visual effect on the environment. Towers over 100 feet but less than 200 feet in height must be lit for aircraft safety consistent with the intent of FAA regulations, even if not strictly applicable, but lighting beyond what is necessary for aircraft safety will not be allowed. Towers more

than 200' shall be lit consistent with the Federal Aviation Administration (FAA) design guidelines.

d. Structure**.** Structures for wind turbines shall be self-supporting tubular towers painted a neutral color such as a white or pale gray. A lattice structure shall be prohibited.

e. Logos. Logos or advertisements are prohibited on these structures.

f. Identification Number**.** Each structure for wind turbine shall be marked with a visible identification number located no higher than fifteen (15) feet above ground level.

g. Turbine Access Roads. Access roads shall be shown on the site plan and shall require approval of the County Public Works Director or his designee.

1) Access roads shall be low profile roads so farming equipment can cross them.

2) Where an access road is to cross a stream or drainage way, it shall be designed and constructed per the approval of the County Public Works Director or his designee and comply with applicable FEMA and Kansas Department of Agriculture — Division of Water Resources regulations pertaining to building a structure in a flood zone.

12-306-44.06 Decommissioning/Restoration/Abandonment Plan.

Applicant shall submit a Decommissioning Plan describing the manner in which the CWECS will be dismantled and removed from the site at the end of its useful life.

a. All aboveground components of the CWECS shall be removed.

b. Foundations shall be removed to four (4) feet below ground level. Remainder of foundation may be left intact.

c. Access roads shall be removed unless specified by the property owner that they are intended to remain.

d. Land shall be restored to pre-permit conditions, using either productive top soil or re-seeded in native grasses.

e. Applicant shall submit documentation showing financial capability to carry out the decommissioning and restoration requirements.

f. When a completed CWECS project does not produce any electric energy for a period of one (1) year, and there is no demonstrated plan to restore the equipment to operating condition, the Director of Zoning and Codes may notify the landowner and/or holder of the CUP that the CWECS project is deemed abandoned.

g. If the landowner or holder of the CUP for the CWECS project does not cause the project to resume production of electricity within one (1) year from the date of the notice referenced above, the landowner and the CUP holder shall be jointly responsible to commence and shall complete abatement of the CWECS project as set forth in the Douglas County Zoning Regulations. The Board of County Commissioners may require Applicant (Holder of the CUP) to decommission any commercial abandoned turbine, even if other turbines in the project are active.

h. At the end of the CWECS's useful life, or if CWECS is abandoned, the site shall be restored in accordance with the requirements of this condition within eighteen (18) months.

12-306-44.07 Bond Agreement.

a. Bond Requirement:

1) Applicant shall obtain a surety bond naming Douglas County, Kansas, as payee in a form and amount as specified by acceptable to the Board of County Commissioners. Applicant shall maintain said bond through the lifespan of the CWECS. Bondholder shall provide the County annual notification of bond status. Bondholder shall provide the County 30-days written notice of any cancellation thereof.

2) In the event the Applicant or CUP holder is in non-compliance or default due to non-payment, the County shall have the right to call said bond and use it for decommissioning purposes. Should there be any remaining balance; the County shall have the right to withhold refund payment until the decommissioning process is completed to the County's satisfaction.

b. Liability on Termination or Expiration:

1) In the event of termination of this CUP for any reason, the CUP holder shall remain liable to the County for any expense incurred by the County that is above and beyond what is covered by the surety bond, escrow account, and/or insurance policy.
2) The CUP holder shall remain liable to the County for any unspent funds, the expenditure or use of the funds in a manner or for a purpose not authorized by this agreement and/or damages as a result of any breach of this agreement by the CUP holder.
3) The County shall have the right, at any time prior or subsequent to any remedies, including seeking injunctive or other equitable relief, to enforce the provisions of this agreement and/or recover funds, which are unspent, expended or used in an unauthorized manner, or for an unauthorized purpose and/or damages sustained by the County as a result of any breach of this agreement by the CUP holder.

c. Non-Liability: Nothing in this agreement or otherwise shall impose any liability or duty whatsoever on Douglas County or any of its agencies, including, but not limited to, any liability for taxes, wages, or any other employee benefits for any person or entity. Contractors, suppliers, or consultants accepting and relying on documents, materials, and other information from the Applicant or CUP holder will do so on their own responsibility and at their risk.

12-306-45 WIRELESS FACILITIES

12-306-45.01 Purpose.

The Governing Body recognizes that facilitating the development of wireless service technology benefits both the residents and the economic development of Douglas County. The purpose of these standards is to ensure that residents, businesses, and industry within the county enjoy reliable access to wireless telecommunications networks, while, at the same time, safeguarding the health, safety, welfare, and aesthetics of the county. Accordingly, these standards are intended to ensure that the location, installation, construction, and modification of Wireless Facilities within the unincorporated portion of the county comply with all Federal and State laws and regulations.

12-306-45.02 Definitions.

The following words, terms, and phrases, when used in this Section, shall, except where the context clearly indicates otherwise, have the following meanings:

a. Accessory Equipment means any equipment serving or being used in conjunction with Wireless Facilities or Wireless Support Structures, including but not limited to utility or transmission equipment, power supplies, generators, batteries, cables equipment buildings, cabinets and storage sheds, shelters, or similar structures.

b. Antenna means telecommunications equipment that transmits or receives radio waves necessary for the provision of Wireless Services.

c. Co-location means the mounting or installation of Wireless Facilities, including Antennas, on a building, structure, Wireless Support Structure, utility pole, or other existing structure for the purposes of transmitting or receiving radio waves for telecommunications purposes.

d. Disguised Wireless Facility means any Wireless Facility that is integrated as an architectural feature of a structure so that the existence of the Wireless Facility is not readily apparent to the casual observer, or any Wireless Support Structure that is disguised to resemble a tree, flag pole, steeple, clock tower, or other similar building element.

e. Major Modification means any improvement that results in a substantial change to a Wireless Facility or to a Wireless Support Structure. Major modifications include, but are not limited to increasing the height of the Wireless Support Structure by more than ten feet or ten percent, whichever is greater, expansion of the area of Accessory Equipment, and any similar improvement. Co-location of new Wireless Facilities, including Antennas, on an existing Wireless Support Structure shall not be deemed a Major Modification.

f. Minor Modification means any improvement that results in some material change to a Wireless Facility or a Wireless Support Structure, but of a level, quantity, or intensity that is less than a Major Modification.

g. Monopole means a single, free-standing, pole-type structure supporting Wireless Facilities, including Antennas.

h. Ordinary Maintenance means maintenance to ensure that Wireless Facilities, Wireless Support Structures, and Accessory Equipment are maintained in safe operating condition. Ordinary Maintenance shall include, but not be limited to inspections, modifications of Wireless Facilities and Wireless Support Structures to ensure structural integrity, exchanging Antennas or Accessory Equipment on a like-for-like basis, relocating Antennas already in place, or other similar actions that fall short of being a Minor Modification.

i. Wireless Facility means any equipment at a fixed location that enables wireless telecommunications between user telecommunications devices and telecommunications networks.

j. Wireless Service Provider means a provider of Wireless Services.

k. Wireless Service means “personal wireless services,” “personal wireless service facilities,” and “commercial mobile services” as those terms are defined at 47 U.S.C. § 332(c)(7)(C)

and (d), as amended, which are provided to telecommunications devices through the implementation and use of Wireless Facilities.

l. Wireless Support Structure means any freestanding structure, such as a Monopole, or other self-supporting tower, or other suitable structure designed to support or capable of supporting Wireless Facilities, including Antennas. Wireless Support Structures do not include telephone poles, electrical utility poles, or any towers used for the distribution or transmission of electrical services.

12-306-45.03 Approvals Required.

a. Conditional Use Permit. No new Wireless Facility, no new Wireless Support Structure, no Co-location that results in a Major Modification of an existing Wireless Facility or Wireless Support Structure, and no Major Modification of an existing Wireless Facility or Wireless Support Structure shall be allowed in any zoning district of the unincorporated portion of the county absent the issuance, upon application, of a Conditional Use Permit in accordance with the procedures established at Section 12-319-1 of these Regulations, as amended.

b. Site Plan. No Co-location that is a Minor Modification of an existing Wireless Facility or Wireless Support Structure and no Minor Modification of an existing Wireless Facility or Wireless Support Structure shall be allowed in any zoning district of the unincorporated portion of the county absent approval, upon application, of a Site Plan in accordance with the procedures established at 12-319A of these Regulations, as amended.

12-306-45.04 Terms of Approval; Renewal; Limits.

a. Term. Any Conditional Use Permit or Site Plan Approval issued hereunder, assuming all conditions of approval are met and maintained, shall be valid for a period of ten years. Any renewal thereof, which shall be subject to administrative approval, shall be for a period of five years. At the time of renewal, the Owner/Applicant shall demonstrate to the Planning Director that the Wireless Facility or Wireless Support Structure remains in compliance with the original conditions of approval.

b. Limits. Commencing on the date of issuance of any Conditional Use Permit or Site Plan Approval hereunder, the Owner/Applicant shall have a period of one year in which to commence construction or installation of the Wireless Facility or Wireless Support Structure and shall thereafter diligently pursue construction or installation to its completion. Failure to commence construction or installation within one year of receiving a permit or approval or failure to diligently pursue construction or installation to its completion shall cause the Conditional Use Permit or Site Plan Approval to lapse and to be deemed null and void.

12-306-45.05 Application.

At the time of application for a Conditional Use Permit or for Site Plan Review for any Wireless Facility or Wireless Support Structure, the Owner/Applicant shall submit the following:

a. A completed Application, on a form supplied by the Planning Director, signed by the Owner(s) of the subject property or signed by an Applicant if accompanied by written authorization of the Owner(s) granting to the Applicant the authority to submit the Application in behalf of the Owner.

b. Elevation drawings showing the height of the proposed Wireless Facility including Antennas (and any lightning rod or lightning arrester), and all Accessory Equipment, including any buildings and structures.

c. A Site Plan, drawn to scale, including:

1) the information required by Section 12-319A-4 of these Regulations, as amended;

2) the location of existing or proposed Wireless Facilities or Wireless Facility Support Structures;

3) the location of other existing or proposed structures;

4) the location of accessory equipment and/or other accessory uses;

5) the location of access road(s), access road surface materials, and any parking area;

6) the height, location, and construction materials of fences or other barriers;

7) a Landscape Plan, in accordance with Section 12-319A-4.10 of these Regulations, as amended;

8) elevation contours; and

9) zoning and uses of properties neighboring the subject property.

d. If the project involves a new Wireless Support Structure, a signed and sealed report from a qualified professional engineer, licensed to practice in the State of Kansas, that includes:

1) the height and design of the proposed Wireless Support Structure;

2) the height for all potential mounting positions for Antennas and the minimum separation distances between Antennas;

3) the capacity of the Wireless Support Structure, including the number and types of Antennas that can be accommodated;

4) a statement that the Wireless Support Structure is designed, in accordance with this Section, to collapse upon itself in the event of failure, including the projected fall zone of any such Wireless Support Structure; and

5) any other information that may be necessary or requested by the Planning Director to evaluate the Application.

e. If the project involves a new Wireless Support Structure, the application shall include:

1) line-of-sight diagrams or photo simulations showing the proposed Wireless Support Structure against the skyline and viewed from at least three different vantage points within the surrounding area;

2) a statement that the Owner/Applicant considered Co-location, where it considered Co-location, and why Co-location would not meet the Owner/Applicant's needs; and

3) a statement that the proposed Wireless Support Structure will be made available to other Wireless Service Providers for Co-location at commercially reasonable rates, or

a statement that the Owner/Applicant is seeking a waiver of the Co-location requirement and why such waiver is being sought.

f. If the project involves Co-location on an existing structure, a signed and sealed report from a qualified professional engineer, licensed to practice in the State of Kansas, which establishes that the existing building or structure is structurally sound and can safely accommodate the proposed Co-location.

g. If the project involves a new Wireless Support Structure or a Major Modification of an existing Wireless Support Structure, a fee, not to exceed $2,000, as established by the Governing Body, which amount shall recapture the County's costs of processing the application.

h. If the project involves a Co-location or anything else that is not a Major Modification, a fee, not to exceed $500, as established by the Governing Body, which amount shall recapture the County's costs of processing the application.

i. If the project involves a new Wireless Support Structure, all owners of record of unincorporated property located within a one-mile radius of the proposed structure must 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:

1) A brief description and location of the proposed tower;

2) Projected date for construction;

3) The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed tower;

4) The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;

5) 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 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.

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

12-306-45.06 General Standards.

a. Co-location:

1) Wireless Support Structures shall be designed to accommodate at least three Wireless Service Providers. The compound area supporting the Wireless Support Structure likewise shall be of adequate size to accommodate Accessory Equipment for at least three Wireless Service Providers.

2) Whenever it is economically and technically feasible, and it is aesthetically appropriate, as determined by the Governing Body, the Planning Commission, or the Planning Director, Disguised Wireless Facilities shall be designed to accommodate the Co-location of other Wireless Service Providers.

3) Upon written request of the Owner/Applicant. the Governing Body, the Planning Commission, or the Planning Director may waive the County's Co-location requirements if it is determined, as demonstrated by technical evidence presented by the Owner/ Applicant, that Co-location at the site is non-essential to the public interest, that construction of a shorter Wireless Support Structure with fewer Wireless Facilities, including Antennas, will promote community compatibility or interests, or that Co-location would cause interference with other existing Wireless Facilities.

b. Building Permits: All new Wireless Support Structures, all major modifications of existing Wireless Facilities, and all Accessary Equipment shall not be installed or constructed without the issuance of a Building Permit in accordance with Chapter 13 of the County Code.

c. Replacement of Existing Wireless Facilities: The replacement of any existing Wireless Facility or Wireless Support Structure shall require compliance with the terms of this Section and shall require, as may be pertinent, either approval and issuance of a Conditional Use Permit in accordance with the procedures established at Section 12-319-4.1 of these Regulations, as amended, or approval of a Site Plan in accordance with the procedures established at Section 12-319A of these Regulations, as amended.

d. Setbacks:

1) A ground mounted tower shall be set back from the nearest property line a distance which is at least equal to the height of the tower, measured from the center of the tower base.

2) A tower mounted on the roof of a building or on top of other structures shall be set back either:

i. a distance which is at least equal to the total height of the structure and tower from the nearest property line, measured from the center of the tower (similar to a ground-mounted tower), or

ii. a distance which is at least equal to the height of the tower above the roof/structure from the edge of the roof.

3) Setback Waiver: The Planning Commission may recommend and the Governing Body may approve a waiver from these setback requirements if it finds that all of the following conditions are met:

   i. the waiver will not adversely affect the public health, safety, or general welfare of the community;

   ii. the waiver will not adversely affect the rights of adjacent property owners or residents;

   iii. strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and

   iv. the waiver is appropriate under the circumstances.

4) Additional Setback: 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.

e. Height: The height of a tower is unregulated but all towers must comply with FAA regulations.

f. Separation Requirements:

1) All new Wireless Facilities, except Disguised Wireless Facilities, shall be located a minimum of 1,000 feet from existing Wireless Support Structures. The distance shall be measured from the base of the existing Wireless Support Structure to the base of the proposed Wireless Facility.

2) The Planning Commission may recommend and the Governing Body may grant a waiver from the 1,000-foot separation requirement if the Owner/Applicant demonstrates that a waiver will not adversely affect the public health, safety, or general welfare of the community and that strict application of this section would constitute unnecessary hardship.

g. Design Standards:

1) Access: Access shall be provided to all Wireless Facilities, Wireless Support Structures, and accessory equipment per the approval of the County Public Works Director.

2) Accessory Equipment:

   i. All accessory equipment that are buildings, cabinets, storage sheds, and shelters shall be used only to store equipment and other supplies necessary for the operation of the Wireless Facility or Wireless Support Structure. Equipment not used in direct support of such operation shall not be stored on the site.

   ii. All accessory equipment that are buildings or structures shall require a Building Permit, and shall conform to Height and Setback restrictions established for the zoning district in which the site is located.

iii. All Accessory Equipment shall be designed to be compatible with and to blend into its surrounding environment through the use of color, camouflage, screening, landscaping, and architecture.

iv. Lighting of Accessory Equipment for basic security purposes is permitted. However, such lighting shall be shielded and shall be directed downward. Floodlights are prohibited.

v. The addition of related equipment to any building or structure that is Accessory Equipment shall not increase the height of said building or structure more than 20% of the height of the existing building or structure; or more than the maximum height allowed in the zoning district in which the site is located, whichever is less.

3) Antennas:

i. No Antenna may be attached to any Wireless Support Structure or Co-located on any other structure, unless the Wireless Support Structure or other structure is at least forty feet in height.

ii. The addition or Co-location of any Antenna on a Wireless Support Structure or any other structure shall not increase the height of said building or structure (a) more than 20% or (b) more than the maximum height allowed in the zoning district in which the site is located, whichever is less.

iii. Antennas Co-located on existing structures shall not be subject to Setback requirements.

iv. No antenna may be Co-located on any structure listed in the National Register of Historic Places or the Register of Historic Kansas Places until the State Historic Preservation Officer has been given notice and an opportunity to investigate and comment upon the proposed project.

v. To the extent that it is feasible and the engineer's report demonstrates that the roof is structurally sound and can safely accommodate it, any Accessory Equipment to an Antenna Co-located on an existing structure shall be located on the roof of the existing building or structure provided that said Accessory Equipment shall not occupy more than 25% of the total roof area and the Accessory Equipment is shielded from view from neighboring properties and rights of way.

4) Cables/Conduit: All cable runs should be through portals and maintained within the Wireless Support Structure. Where cable or conduit is required to be located on the outside of any Wireless Support Structure, the cable or conduit shall be painted or covered by material to match the color of the Wireless Support Structure.

5) Color: The color of the tower shall comply with the standards set by the Federal Aviation Administration (FAA) or the County.

6) Disguised Wireless Facilities:

i. A Disguised Wireless Facility must be enclosed, camouflaged, screened, obscured, or otherwise not apparent to the casual observer. A Disguised Wireless Facility must be integrated into another structure as an architectural

facility or must be designed to resemble an object or structure that does not have the appearance of a monopole or other Wireless Facility.

ii. The Disguised Wireless Facility must meet the requirements of the underlying zoning district, including, but not limited to height, setback, and use restrictions.

7) Landscaping: Screening landscaping required for the Wireless Facility shall be maintained by the Owner/ Applicant. In cases where the property is not visible from adjacent properties or rights of way or where landscaping is not necessary, appropriate, or feasible, the Governing Body, the Planning Commission, or the Planning Director may waive this requirement.

8) Lighting and Marking: All lighting necessary to comply with the FAA, FCC, or the County lighting requirements. Lighting shall consist of dual lighting structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.

9) Security and Fencing**:** Ground-mounted Accessory Equipment and related structures shall be secured and enclosed within fencing not less than six feet in height. Fencing shall be constructed with materials that are designed to be compatible with and to blend in to the surrounding areas. Every Wireless Facility shall be protected from trespass by unauthorized persons to discourage climbing of structures.

10) Signage: No advertising or other display shall be permitted on any Wireless Facility or Wireless Support Structure, unless such is required by the FCC, the FAA , or the County.

11) Wireless Support Structures:

i. All new Wireless Support Structures shall be of monopole design. Guyed and lattice towers are prohibited.

ii. All new Wireless Support Structures located in districts zoned residential, or located within 500 feet of any property or district zoned residential, shall be Disguised Wireless Facilities as defined in this Section.

iii. All Wireless Support Structures shall be designed and constructed such that if a failure does occur, the Wireless Support Structure will collapse on itself and will not collapse on structures at or near the site.

iv. No Wireless Support Structure shall, except during construction, have a platform, crow's nest, or like structure surrounding it or attached to it.

12-306-45.07 Final Decision.

a. Time Limits. Within 150 calendar days of receiving an application for a new Wireless Support Structure or within 90 calendar days of receiving any other application hereunder, the County shall:

1) review the application in light of the standards of this Section and applicable provisions of the County Code;

2) make a final decision to approve or disapprove the application; and

3) advise the Owner/Applicant by written notice of the County's final decision, which final decision shall be supported by written substantial evidence in the record. Such final decision shall be deemed effective on the date of the written notice.

b. Commencement of Time. The time limits for final decision shall commence upon the County's acceptance of a complete application. If an application is incomplete, the County shall notify the Owner/Applicant within thirty days of its deficiencies and, in such case, the time limits shall not commence until a complete application has been submitted and accepted. Alternatively, the time limits may commence upon a date agreed upon in writing by the County and the Owner/Applicant.

c. Effect of Lapse of Time. Unless otherwise agreed upon by the Owner/Applicant and the County, an application shall be deemed approved if (i) the County fails to issue a final decision with the time limits established at subsection g(1) and (ii) the Owner/Applicant provides to the County written notice that the applicable time limits have lapsed.

d. Appeal. Any party aggrieved by the County's final decision approving or disapproving an application or any party aggrieved by the Owner/Applicant's written notice that the time limits have lapsed may appeal said result to the District Court of Douglas County, Kansas, in accordance with K.S.A. 60-2101(d), as amended.

12-306-45.08 Miscellaneous Provisions.

a. Abandonment and Removal. Any Wireless Facility or Wireless Support Structure that is not operated for a period of one year shall be deemed abandoned. The Owner/Applicant shall remove any abandoned Wireless Facility or Wireless Support Structure at his, her, or its expense within 180 days after abandonment.

b. Interference. All Wireless Facilities shall be constructed, installed, operated, and maintained in accordance with all applicable federal, state, and local laws, resolutions, and regulations so as not to interfere or cause interference with existing telecommunications, including but not limited to radios, televisions, computers, and City and/or County emergency broadcast systems.

c. Nonconforming Wireless Facilities**.** Wireless Facilities and Wireless Support Structures that were legally permitted on or before the effective date of this Ordinance shall be considered lawful nonconforming structures.

1) Major Modifications and Minor Modifications to nonconforming structures shall be permitted in accordance with the provisions of this Section.

2) Replacement of any nonconforming structure shall be with a structure that complies with the provisions of this Section. If any nonconforming facility or structure is damaged by more than 60% of its fair market value, it shall only be replaced by a conforming facility or structure if it is legal to do so.

3) Ordinary Maintenance. Ordinary Maintenance, as defined herein, shall be exempt from the permitting and approval requirements of this Section.

12-306-45.09 Exemptions.
The provisions of this Section shall not apply to the following:

a. Any Wireless Facility, including Amateur and Receive-only Antennas, that are:

1) less than 75 feet in height;

2) located in the Rear Yard of a residentially zoned Parcel; and

3) Owned and operated by a federally licensed amateur radio operator.

4) Wireless Facilities that are exempt under this Subsection shall not be considered, be deemed available, or be used for Co-location.

b. Broadcast Towers; and/or

c. Satellite Dishes.

12-306-46 RETAIL SALES
There shall be no slaughtering of animals or poultry on the premises of any retail store.

12-306-47 SCHOOLS AND COLLEGES
12-306.47.01 Standards that apply in the LI and GI Districts
Only Vocational/technical schools are permitted within these Districts

12-306-48 CLUSTER HOUSING (Reserved)

SECTION 12-307 DEVELOPMENT REVIEW PROCEDURES

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12-307-1 GENERAL PROVISIONS

12-307-1.01 Summary of Procedures

The following table provides a summary of the procedures in this Section. In the event of conflict between this summary table and the detailed procedures in these Regulations, the detailed procedures govern.

Procedure	Review and Decision-Making Bodies				Notice
	Staff	PC	BZA	BoCC	
Conditional Use	R	<R>		DM[2]	N, P , M
Amendment, revocation of CUP				<DM[2]>	N, L
Site Plan	R			DM[2]	P, M,
Zoning Map Amendments	R	<R>		DM[2]	P , N, M
Zoning Text Amendment	R	<R>		DM[2]	N
Written Interpretations	DM[1]		A		--
Zoning Variance	R		<DM[2]>		N ,M
Appeals of Administrative Decisions			<DM[2]>		N

KEY:
PC: Planning Commission
BZA: Board of Zoning Appeals
BoCC: Board of County Commissioners
R: Review Body; responsible for review and recommendation
DM: Decision-Making Body; responsible for final decision to approve or deny
A: Authority to hear and decide appeal
< >: Public Hearing Required
[2] Decision may be appealed to District Court.
Notice: N--Newspaper notice, P--Posted signs, M--Mailed notice; L: Letter to property owner or tenant, L2: Letter to townships and cities

12-307-1.02 Applications

a. Authority to file applications

Unless otherwise expressly stated, applications for review and approval under these Regulations may be initiated by the owner(s) of the property that is the subject of the application, the landowners' authorized agent, or any review or decision making body.

b. Form of application

Applications required under these Regulations shall be submitted in a form and in such numbers as required by the official responsible for accepting the application. Officials responsible for accepting applications shall develop checklists of submittal requirements and make those checklists available to the public.

1) Application forms and checklists of required submittal information for Zoning Map Amendments, Text Amendments, Conditional Use Permits, and Site Plans are available at the Planning Office.

2) Application forms and checklists of required submittal information for Zoning Variances, Home Occupations, Temporary Business Uses, Agritourism Registrations, and Special Events, are available at the Zoning and Codes Office.

c. Application filing fees

1) Applications shall be accompanied by the fee amount that has been established by the Board of County Commissioners.

2) Fee schedules shall be available in the office responsible for accepting the applications and shall be made available to the public.

3) Fees are not required with applications initiated by review or decision-making bodies.

4) Application fees are nonrefundable.

d. Application completeness

1) An application will be considered complete and ready for processing only if it is submitted in the required number and form, includes all required supplemental materials, and is accompanied by the required filing fee.

2) Staff will provide written notice to the applicant of any incomplete applications within 7 calendar days of submittal. The notice shall include an explanation of the application's deficiencies.

3) Incomplete applications may be pulled from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle.

4) The official responsible for processing the item, the Planning Director or the Director of Zoning and Codes, may require that applications or plans be revised before being placed on the agenda of the Planning Commission, the Board of Zoning Appeals, or the Board of County Commissioners if the responsible official determines:

   a) That the application or plan contains inaccuracies or omissions that hinder timely or competent evaluation of the application's/plan's compliance with these Regulations; or

   b) The plan cannot be approved without a variance or some other change or modification that the decision-making body for that application or plan does not have the authority to make.

5) Action or inaction by the responsible official under this section may be appealed to the Board of Zoning Appeals.

12-307-1.03 Continuation of Public Hearings

a. A public hearing for which proper notice was given may be continued by the Board of Zoning Appeals, the Planning Commission, or the Board of County Commissioners to a later date without providing additional notice as long as the continuance is set for a specified date and time and that date and time is announced at the time of the continuance.

b. If a public hearing is tabled or deferred by the Board of Zoning Appeals, the Planning Commission, or the Board of County Commissioners for an indefinite period of time or postponed more than 3 months from the date of the originally scheduled public hearing, new public notice shall be given, in accordance with the notice requirements of the respective procedure, before the rescheduled public hearing.

12-307-1.04 Action by Review Bodies

a. Review bodies may take any action that is consistent with these Regulations, any adopted County policy or resolution, any by-laws that may apply to the review body, and the notice that was provided.

b. The review body's action may include recommending approval of the application, recommending approval with modifications or conditions, or recommending denial of the application. The review body may defer action on the item and return it to staff for further review provided the decision-making body provides information as to the reason for additional review or the purpose of the additional review.

c. The review body may recommend conditions, modifications, or amendments if the effect of the condition, modification, or amendment is to allow a less intensive use or Zoning District than indicated in the application, reduce the impact of the development, or reduce the amount of land area included in the application.

d. Review bodies may not recommend a greater density of development, a more intensive use, or a more intensive zoning district than was indicated in the public notice.

e. Review bodies are not required to recommend approval of the maximum density or intensity of use allowed.

12-307-1.05 Action by Decision Making Bodies

a. Decision-making bodies may take any action that is consistent with these Regulations, any adopted County policy or resolution, any by-laws that may apply to the review body, and the notice that was provided.

b. The decision-making body's action may include approving the application, approving the application with modifications or conditions, or denying the application. The decision-making body may defer action on the item and return it to the review body for further consideration or to staff for further review provided the decision-making body provides information as to the reason for additional review or the purpose of the additional review.

12-307-1.06 Deferred Items

a. Once on a published and distributed agenda for the Planning Commission, Board of County Commissioners, or Board of Zoning Appeals, action of the commission or board is required to defer an item.

b. The applicant may defer an item prior to publication of the agenda by submitting a written request to the official responsible for processing and reviewing that application; either the Planning Director or Director of Zoning and Codes.

12-307-1.07 Inactive Files

a. Inactive files are files for which no new information responding to a request for additional information or providing additional information essential to completing a review of the request has been submitted within a period of 12 or more months.

b. The official responsible for processing and reviewing the application may notify the applicant in writing that a file has been closed when the file has been inactive for a period of time equal to or exceeding 12 months. Requests for action after a file has been declared inactive and the applicant has been notified require resubmittal as a new application. Review fees are required to be paid as part of the resubmittal.

12-307-1.08 Public Notice

The following notice provisions apply except where other provisions are expressly stated.

a. Newspaper Notice.

1) Newspaper notices shall indicate the date, time, and place of the public hearing or date of action that is the subject of the notice; describe the property involved in the application by address or general location; describe the nature, scope, and purpose of the application; and indicate where additional information can be obtained.

2) When newspaper notice is required, the official responsible for processing and reviewing the application is responsible for ensuring that notice is published in the official newspaper of the county at least 20 days prior to the date of the public hearing.

b. Mailed Notice.

1) Mailed notices shall indicate the date, time, and place of the public hearing or date of action that is the subject of the notice; describe the property involved in the application by address or general location; describe the nature, scope, and purpose of the application; and indicate where additional information can be obtained.

2) Notice shall be mailed to the record owner of the subject property and all owners of property located within ½ mile (2,640 ft) of the subject property, as listed on a Certified Property Owner List provided by the Douglas County Clerk.

a) The applicant is responsible for providing certified ownership information. Current ownership information for properties within Douglas County shall be obtained from the Douglas County Clerk. Ownership information shall be considered current if, at the time of submission, it is no more than 30 days old. Unless noted otherwise in specific sections, the Planning Office or Zoning and Codes Office shall be responsible for sending the mailed notice.

b) If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 400 feet into the corporate limits of the city.

c) If the foregoing area includes area within an adjacent county, the applicant shall provide a certified list of property owners within the notification area from the County Clerk or other designated department in the adjacent county.

3) Required notices shall be deposited in the US mail at least 20 days before the public hearing, meeting, or date of action that is the subject of the notice. When required notices have been property addressed and deposited in the mail, failure of a party to receive such notice will not be grounds to invalidate any action taken.

c. Posted notice.

1) Posted notices shall indicate the date, time, and place of the public hearing or date of action that is the subject of the notice; state the language 'Development Activity Proposed'; and indicate where additional information can be obtained.

2) Posted notice shall be in the form of official signs provided by the agency reviewing the item (Zoning and Codes or Planning Office).

3) Posted notice shall be clearly visible from each public road bordering the subject property. At least one sign shall be posted on each road frontage.

a) For applications that do not abut public roads, the Planning Director or Director of Zoning and Codes is authorized to approve an alternative form of posted notice that will be visible to passers-by.

4) Posted notice shall remain in place for at least 20 days before the public hearing, meeting, or date of action that is the subject of the notice. Failure to properly post or maintain such signs is grounds for deferral or denial of the application.

5) The applicant shall be responsible for posting and maintaining the signs and will remove notice signs required by this section within 10 days of the date that action is taken on the item or the item is withdrawn.

12-307-1.09 Written Findings

Unless otherwise specifically provided in these Regulations, written findings are not required for a final decision on any application.

a. Provided, however, that any decisions may be expressly made subject to the subsequent adoption of written findings and, in such cases, the decision shall not be considered final until such findings are adopted.

b. Provided further, that where an appeal of any quasi-judicial decision has been filed in the District Court of Douglas County pursuant to K.S.A. 12-760 or K.S.A. 60-2101(d) in cases where written findings have not been adopted, written findings shall be adopted by the approving authority within 45 days of service of the appeal on the County and thereafter shall be certified to the District Court as part of the administrative record. The 45-day time period for adoption and certification of findings may be extended at the discretion of the

body making the decision but shall be done in a manner so as to not interfere with the District Court proceedings.

12-307-1.10 Where Resolution Required

Adoption of a resolution is required in the case of Zoning Text Amendments, Zoning Map Amendments, and Conditional Uses. In such instances, the decision approving the application shall not be deemed to be final until the resolution has been published in an official County newspaper.

12-307-2 CONDITIONAL USES

a. A conditional use permit provides a public hearing process for the establishment of land uses which may be desired in the community but which, by the nature or scale of the use, have the potential to negatively impact surrounding land uses, the character of the area, the road network, or other features in the area.

b. Uses which are permitted in each zoning district with approval of a conditional use permit are marked in the permitted use table in Section 12-304 with a 'C'. The conditional use permit process is intended to insure that the proposed uses are appropriate in the unincorporated portion of Douglas County; especially those land uses that are of a sensitive nature due to the intensity of the use or environmental impacts associated with the normal operation of the business or activity.

c. The Governing Body's action on a conditional use permit is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a conditional use permit for any use on any property.

12-307-2.01 Automatic Conditional Use Status

If an existing use was permitted in a zoning district without a conditional use permit at the time it was established, but is now regulated as a conditional use, the use will be considered an approved Conditional Use and will be allowed to continue without a public hearing. Any alterations or expansions of the use are subject to the conditional use amendment procedures of Section 12-307-2.12.

12-307-2.02 Application

A conditional use permit application shall be submitted to the Planning Office requesting such establishment or change. The submittal of a conditional use permit application shall include such plans and accompanying data as to demonstrate conformance with the requirements of the Zoning Regulations.

a. A pre-application meeting with a member of the Planning Staff is required at least 7 days prior to the formal submission of a conditional use permit application.

b. Conditional use permit applications shall be submitted to the Planning Office in accordance with the Planning Commission submission deadlines.

12-307-2.03 Public Hearing Notice

Newspaper, posted, and mailed notice of the Planning Commission's public hearing shall be provided as listed in Section 12-307-1.08.

a. The Planning Office shall be responsible for the newspaper and mailed notice. The Planning Office shall provide the signs for the posted notice, but it is the applicant's responsibility to post and maintain the signs.

12-307-2.04 Staff Review And Report

The Planning Director will review each Conditional Use Permit application in accordance with the review and decision-making criteria of Section 12-307-2.05. Based on the results of that review, the Planning Director will provide a report on the Conditional Use Permit application to the Planning Commission and Board of County Commissioners.

12-307-2.05 Planning Commission's Review And Recommendation

The Planning Commission shall hold a public hearing on the proposed Conditional Use Permit, review the Conditional Use Permit application in accordance with the review and decision-making criteria noted in Section 12-307-2.05 and submit a recommendation that the Board of County Commissioners either approve, approve with conditions, or deny the proposed Conditional Use Permit.

a. The Planning Commission may also defer the item with direction to staff or the applicant to provide additional information needed for their decision.

b. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the Conditional Use Permit to the Board of County Commissioners.

c. If the Planning Commission fails to make a recommendation on a Conditional Use, the Planning Commission shall be deemed to have made a recommendation of denial.

12-307-2.03 Protest Petition

A protest petition may be filed in opposition to a Conditional Use Permit application. If the petition is found to be valid a ¾ vote of all of the members of the Board of County Commissioners is required to approve the Conditional Use Permit application, regardless of the Planning Commission's recommendation. The supermajority voting requirement, however shall not apply if K.S.A. 12-757(g) or other applicable law which requires approval by only a majority of the Board of County Commissioners

a. A protest petition will be considered 'valid' if it meets both the following requirements:

i. It is signed by the owner or owners of 20% or more of the real property within the area required by KS Statute to be notified of the Conditional Use Permit public hearing (property within 1,000 feet radius of the land for which the rezoning is proposed. If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 200 feet into the corporate limits of the city.), excluding roads and public ways. Each and every owner of a single piece of property must sign the protest petition, but all are considered as a single owner in determining the sufficiency of the petition; and

ii. It is filed with the County Clerk before 5:00 p.m. within 14 days after the date of the conclusion of the Planning Commission public hearing.

b. A property owner list for the notification area can be obtained from the County Clerk's office. The protest petition forms are available in the Planning Office.

12-307-2.04 County Commission Action

Following receipt of the Planning Commission's recommendation, the Board of County Commissioners shall take one of the following actions on the Conditional Use Permit application:

a. Approve with adoption of resolution, approve with conditions or modifications with adoption of resolution, or deny.

1) A 2/3 majority vote of the membership of the Board of County Commissioners is required to override the Planning Commission's recommendation.

b. Return the application to the Planning Commission for further consideration, with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove.

1) The Planning Commission, after considering the explanation of the Board of County Commissioners, may resubmit its original recommendations with its reasons for doing so, or submit new and amended recommendations.

2) Upon the receipt of such recommendations, the Board of County Commissioners may, by a simple majority vote, approve the Conditional Use Permit application, 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 for the following cases:

1) Action that is contrary to the Planning Commission's recommendations, in which case the decision shall be by a 2/3 majority vote of the full membership of the County Commission; or

2) Approval, or approval with conditions or modifications, when a valid protest petition has been submitted in accordance with Section 12-307-2.03 in which case the decision shall be by a 3/4 majority vote of the full membership of the Commission.

d. Following the approval of the Conditional Use Permit application and adoption of the resolution, the use may commence when the applicant has obtained a permit for the conditional use from the Zoning and Codes Office as well as any building permits needed to accommodate the new use.

12-307-2.05 Review And Decision-Making Criteria

In reviewing and making decisions on proposed Conditional Use Permits, review and decision-making bodies shall consider at least the following factors:

1) Whether the proposed use complies with all applicable provisions of these

Regulations;

2) Whether the proposed use is compatible with zoning and land uses of nearby properties in terms of scale, site design, and operating characteristics, including hours of operation, traffic generation, lighting, noise, odor, dust, and other external impact;

3) Whether the proposed use is compatible with the character of the area;

4) Suitability of subject property for the uses to which it has been restricted and for the uses which are proposed;

   a. Special consideration shall be given to properties in the A District that are well suited for agricultural uses; as the intent of these regulations is to permit other uses while maintaining the county's inventory of agricultural property.

2) Whether the use will cause significant adverse impacts on the natural environment;

3) Whether the use will cause significant adverse impacts on community facilities, the transportation network, or utilities in the area.

4) Whether the use is in conformance with the Comprehensive Plan or other adopted plans for the area;

5) Whether it is appropriate to limit the period of time the proposed use is to be allowed and, if so, what that time period should be; and

6) Professional staff recommendation.

12-307-2.06 Application Materials

Each application for a Conditional Use Permit shall be accompanied by the following:

a. A certified property owner list from the Douglas County Clerk for all owners of property located within ½ mile (2,640 ft) feet of the subject property within Douglas County.

1) If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 400 feet into the corporate limits of the city.

2) If the foregoing area includes area within an adjacent county, the applicant shall provide a certified list of property owners within the notification area from the County Clerk or other designated department in the adjacent county.

b. The review fee, which is listed on the fee schedule in the Planning Office; and

c. Such plans and accompanying data as to demonstrate conformance with the requirements of the Zoning Regulations.

1) Professionally prepared traffic and/or drainage information/study shall be provided as requested by the county engineer to allow for a thorough review of potential impacts of proposed use and to evaluate if the transportation network is adequate for the proposed use.

2) The application materials and plans shall be submitted in paper (one copy) and electronic (PDF) formats.

12-307-2.07 Time Limitations on Approval

a. If requested improvements or uses are not implemented, or a building permit is not obtained for the site, within 2 years from the date of the Conditional Use Permit approval by the Board of County Commissioners, the Conditional Use Permit approval shall become null and void.

b. Applicants may request the Board of County Commissioners to approve a one-year time extension if the request is submitted to the Planning Office prior to the expiration date.

12-307-2.08 Assurance of Performance (Bonds)

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 plans as submitted.

12-307-2.09 Additions or Structural Alterations to Conditional Uses

Additions or structural alterations to Conditional Uses after they have been approved will be processed in the following manner:

a. The Planning Director may administratively approve changes to the Conditional Use site plan which the Planning Director determines are minor; that is, the revised site plan will be substantially similar to the approved site.

b. Changes to the site plan which are determined by the Planning Director to be other than minor shall be provided to the Board of County Commissioners for approval.

12-307-2.10 Changes to The Conditional Use or Conditions of Approval

Any change in use or any change in conditions or restrictions placed on the Conditional Use will require an amended Conditional Use application with the same public notification and approval process as required for the original Conditional Use.

12-307-2.11 Amendment, Suspension and Revocation

a. The Board of County Commissioners is authorized to amend, suspend, or revoke an approved Conditional Use Permit if the Board of County Commissioners make one of the following findings:

1) A violation of a condition of the Conditional Use Permit has occurred;

2) A violation of County Code provisions governing the Zoning Regulations has occurred; or

3) A violation of other applicable Code provisions or any state or federal law or regulation by the property owner or agents of the property owner has occurred, 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.

b. The Board of County Commissioners is authorized to amend, suspend or revoke an approved Conditional Use Permit in accordance with the following process:

1) Upon its own initiative, or upon the recommendation of County staff or the Planning Commission, the Board of County Commissioners may establish a public hearing date to consider the proposed amendment, suspension, 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 of the property with the Conditional Use Permit by certified mail, return-receipt requested, no less than 20 days prior to the public hearing date. One notice of the public hearing shall be published in the official county newspaper no less than 20 days prior to the date of the public hearing.

2) At the public hearing, the Board of County Commissioners shall receive and consider all relevant information and evidence concerning the Conditional Use Permit. The Board of County Commissioners may continue the public hearing and retain jurisdiction over the proposed amendment, suspension, or revocation as it deems appropriate.

3) After the conclusion of the public hearing, The Board of County Commissioners shall consider all relevant information and evidence concerning the Conditional Use Permit. The Board of County Commissioners may amend, suspend, 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.

4) Any motion for the amendment, suspension, or revocation of a Conditional Use Permit shall clearly state the following:

   a) The grounds for revocation, which may include incorporation of findings presented by County staff;

   b) The terms and conditions of such change and at what time further review shall be appropriate; and

   c) The terms and conditions of the amendment to the Conditional Use Permit.

12-307-2.12 Resolution

The approved Conditional Use Permit resolution shall be published in the official County newspaper.

12-307-2.13 Appeal

Within 30 days of the Board of County Commission's decision on the Conditional Use Permit, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision.

12-307-3 <u>SITE PLAN REVIEW AND APPROVAL</u>

12-307-3.01 Purpose

The purpose of requiring site plan review and approval is to ensure compliance with the standards of these Regulations prior to the commencement of development activity and to ensure the compatible arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, and drainage in a manner that will promote safety and convenience for the public.

12-307-3.02 Applicability

The following site plan requirements do not apply to single-dwelling residences or their accessory structures. The conditions and requirements of this section shall be in full force and effect in each and all of the following instances:

a. Whenever development, other than single-dwelling residences and their accessory buildings, is proposed;

b. Whenever development is proposed to a nonconforming use, including changes to a structure housing a non-conforming use or the expansion of a non-conforming use;

c. Whenever a use is altered, changed, or intensified in a manner that increases parking, or outside storage requirements;

d. Whenever a building addition or expansion is proposed;

e. Whenever a development proposes the alteration of the parking area, access aisles or circulation pattern; or

f. Whenever a site plan is required in any other part of the Zoning Regulations.

12-307-3.03 Building Permits

No building permit shall be issued for the erection or alteration of a structure or building meeting any of the criteria in Section 12-307-7.02 until a site plan has been submitted and approved as set forth herein.

12-307-3.04 Presubmittal Meeting

A pre-submittal meeting is required with a member of the Planning Staff seven days prior to the submittal of the site plan application.

12-307-3.05 Administrative And Commission Site Plans

a. Revisions to previously approved site plans which the Planning Director determines are minor, i.e. the proposal is substantially similar to the approved site, may be processed administratively.

b. Changes to a previously approved site plan that substantially rearranges parking, landscaping, drainage, lighting, or proposes a more intense use, requires staff review and consideration by the Board of County Commissioners.

c. All new site plans require staff review and consideration by the Board of County Commissioners.

12-307-3.06 Application Materials

One paper copy and one electronic copy (pdf) of the following materials shall be submitted to the Planning Office:

a. An application form provided by the Planning Office. If the application is not signed by the property owner, an executed Owner Authorization Form shall be required.

b. Site plan and accompanying data as to demonstrate its conformance with the requirements of the Zoning Regulations.

c. A certified property owner list from the County Clerk for all owners of property located within ½ mile (2,640 ft) feet of the subject property within Douglas County.

1) If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 400 feet into the corporate limits of the city.

2) If the foregoing area includes area within an adjacent county, the applicant shall provide a certified list of property owners within the notification area from the County Clerk or other designated department in the adjacent county.

d. Executed certificate of mailing of the required mailed notification (Section12-307-3.07) and a sample of the letter used for the notification;

e. The review fee which is listed on the fee schedule in the Planning Office; and

f. Professionally prepared traffic or drainage information/study provided as required by the County Public Works Department.

12-307-3.07 Mailed Notification

Notice is not required for site plans which the Planning Director has determined propose a minor change; i.e. the proposed changes are of such a nature that the revised site plan will be substantially similar to the approved site. In all other cases the following notification procedures apply:

a. The applicant shall mail written notice of the proposed consideration of a site plan to all owners listed on the certified property owner list prior to the submission of the site plan application to the Planning Office. The notice can be mailed by regular mail and the applicant shall submit a Certificate of Mailing, on a form provided by the Planning Office, for the notice at the time of submission of the proposed site plan.

b. All mailed notices shall:

1) Describe the property involved in the application by address or by general description;

2) Provide a brief description of the proposed development or significant alteration to existing development;

3) List the projected date of construction of the proposed use;

4) List the person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed site plan;

5) Note the date the site plan application will be submitted to the Planning Office for review; and

6) Include a statement with substantially the following information:

"NOTICE OF SITE PLAN CONSIDERATION PENDING BEFORE THE LAWRENCE-DOUGLAS COUNTY PLANNING OFFICE'

This letter is being sent to the owner of property within ½ mile (2,640 ft) *of the proposed development described further in this letter. It is being sent for the purpose of informing the property owner and other interested parties about the proposed development. This letter does not grant the recipient and/or property owner any legal rights to challenge the proposed development, instead, it is being provided solely to advise property owners in the area of the pending proposed development.*

For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150."

c. The applicant is responsible for mailing notice to all property owners listed on the certified property owner list prior to the submittal of the site plan application.

1) When required notices have been properly addressed and deposited in the mail, failure of a party to receive such notice will not be grounds to invalidate any action taken by the Planning Commission or Board of County Commissioners.

12-307-3.08 Posted Notice

All site plans, with the exception of those which the Planning Director has determined constitute a minor change as defined in Section 12-307-3.05, require posted notice as outlined in Section 12-307-1.08.

12-307-3.09 Review Process

a. Site plans requiring County Commission approval.

1) Planning Staff shall review the site plan for conformance with these Regulations, schedule the application on a County Commission agenda, and make a report, with recommendations, to the Board of County Commissioners.

2) After receiving the report of the Planning Staff, the Board of County Commissioners may receive comment on the item and shall take one of the following actions: approve the site plan, with or without conditions; deny the site plan; or defer action with direction to staff or the applicant for additional information.

b. Administrative site plans.

1) Planning Staff shall review the site plan for conformance with these Regulations, and make a report with recommendations to the Planning Director.

2) The Planning Director may take one of the following actions: approve the site plan, with or without conditions; or deny the site plan.

12-307-3.10 Site Plan Contents

A site plan shall:

a. Be prepared by an architect, engineer, landscape architect, or other qualified individual, per the standards of these regulations at a scale of 1 inch equals 50 feet or larger;

b. Be arranged so that the top of the plan represents north or, if otherwise oriented, is clearly and distinctly marked;

c. Include a written and graphic scale and a north arrow;

d. Show boundaries and dimensions graphically, and contain a written legal description of the property;

e. Show the present and proposed topography of the area by contour lines at an interval of not more than 5 feet;

f. Show, by use of directional arrow, the proposed flow of storm drainage from the site;

g. Show the location of existing and proposed structures and indicate the number of stories, height, gross floor area, and entrances to all structures;

h. Show the location and dimensions of existing and proposed access points, drive aisles, off-street parking, loading zones and walkways;

i. Indicate location, height, and materials for screening walls and fences;

j. List the type of surfacing and base course proposed for all parking, loading and walkway areas;

k. 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:

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

l. 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;

m. Show the proposed location, indicate the direction, and list the amount of illumination of proposed lighting together with information on screening proposed for the lighting and steps taken to prevent glare; a point by point illumination array may be required for parking lot lighting.

n. Show location and dimensions of each outdoor storage area**,** including trash storage; and

o. Provide a note 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.

12-307-3.11 Approval Criteria

Planning Staff shall make a report based on a review of the site plan with the following criteria:

a. That the proposed use is a permitted use in the District in which the property is located or is an allowed nonconforming use;

b. That the site plan contains only platted land, vested parcel (as defined in the Subdivision Regulations, Chapter 11 County Code), or nonconforming lot as defined in Section 12-308-4.

c. The site plan is compliant with these Zoning Regulations and other adopted policies or standards of County agencies;

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

e. 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;

f. That the site plan provides for the safe movement of pedestrians within the site;

g. 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

h. That all outdoor storage areas, including trash areas, are adequately screened from adjacent right-of-way and properties.

12-307-3.12 Assurance of Performance

The Board of County Commissioners may require the applicant to file a cash deposit or performance bond with the Douglas County Clerk 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 deposit or performance bond shall be recommended by the Planning Staff, based upon current costs, and set by the Board of County Commissioners.

a. If upon inspection of the completed project by the Director of Zoning and Codes, it is found that the conditions of the site plan have been met, the deposit or performance bond shall be released to the applicant.

b. If the applicant does not comply within a reasonable time with the conditions of the site plan, the Director of Zoning and Codes 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 60 days.)

c. If the conditions of the site plan have not been met 30 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.

1) 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.

d. 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. Where it has been determined that adverse weather has delayed landscaping, the commercial or office activity may commence with the provision that the landscaping must be completed within 6 months.

e. Commencement of an activity on an a lot or eligible parcel having an approved site plan without completion of site plan conditions, except as noted above, shall be considered a violation of the Zoning Regulations.

12-307-3.13 Time Limitations

a. If a building permit has not been issued for the site within 2 years from the date of the site plan approval by the Board of County Commissioners or the Planning Director, the site plan shall be and become null and void.

b. For good cause shown, the expiration date may be extended by the Board of County Commissioners for a period not to exceed 1 year. The application for extension must be made in writing to the Planning Director and will be considered only if received before the expiration date of the site plan. The Planning Director shall place such request, with any recommendation of the Planning Director on the agenda of the Commission.

c. No action by the County shall be necessary to cause the site plan to expire. Its expiration shall be considered a condition of the original approval. After the expiration date, or extended expiration date, any further application for a building permit or for other development activity on the site shall be considered as though the site plan had not been granted.

12-307-4 <u>ZONING MAP AMENDMENTS</u>

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

12-307-4.01 Initiation

An amendment to the zoning map, rezoning, may be initiated by the Board of County Commissioners or the Planning Commission. An amendment to a specific property may be initiated by an application of the owner of the property affected. Any proposed amendment shall follow the process set forth in this section after initiation.

12-307-4.02 Application

a. Application for a zoning map amendment shall be submitted to the Planning Office upon appropriate forms available from the Planning Office. Such application shall be made in accordance with the Planning Commission submission deadlines.

b. A pre-application meeting with a member of the Planning Staff is required at least 7 days prior to the formal submission of a zoning map amendment application.

12-307-4.03 Application Materials

Each application for a zoning map amendment shall be accompanied by the following:

a. A conceptual plan and data necessary to demonstrate that the proposed amendment is in general conformance with the Comprehensive Plan;

b. A general location map, showing the location of the property in relation to at least one intersection of two public, full-maintenance roads;

c. 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; and

d. A certified list from the Douglas County Clerk of all owners of property located within the required notification area which is ½ mile (2,640 feet) of the subject property.

1) If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property within the ½ mile (2,640 foot) notification area up to 400 feet within the corporate limits of the city.

2) If the foregoing area includes area within an adjacent county, the applicant shall provide a certified list of property owners within the notification area from the County Clerk or other designated department in the adjacent county.

12-307-4.04 Public Hearing Notice

Newspaper and mailed notice of the Planning Commission's public hearing on zoning map amendments shall be provided by Planning Staff per the provisions in Section 12-307-1.08. The applicant shall ensure that notice is posted on the subject property, per Section 12-307-1.08(c).

a. The Planning Director is responsible for mailing notice to the owner of the subject property and all property owners listed on the certified property owner list. Required notices shall be mailed at least 20 days before the public hearing.

b. When required notices have been properly addressed and deposited in the mail, failure of a part to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Board of County Commissioners.

12-307-4.05 Lesser Change Table

a. Pursuant to K.S.A. 12-757 the Planning Commission has adopted a "Lesser Change Table." The Lesser Change Table is for the use of the Planning Commission in determining the hierarchy of Zoning Districts and for determining when public notification or re-notification is required. The table lists zoning classifications in descending order from the least intense to

the most intense zoning district.

b. In accordance with the cited statute, a recommendation or action to amend the zoning map to assign the 'lesser change' zoning district to the land, rather than the zoning district advertised in the notice, shall not require further notice. A recommendation or action to amend the zoning map to assign any zoning district other than the one advertised in the notice or one listed in the Lesser Change Table will be inconsistent with the advertised hearing and shall require re-advertising and the holding of a new hearing, after proper notice. Such recommendation or action by the Planning Commission or the County Commission shall be construed as an instruction to the Planning Director to set a new hearing and to give notice of the proposed hearing, including the new Zoning District in the notice.

c. For purposes of K.S.A. 12-757, the zoning districts that are available for rezoning through lesser change are listed in the following table

Table of Lesser Change	
Advertised/Proposed Zoning District	Districts to be Considered a 'Lesser Change'
AG-1	None
AG-2	AG-1
CP	AG-2, AG-1
LS	None
RT	AG-1
LB	AG-1
GB	LB, RT, AG-1
LI	AG-1
GI	LI

12-307-4.06 Evaluation Criteria

In reviewing and making decisions on proposed zoning map amendments, review and decision-making bodies shall consider at least the following factors:

a. Zoning and uses of nearby property;

b. Character of the area;

c. Suitability of subject property for the uses to which it has been restricted under the regulations of the current zoning district;

d. Length of time subject property has remained vacant as zoned;

e. Extent to which removal of restrictions will detrimentally affect nearby properties;

f. The gain, if any, to the public health, safety and welfare due to denial of the application as compared to the hardship imposed upon the landowner, if any, as a result of denial of the application;

g. Conformance with the comprehensive plan;

h. Conformance with plans for the area, as reflected in adopted area and/or sector plans including the property or adjoining property;

i. The suitability of the property for agricultural uses. This shall be evaluated with each rezoning request from the A District to maintain an adequate inventory of productive, or potentially productive, agricultural land;

j. Impact on environmentally sensitive lands; and,

k. Professional staff recommendation.

12-307-4.07 Review Process—Planning Commission

a. All such proposed amendments shall first be reviewed by the Planning Director in accordance with the review and decision-making criteria of Section 12-307-4.06. Based on the result of this review, the Planning Director will provide a report and recommendation on the proposed amendment to the Planning Commission.

b. The Planning Commission shall hold a public hearing on the proposed zoning map amendment. The hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations based on the review and decision-making criteria of Section 12-307-4.06 and forward the application to the Board of County Commissioners with a recommendation for approval, approval with conditions or modifications, or denial of the proposed amendment.

c. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Board of County Commissioners.

1) 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 denial.

2) The Planning Commission may recommend conditions or modifications if the effect of the condition or modification is to limit the allowed uses, to allow a lesser change from the rezoning requested in the proposed amendment, or to reduce the area included in the amendment.

3) 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.

12-307-4.08 Protest Petition

A protest petition may be filed in opposition to a zoning map amendment. If the petition is found to be valid, a 3/4 vote of all of the members of the Board of County Commissioners is required to approve the Zoning Map Amendment, regardless of the Planning Commission's recommendation. The 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.

a. A protest petition will be considered 'valid' if it meets both the following requirements:

i. The petition is signed by the owner or owners of 20% or more of the real property within the area required by KS Statute to be notified of the Conditional Use Permit public hearing (property within 1,000 feet radius of the land for which the rezoning is proposed. If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 200 feet into the corporate limits of the city.), excluding roads and public ways. Each and every owner of a single piece of property must sign the protest petition, but all are considered as a single owner in determining the sufficiency of the petition; and

ii. The petition is filed with the County Clerk before 5:00 p.m. within 14 days after the date of the conclusion of the Planning Commission public hearing.

b. A property owner list for the notification area can be obtained from the County Clerk's office.

12-307-4.09 Board of County Commissioners Action

When the Planning Commission submits a recommendation of approval, approval with conditions or modifications, or denial of a proposed amendment, the Board of County Commissioners may take one of the following actions:

a. Approve with adoption of resolution, approve with conditions or modifications with adoption of resolution, or deny the proposed amendment.

1) A 2/3 majority vote of the membership of the Board of County Commissioners is required to override the Planning Commission's recommendation.

b. Return the proposed amendment to the Planning Commission for further consideration, with a statement specifying the basis 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 recommendation with its reasons for doing so or submit a new and 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 recommendation 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 shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

c. 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.

d. 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.

e. The proposed rezoning shall become effective upon publication of the adopting resolution in the official County newspaper.

12-307-4.10 Conditions

a. When the procedures of these Regulations 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.

b. When conditions are imposed which require completion before the zoning resolution may be published, an application shall not be deemed to be approved until the applicant has complied with all the conditions.

12-307-4.11 Appeals

Within 30 days of the Board of County Commission's decision on the zoning map amendment, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision.

12-307-4.12 Limitation on Successive Applications

Withdrawal of an original application after it has been advertised for public hearing shall constitute denial of the application as if the public hearing had been held and concluded.

a. A successive application shall not be accepted for a period of 12 months from the date of the Board of County Commissioners' denial of the original application unless a successive application is substantially different from the original application that was denied.

b. A successive application which is determined to be substantially different based on the following criteria may be accepted:

1) A different zoning district category has been applied for; or

2) Specific responses to the reasons for the denial set forth in the findings of fact by the Board of County Commissioners are, in the opinion of the Planning Director, addressed in the resubmission.

12-307-4.13 Date of Effect

The Zoning Regulations map amendment will become effective upon publication of the adopting resolution in the official County newspaper.

12-307-5 <u>ZONING TEXT AMENDMENTS</u>

The Board of County Commissioners may, from time to time, amend, supplement, or change these Zoning Regulations by resolution. The resolution shall become effective upon publication in the official county paper.

12-307-5.01 Initiation

a. An amendment to the text of the Zoning Regulations may be initiated by the Board of County Commissioners or the Planning Commission and adopted in accordance with the rules of that body.

b. Applications for text amendments may be submitted by private parties and shall be filed with the Planning Director.

1) The application shall be in writing and shall include the proposed text and the reasons for proposing the amendment. The Planning Director shall forward the application to the Board of County Commissioners for review and consideration of initiating the amendment taking into consideration the need for the amendment.

12-307-5.02 Public Hearing Notice

Newspaper notice of the Planning Commission's public hearing on zoning text amendments shall be provided by Planning Staff as provided in Section 12-301-1.08(a).

12-307-5.03 Staff Review/Report

The Planning Director will review each proposed text amendment in accordance with the review and decision-making criteria of Section 12-307-5.06 and, if deemed necessary, distribute the proposed amendment to other agencies and reviewers. Based on the results of those reviews, the Planning Director will provide a report with recommendation on the proposed amendment to the Planning Commission and Board of County Commissioners.

12-307-5.04 Planning Commission's Review/Recommendation

The Planning Commission shall hold a public hearing on the proposed text amendment, review the proposed text amendment in accordance with the review and decision-making criteria of Section 12-307-5.06 and recommend that the Board of County Commissioner's approve with adoption of a resolution, approve with modifications with adoption of a resolution, or deny the proposed amendment. The Planning Commission is also authorized to forward the proposed amendment to the Board of County Commissioners with no recommendation.

12-307-5.05 Board Of County Commissioners Action

After receiving the Planning Commission's recommendation, the Board of County Commissioners shall take one of the following actions on the proposed text amendment:

a. Approve, approve with modifications, or deny; or

b. Return the application to the Planning Commission for further consideration, together with a written explanation of the reasons for the Board of County Commissioner's 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 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 text amendment, approve it with 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.

12-307-5.06 Review And Decision-Making Criteria

In reviewing and making decisions on proposed zoning text amendments, review bodies shall consider at least the following factors:

a. Does the proposed text amendment correct an error or inconsistency in the Zoning Regulations or meet the challenge of a changing condition?

b. Does the proposed text amendment advance a clear public purpose?

c. Does the proposed amendment affect the adequacy of existing or planned facilities and services?

d. Does the proposed text amendment result in reasonably compatible land use relationships?

e. Will the proposed text amendment advance the interest of the citizens of Lawrence and rural Douglas County as a whole, not solely those having immediate interest in the affected area?

f. Is the proposed text amendment consistent with the Comprehensive Plan and the stated purpose of these Regulations, Section 12-301-3.

12-307-5.07 Date of Effect

The Zoning Regulations text amendment will become effective upon publication of the adopting resolution in the official County newspaper.

12-307-6 WRITTEN INTERPRETATIONS

Requests for written interpretations of these Regulations shall be submitted in writing to the Director of Zoning and Codes.

12-307-6.01 Procedure

a. Following the submittal of a complete application on a form established by the Director of Zoning and Codes, the Director shall review and evaluate the issue for which an interpretation is requested, consult with the Planning Director and staff, as necessary; request additional information or documentation as necessary and render a written interpretation.

b. Within ten working days after a request for an interpretation has been submitted, the Director of Zoning and Codes shall provide the interpretation to the applicant in writing and shall file a copy of the interpretation in the official record of interpretations, which is available for public inspection.

12-307-6.02 Appeals

Appeals of the Director of Zoning and Codes written interpretation may be taken to the Board of Zoning Appeals. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations maintained by the Director of Zoning and Codes.

a. The appeal must be filed with the Board of Zoning Appeals within 10 working days after the Director of Zoning and Codes' decision.

b. Appeals may be filed by any person aggrieved, any officer of the County, or any governmental agency or body affected by any interpretation.

c. The procedure for filing appeals is contained in Section 12-308.

12-307-7 VARIANCES

12-307-7.01 Authority and Applicability

The zoning variance procedures of this section authorize the Board of Zoning Appeals to approve, in specific cases, variances from specific zoning standards of these Regulations that will not be contrary to public interest and where, owing to special conditions, a literal enforcement of zoning standards would result in 'unnecessary hardship'.

a. The Board of Zoning Appeals is not authorized to approve a variance that would allow a use that is not permitted in the applicable zoning district.

12-307-7.02 Application Filing

Zoning variance applications shall be filed with the Director of Zoning and Codes**.**

a. The application and plans, if needed, shall be provided to the Director on forms provided by the Zoning and Codes office; along with the fee for such application as established by the Board of County Commissioners.

b. A pre-application meeting is required with Zoning and Codes staff a minimum of 7 days prior to submittal of the application.

12-307-7.03 Public Hearing Notice

Newspaper and mailed notice of the Board of Zoning Appeals' public hearing shall be provided per the provisions in Section 12-307-1.08.

12-307-7.04 Staff Review/Report

The Zoning and Codes Director will review each proposed variance application in accordance with the review and decision-making criteria of Section and, if deemed necessary, distribute the variance application to other agencies and reviewers. Based on the results of those reviews, the Zoning and Codes Director will provide a report on the variance application to the Board of Zoning Appeals.

12-307-7.05 Board of Zoning Appeals' Hearing and Decision

a. The Board of Zoning Appeals shall hold a public hearing on the proposed variance and review the application in accordance with the applicable review and decision-making criteria of Section 12-307-7.07.

b. Following the public hearing the Board of Zoning Appeals shall consider the recommendation of the Director of Zoning and Codes and evidence provided at the public hearing and shall take one of the following actions: approve the variance; approve the variance with conditions; or deny the variance.

12-307-7.06 Variance from Floodplain Regulations Review and Decision-Making Criteria

a. The Board of Zoning Appeals may approve a zoning variance from the floodplain regulations of Chapter 12, only after considering all technical evaluations, relevant factors, and standards specified in Section 12-312. In addition, the following factors shall be considered:

1) The danger of injury from materials swept onto other lands.

2) The danger of life and property due to flooding or erosion damage;

3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner or occupant.

4) The importance of the services provided by the proposed facility to the community;

5) The necessity to the facility of a waterfront location, where applicable;

6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

7) The compatibility of the proposed use with existing and anticipated development;

8) The relationship of the proposed use to the Comprehensive Plan and Floodplain management program for that area;

9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

10) 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; and

11) 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.

b. Variances shall not be approved within the regulatory floodway if any increase in flood levels during the regulatory food would result.

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

d. Variances shall be issued only upon:

1) A showing of good and sufficient cause,

2) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

3) 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, or conflict with existing local laws or ordinances.

e. Upon consideration of the above factors and purpose of the Floodplain Management Regulations, Section 12-312-1, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary.

f. 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.

g. The Director of Zoning and Codes shall maintain the records of all variances and report any variances to the Federal insurance Administration upon request.

12-307-7.07 Variance from Regulations, Other than the Floodplain Regulations

The Board of Zoning Appeals may approve a zoning variance from regulations, other than the Floodplain Regulations in Chapter 12, upon the finding that all of the following conditions have been met:

a. That the variance request arises from such conditions that are unique to the property in question and not ordinarily found in the same zoning or district and are not created by actions of the property owner or applicant;

b. That granting the variance would not adversely affect the rights of adjacent property owner or residents;

c. That strict application of the regulations for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application;

d. That the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

e. That granting the variance desired would not be opposed to the general spirit and intent of these Regulations.

12-307-7.08 Filing and Mailing of Decision

Every decision or determination by the Board of Zoning Appeals shall be filed in the Zoning and Codes Office and mailed to the applicant and all other parties who have made a written request for notification.

12-307-7.09 Expiration of Approval

In the event the landowner fails to obtain a building permit or fails to commence the development activity within 24 months after final approval of the variance, then such variance shall expire.

a. For good cause shown, the expiration date may be extended by the Board of Zoning Appeals for a period not to exceed 2 years. A written request for extension must be made to the Director of Zoning and Codes and will be considered only if received before the expiration date of the variance.

b. The Zoning and Codes Director shall place such request, with any recommendation, on the agenda of the Board of Zoning Appeals. The Zoning and Codes Director shall notify the applicant of the date of the proposed consideration and will provide mailed notification to property owners per the provisions in Section 12-307-1.08.

12-307-8 APPEALS OF ADMINISTRATIVE ORDERS, REQUIREMENTS, DECISIONS, OR DETERMINATIONS

12-307-8.01 Applicability

Unless specifically provided for otherwise in these Regulations, the Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the administration or enforcement of the provisions of these Regulations. Staff review/reports required by these Regulations and considered by the Planning Commission at a public hearing or presented to the Board of County Commissioners for consideration shall not be considered an order, requirement, decision, or determination and shall not be appealable to the Board of Zoning Appeals.

a. The Planning Commission is not an 'administrative official' for purposes of these Regulations and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any action, determination, or failure to act by the Planning Commission.

b. Review procedures of these Regulations are not administrative orders, requirements, decisions, or determinations and the Board of Zoning Appeals shall have no jurisdiction to consider an appeal from any of the review procedures.

12-307-8.02 Application

Appeals of administrative decisions shall be filed with the Director of Zoning and Codes. The appeal shall be filed within 10 working days after the administrative official's order, requirement, decision, or determination. Appeals may be filed by any person aggrieved, or by any officer of the County, or any governmental agency or body affected by any decision of an administrative official.

12-307-8.03 Effect of Application

The filing of an application for an appeal of administrative order, requirement, decision, or determination stays all proceedings in furtherance of the action appealed, unless the official whose decision is being appealed certifies to the Board of Zoning Appeals, after the appeal is filed, that, because of facts stated in the certification (a) a stay would cause immediate peril to life or property or (b) the situation appealed from is transitory in nature, and therefore, an appeal would seriously interfere with enforcement of these Regulations.

a. In each instance, the official whose decision is being appealed shall place in the certificate facts to support the conclusions.

b. In such cases, proceedings will not be stayed other than by a restraining order, which may be granted by a court of record.

12-307-8.04 Record of Administrative Decision

The official whose decision is being appealed shall provide the Board of Zoning Appeals with all documents constituting the record upon which the action being appealed was taken.

12-307-8.05 Public Hearing Notice

Newspaper and mailed notice of the Board of Zoning Appeals' public hearing on the appeal shall be provided in accordance with Section 12-307-1.08. A copy of the notice shall also be mailed to each party to the appeal at least 20 days before the date of the hearing.

12-307-8.06 Review and Decision

a. The Board of Zoning Appeals shall hold a public hearing on the appeal and, following the close of the public hearing, take final action based on the procedures and requirements of this section.

b. In exercising the appeal power, the Board of Zoning Appeals, has all the powers of the official from whom the appeal is taken, and the Board of Zoning Appeals may reverse, affirm wholly or in part, or may modify the decision being appealed.

c. If the Board of Zoning Appeals determines that it is necessary to obtain additional evidence to resolve the matter, it shall remand the appeal to the official from whom the appeal is taken, with directions to obtain the needed evidence and to reconsider the decision in light of that evidence.

12-307-8.07 Approval Criteria: Findings Of Fact

The Board of Zoning Appeals may reverse an order, requirement, decision, or determination of any administrative official only when the Board of Zoning Appeals finds substantial, factual evidence in the official record of the application that the administrative official erred. The decision of the Board of Zoning Appeals shall be supported by written findings of fact prepared by the Board of Zoning Appeals.

12-307-8.08 Filing and Mailing of Decision

Every decision or determination by the Board of Zoning Appeals shall be:

a. Filed in the office of the County Clerk not more than 7 working days following the date of hearing; and

b. Mailed to the applicant and all other parties who have made a written request for notification not more than 7 working days following the date of the hearing.

12-307-8.09 Date of Effect

Decisions on appeals become effective on the date the Board of Zoning Appeals makes its decision.

12-307-8.10 Appeals

Within 30 days of the date of effect of the Board of Zoning Appeals' decision, any person aggrieved by such decision may maintain an action in District Court to determine the reasonableness of the final decision

12-308 NONCONFORMITIES

12-308-1 General
12-308-2 Nonconforming Uses
12-308-3 Nonconforming Structures
12-308-4 Nonconforming Lots

12-308-1 GENERAL

12-308-1.01 Scope

The regulations of this Section govern uses, structures, lots, signs and other situations that came into existence legally but that do not conform to one or more requirements of the Zoning Regulations. These are referred to in the Zoning Regulations as "nonconformities." Nonconformities are legal situations and have legal status under the Zoning Regulations.

12-308-1.02 General Policy

To encourage development consistent with the Zoning Regulations and to provide landowners with reasonable use of their land, it is the general policy of the County to allow uses, structures, signs, lots and other situations that came into existence legally, in conformance with then-applicable requirements, to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with these existing Regulations as is reasonably possible. Provided, however that where a previously complying building or structure no longer complies with these Regulations solely because of a governmental taking or acquisition, the failure to comply created by the taking, acquisition, shall not create or constitute a nonconformity.

12-308-1.03 Intent

The regulations of this Section are intended to:

a. Recognize the interests of landowners in continuing to use their property;

b. Promote reuse and rehabilitation of existing buildings; and

c. Place reasonable limits on the expansion and alteration of nonconformities that have the potential to affect adversely surrounding properties or the County as a whole.

12-308-1.04 Authority to Continue

Any nonconformity that existed on the effective date of these Regulations, or any legal use that becomes nonconforming upon the adoption of any amendment to these Regulations, may be continued in accordance with the provisions of this Section.

12-308-1.05 Determination of Nonconformity Status

The burden of proving that a nonconformity exists rests with the subject landowner.

12-308-1.06 Change of Tenancy or Ownership

Nonconformity status runs with the land and is not affected by changes of tenancy, ownership, or management.

12-308-2 NONCONFORMING USES

12-308-2.01 Definition

A nonconforming use is a land use that was legally established, but that is no longer allowed by

the use regulations of the zoning district in which it is located. Nonconforming uses may continue subject to the provisions of this Section.

12-308-2.02 Change or Expansion

A nonconforming use shall not be changed or expanded except as follows:

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. A nonconforming use may be changed to another similar or less intensive use if reviewed and approved by the Zoning and Codes Director upon a finding that the new use is no more intensive in character than the original nonconforming use.

d. Authority has been granted by the Board of County Commissioners to expand a nonconforming use

12-308-2.03 Moving

A nonconforming use may not be moved in whole or in part to another location on the premises unless the movement or relocation eliminates or decreases the extent of nonconformity.

12-308-2.04 Loss of Nonconformity Status

a. When a nonconforming use is abandoned, the use's nonconforming status is lost and any subsequent use of the premises shall comply with the regulations of the Zoning District in which it is located. A nonconforming use will be considered abandoned when any of the following occurs:

1) the intent of the owner to discontinue the use is apparent;

2) with respect to any use other than a dwelling, the use has been discontinued for a period of 12 months or more and no concerted effort has been undertaken by the owner to continue the use;

3) the characteristic equipment and furnishings associated with the nonconforming use have been removed from the premises and have not been replaced by similar equipment within 90 days, unless other facts show intention to resume the nonconforming use;

4) the nonconforming use has been replaced by a conforming use; or

b. When a building or structure housing a nonconforming non-residential use is damaged to the extent of more than 50% of its fair market value, the nonconformity status of the use is considered lost and the use may not be restored.

c. The nonconformity status of a residential use is not lost when the structure housing it is damaged to any degree. The structure may be rebuilt in compliance with these Regulations and the nonconforming residential use may continue.

1) A building permit must be obtained within 12 months of the time the damage occurred and construction diligently pursued or the nonconforming use will be considered abandoned.

12-308-2.05 Registration of Nonconforming Use

a. The rights given to those using or owning property involving a nonconforming use to expand or alter that nonconforming use are specifically conditioned on the registration of the nonconforming use with the Director of Zoning and Codes.

b. For nonconforming uses that are known to the Zoning and Codes Office to be in existence on the Effective Date, the Director shall develop a database of these uses for the tracking of nonconformities.

c. Landowners of nonconforming uses that are not known to the Zoning and Codes Office to be in existence on the Effective Date shall be required to register their nonconforming use before altering or expanding that use.

12-308-3 NONCONFORMING STRUCTURES

12-308-3.01 Definition

A nonconforming structure is any building or structure that was legally established, but no longer complies with the dimensional standards listed in these Regulations for the applicable zoning district; provided, however, that where a previously conforming structure no longer conforms with these Regulations solely as a result of a governmental taking or acquisition for public road easement or right-of-way, the dedication of public road easement or right-of-way, or other governmental use, the failure to conform created by the taking or acquisition shall not constitute a nonconformity. Nonconforming structures may remain and may continue to be used, subject to the regulations in this Section.

12-308-3.02 Structural Alterations

a. Structural alterations, including enlargements, are permitted if the structural alteration does not increase the extent of nonconformity.

1) A nonconforming structure may be expanded to the extent of the nonconformity in the side and rear yards as long as there is no greater encroachment into a required setback.

2) No expansion is permitted into the required front yard.

12-308-3.03 Use

A nonconforming structure may be used for any use allowed in the Zoning District.

12-308-3.04 Moving or Relocation

A nonconforming structure may be moved in whole or in part to another location on the premises only if the movement or relocation decreases or eliminates the nonconformity.

12-308-3.05 Replacement

a. Non-residential

When nonconforming structures that house non-residential uses are damaged to the extent of more than 50% of its fair market value the structure shall not be restored except in conformity with the regulations of the zoning district in which it is located.

b. Residential

When a nonconforming structure housing a residential use is damaged to the extent of more than 50% of its fair market value the structure shall be permitted to rebuild in the former location subject to the following provisions:

1) The structure may not be located in the Floodway Overlay District.

2) A building permit for the restoration is obtained within 12 months of the date of occurrence of the damage, and once issued, construction is diligently pursued.

12-308-3.06 Repairs and Maintenance

a. Incidental repairs and normal maintenance necessary to keep a nonconforming structure in sound condition are permitted unless such repairs are otherwise expressly prohibited by these Zoning Regulations.

b. Nothing in this Section shall be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of the County Zoning and Codes Office, the Lawrence-Douglas County Health Department, or other entity.

12-308-4 NONCONFORMING LOTS

12-308-4.01 Definition

A nonconforming lot is a tract of land, designated on a duly recorded subdivision plat or by a duly recorded deed, or by other lawful means, that was established prior to adoption of the County's first Zoning Regulations or that complied with all applicable area, width and depth standards of the Zoning District in which it was located at the time of its creation, but which does not comply with the minimum area, width and depth requirements of the zoning district in which it is now located. Provided, however, that where a previously complying lot no longer complies with the regulations of these Regulations solely as a result of a governmental taking or acquisition for road easement or right-of-way, easement or other governmental use, the failure to comply created by the taking or acquisition shall not constitute a nonconformity.

12-308-4.02 Development

a. A nonconforming lot may be used for any use allowed in the zoning district.

b. A nonconforming lot or eligible parcel may be developed to the extent that the development can be accomplished in accordance with the dimensional standards in Section 12-303 and 12-305.

c. The owner of a nonconforming lot shall not take any voluntary action that will further reduce the lot area. Any such action by the owner may be prosecuted as a violation of these Regulations.

d. If the actual lot width is inadequate to provide for driveway access to the lot from an improved road, the protection of this Section shall not apply.

12-309 THE BOARD OF ZONING APPEALS

Section 12-309-1 Organization
Section 12-309-2 Powers

12-309-1 ORGANIZATION

The Board of Zoning Appeals, previously created, shall continue in effect with the powers and authority provided in this section.

12-309-1.01 Membership

a. The Board shall consist of five members, all of whom shall be residents of the unincorporated areas of Douglas County.

b. No more than one member may also be a member of the Planning Commission.

c. Members are to be appointed by the Board of County Commissioners and shall serve without compensation.

d. Members shall be appointed for terms of three years each.

e. Members may serve successive terms.

f. A member of the Board of Zoning Appeals, once qualified, can thereafter be removed during their term of office only for cause and after public hearing.

g. In the event of the death, resignation, or removal of any member before the expiration of the term, a successor shall be appointed by the Board of County Commissioners for the unexpired term of the member.

12-309-1.02 Officers

The Board of Zoning Appeals shall annually elect one of its members as chairperson and one as vice-chairperson.

12-309-1.03 Rules and Meetings

a. The Board of Zoning Appeals shall adopt rules for the conduct of its business and such rules shall be made available to the public.

b. The Board shall adopt a schedule of meetings annually which shall be available at the Zoning and Codes Office.

c. The chairperson, or in his absence the vice-chairperson, shall preside at all meetings, decide all points of order or procedure, and as necessary, administer oaths and compel the attendance of witnesses.

d. The Board of Zoning Appeals shall keep minutes of its proceedings, showing evidence presented, the findings of fact made 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.

e. The Board shall keep records of its examinations and other official actions, all of which shall

be filed in the Zoning and Codes Office and shall be a public record.

12-309-1.04 Quorum

a. A quorum of the Board of Zoning Appeals is 3 members of the 5 member Board. A quorum is required to conduct any business by the Board.

b. If a meeting is called and a quorum is not present at the specified meeting time, the chairperson of the board or his designee shall immediately declare a lack of quorum and schedule a new meeting date and time for continuance of the published meeting and public hearings.

12-309-1.05 Vote

a. An affirmative vote of a majority of the members of the Board present and voting shall be required to overrule any decision, ruling, or determination of the official charged with enforcement of these Regulations, or to approve any variance.

b. A tie vote of the Board, or the lack of approval of a motion by a majority of members present and voting shall be considered a denial of the request.

12-309-2 <u>POWERS</u>

12-309-2.01 Appeals

a. 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 the Director of Zoning and Codes in the enforcement of the Zoning Regulations.

b. The Board, in conformity with the provisions of these Regulations, 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.

12-309-2.02 Variances

a. The Board of Zoning Appeals shall have the power to hear and decide variances requested from the specific terms of these Regulations.

b. The Board, in conformity with the provisions of these Regulations, may grant the variance, wholly or partly, and may attach appropriate conditions; or the Board may deny the variance request.

12-310 CERTIFICATES OF OCCUPANCY AND BUILDING PERMITS

12-310-1 Building Permits
12-310-2 Certificates of Occupancy

12-310-1. BUILDING PERMITS

12-310-1.01 No building, structure, manufactured or mobile home shall be erected, constructed, altered, moved, converted, extended or enlarged, except for ordinary repairs, without the owner or owners first having obtained a building permit or an exemption in accordance with Section 106.2 of the County Code, established by Home Rule Resolution No. 07-4-3 in the case of agricultural structures, from the Director of Zoning and Codes.

A building permit is also required for a change of use. A change of use occurs when there is any change in the use of a building that could trigger a change in the code requirements that apply to the site or structure. For example, agricultural exempt structure that is requesting a change of use to residential.

12-310-1.02 Conformity with Regulations

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, construction codes, rules and similar regulations.

12-310-1.03 Validity

When issued, a building permit shall be valid for the period stated in the adopted construction code.

12-310-1.04 Fees

Charges for building permits, inspections, and related fees shall be set and amended by the Board of County Commissioners from time to time. A fee schedule is available at the Zoning and Codes Office.

12-310-1.05 Penalty

Any person who fails to obtain a building permit prior to commencing construction on the property shall pay a fee as set by Section 12-310-1.04 in addition to the cost of the building permit. The fee is set by the Board of County Commissioners and is listed on the fee schedule at the Zoning and Codes Office.

12-310-1.06 Granting of Building Permits in the Floodplain Overlay Districts

The granting of a building permit for the erection, moving, altering, or enlarging of any building or structure in the 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.

12-310-1.07 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 the following:

a. Two complete sets of printed construction plans; may be subject to electronic submittal per Zoning and Codes Director.

b. A recorded deed;

c. 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;

d. 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;

e. A recorded boundary survey (prepared by a Kansas licensed land surveyor) reflecting the deeded property and a building site plan (prepared by a Kansas licensed professional) in duplicate or as required by the Director of Zoning and Codes; and,

f. A building site plan drawn at a scale of 1 in. = 50 ft, for parcels with 1 acre or less; or a scale of 1 in. = 100 ft for parcels with more than 1 acre.

g. The building site plan shall note or show the following:

1) Location of proposed building(s) on the lot or eligible parcel.
2) Required street right-of-way line, base setback line, and required yard setback line.
3) All easements, public or private;
4) Sewer or septic tank location;
5) Source of potable water supply and location.
6) The proposed use of all lands and buildings.
7) Required setbacks per the zoning district.
8) Title block, containing a north arrow, date, legal description of the property, and name of owner.
9) 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.
10) Regulatory floodplain and contours if present, subject to the Zoning and Codes Director's discretion.

h. A record of the original copy of such applications and materials shall be kept in the Zoning and Codes Office and a duplicate copy shall be kept at the building site at all times during construction.

12-310-2 CERTIFICATES OF OCCUPANCY

No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use, except for those agricultural uses which qualify for an agricultural exemption or uninhabited accessory structures, until a certificate of occupancy has been issued by the Director of Zoning and Codes, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.

12-310-2.01 Application

a. Certificates of occupancy are coincidental to the application for a building permit.

b. A certificate of occupancy shall be issued after the erection or structural alteration of such buildings that have been completed in conformity with the provisions of these regulations.

c. A record of all certificates of occupancy shall be kept on file in the Zoning and Codes Office.

12-311 PARKING AND LOADING

12-312-1 General
12-312-2 Parking Requirements
12-312-3 Parking Design Standards
12-312-4.1 Joint-Use and Off-Site Facilities
12-312-4.2 ADA Accessible Parking Requirements
12-312-4.3 ADA Parking Design Standards
12-312-4.4 Parking Performance Standards
12-312-4.5 Loading Requirements

12-311-1 GENERAL

The parking and loading requirements in this section are intended to insure that the off-street parking and loading demands of various land uses will be met without negatively impacting nearby land uses or roads.

12-311-1.01 Applicability

Except as otherwise provided in these Regulations, the parking and loading standards of this section shall apply to:

a. All new structures and all new uses,

b. The expansion of any building or structure, or the change or addition of any use.

12-311-1.02 Nonconforming Parking

Nonconforming parking or loading is parking or loading that was provided in compliance with the parking requirements in place at the time the property developed, but that no longer complies with the requirements, either the number of parking or loading spaces or the dimensional requirements, due to a change in the regulations.

a. Additional parking and loading spaces are required only to serve the new or expanded structure or new or revised use; not the entire existing building or use. There is no requirement to address lawfully created non-conforming existing parking or loading deficits.

12-311-2 PARKING REQUIREMENTS

12-311-2.01 Parking Group Table

Parking Group	Requirement
1	2 spaces per dwelling unit 1 space per ADU 1 space per manager's residence 2 spaces per group home, limited 1 space per group home, general plus 1 per employee
2	1 per 2 anticipated attendees unless activity will utilize busses or alternative forms of transportation
3	1 space per employee on largest shift, plus 1 per 5 stalls, If lessons or spectator activities are provided, parking would be evaluated on anticipated attendance.
4	1 space per employee on largest shift, if 24 hour day operation, additional spaces as needed for shift change
5	1 parking space per vendor

6	1 per 200 gross square feet (For ancillary sales or farm stand, the sales area is measured)
7	1 per 300 gross square feet
8	1 at each gas pump, with 1 at one end of the pump island + 1 per employee; additional parking required for convenience store
9	1 per 100 sq ft of customer service area plus 1 per employee on largest shift
10	1 per 3 occupants based on max. occupancy
11	Elementary and middle school: 1 per employee on largest shift plus 1 space per 5 seats in the main assembly area. High school: 1 per employee on largest shift plus 1 space per 5 seats in the main assembly area plus 1 space per 3 students.
13	Assembly/Spectator Entertainment: 1 per 4 seats in main assembly or spectator area Participant Sports: 1 per 500 square foot of customer/activity area
14	1 per employee on largest shift
15	1 per guestroom
16	1 per 3 beds plus 1 per employee
17	1 per employee on largest shift plus 1 per 10 animals permitted
18	2 per service bay plus 1 per 5,000 square foot of outdoor display plus 1 per 500 square foot of indoor display area if any display is provided.
19	4 plus 1 per 100 storage units
20	1 per 5,000 square foot of outdoor display plus 1 per 500 square foot of indoor display area if any display is provided.
x	As determined by the Planning or Zoning and Codes Director, as applicable, after review of information provided by the applicant related to the intensity of use and demonstrated parking needs

12-311-2.02 Calculating Parking Requirements

a. When the result of the calculation of required spaces results in a fractional number, the fraction shall be rounded up to the next consecutive whole number.

b. The parking space requirements for a use not specifically assigned a use group shall be the same as for a listed use of similar characteristics of parking demand generation.

c. 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 unless joint-use parking as provided in Section 12-311-5 is approved.

12-311-3. PARKING DESIGN STANDARDS

12-311-3.01 General

a. Paved parking areas shall be adequately marked with at least two (2) inch wide stripes of traffic paint, for channelization and movement of vehicles.

b. Each row of parking in a paved parking area shall terminate in a curbed parking island, a minimum of 8 feet wide, which is landscaped with 1 tree and 3 shrubs or 2 trees.

c. At a minimum, parking spaces are to be 9 ft wide and 18 ft long. Parking spaces size may need to be increased if trailers or large vehicles are anticipated.

d. Additional plans may be required to be prepared and presented to assure proper design and construction of any off-street parking spaces and their access drives, if the County Engineer determines that the conditions of the site are such that compliance with these requirements may be difficult, may pose a potential problem with adjacent properties, or if the proposed use requires parking for buses, tractor-trailer semis, or other such large vehicles.

1) Larger or additional spaces may be required to accommodate such vehicles.

12-311-3.02 Surfacing

a. An off-street parking space is an all-weather surfaced area that is not located within a street or alley.

1) All off-street parking spaces and their access drives, including residential, shall be paved with gravel at a minimum.

2) All off-street parking spaces and their access drives required for all (non-residential) commercial and industrial uses shall be paved with an asphalt or concrete surface if the adjoining road is also paved with asphalt or concrete. Said paving shall be completed before the activity or use can commence.

i. This requirement does not apply to over-flow parking (parking in excess of that required for the use, typically for infrequent activities with heavier parking demand).

12-311-3.03 Stormwater Drainage

All off-street parking spaces, and their access drives, shall be planned and engineered to assure proper drainage of surface water. Positive drainage shall be provided on such lot or parcel and discharge of the same shall be through defined drainage courses. No drainage shall be directed over adjoining lands unless approved by the County Engineer.

12-311-3.04 Location

a. When located in a residential zoning district, parking shall not be permitted within a required front yard setback except in permitted driveways.

b. Parking area shall be located on the same lot or parcel with the use, unless off-site parking is provided in compliance with Section 12-311-5.

12-311-4 PARKING PERFORMANCE STANDARDS

a. All required off-street parking spaces, access drives, and loading areas shall be maintained in good condition and free of all weeds, dust, trash and other debris.

b. Required parking spaces shall be permanently reserved for the loading, unloading, and parking of licensed motor vehicles in operating condition.

1) Required spaces may not be used for the display of goods for sale or lease or for long-term storage of vehicles or goods.

2) No business shall be conducted on any parking lot except when conducted in compliance with these Regulations.

12-311-5 JOINT-USE AND OFF-SITE PARKING

a. All required parking spaces shall be located on the same parcel or lot with the building or use being served, except that off-site parking spaces, spaces that are located on another parcel or lot. May be used to meet the parking requirement provided the spaces are not more than 300 feet from the main entrance of the use being served.

b. Up to 50 percent of the parking spaces required for entertainment/spectator sport, indoor participant sports, restaurants or bars/taverns, and up to 100 percent of the parking spaces required for a religious institution may be provided and used jointly by banks, offices, retail stores, and similar uses not normally open, used, or operated during the same hours~~;~~ provided, however, that a written agreement thereto is properly executed and filed as specified below.

1) In any case where the required parking spaces are not located on the same lot or eligible parcel with the building or use served, and/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 Counselor and shall be filed with the application for a building permit.

12-311-6 ADA ACCESSIBLE PARKING

a. A portion of the total number of off-street parking spaces in each off-street parking area shall be specifically designated, located, and reserved for use by persons with physical disabilities.

1) Single-family dwellings are exempt from the requirements to provide accessible parking spaces. However, accessible parking spaces shall be provided on request of residents with disabilities.

2) The following table shows the minimum number of accessible parking spaces, auto and van, to be provided for persons with disabilities:

Total Parking Spaces Provided	Auto (Total)	Van Accessible
1-25	1	1
26-50	2	1
51-75	3	1
76-100	4	1
101-150	5	1
151-200	6	1
201-300	7	1
301-400	8	1
401-500	9	1
501-1000	2% of total spaces	1 per 8 accessible spaces
Over 1000	20 spaces plus 1 space for every 100 spaces over 1000	1 per 8 accessible spaces

3) Facilities providing medical care and other services for persons with mobility impairments shall provide accessible parking spaces as follows:

i. Hospital outpatient units and facilities shall provide 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility.

ii. 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.

iii. Single-family dwellings are exempt from the requirements to provide accessible parking spaces. However, accessible parking spaces shall be provided on request of residents with disabilities.

12-311-6.01 ADA Accessible Design Standards

a. The location and minimum stall size of such an accessible parking space 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.

b. 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.

c. Required spaces for persons with disabilities shall be located in close proximity to building entrances and be designed to permit occupants of vehicles to reach the building entrance on an unobstructed path.

d. All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:

1) Car–accessible spaces shall have at least a 5-foot wide access aisle abutting the

designated parking space.

2) Van-accessible spaces shall have at least an 8-foot wide access aisle abutting the passenger access side of the designated parking space.

12-311-7 LOADING REQUIREMENTS

12-311-7.01 Applicability

Except as otherwise provided in these Regulations, 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 article.

12-311-7.02 Loading Chart

Column 1	Column 2	Column 3
Use or Use Category	**Gross Area**	**Loading Spaces Required**
Restaurant, Wholesale, Retail Sales, Warehouse, Repair, Manufacturing or Industrial, General Service	2,000 – 10,000 sq ft	1
	10,001-20,000 sq ft	2
	20,001-40,000 sq ft	3
	40,001-60,000 sq ft	4
	Each 50,000 over 60,000 sq ft	1 additional
Lodging, Offices or Office Building, Veterinary Clinic or Hospital	5,000 – 10,000 sq ft	1
	10,001 – 100,000 sq ft	2
	100,001 – 200,000 sq ft	3
	Each 100,000 sq ft over 200,000 sq ft	1 additional
Funeral Home or Mortuary	2,500 – 4,000 sq ft	1
	4,001 – 6,000 sq ft	2
	Each 10,000 sq ft over 6,000 sq ft	1 additional

a. Interpreting the Chart

1) The loading space requirements apply to all Districts.

2) The loading requirements in this section do not limit special requirements which may be imposed in connection with Conditional Uses.

3) Where a building is used for more than one use 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.

12-311-7.03 Design Standards

a. A loading space is a space within the main building or on the same lot or eligible parcel, providing for the standing, loading, or unloading or trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

b. No unenclosed loading platform, space or area shall be constructed on any side of a building that is adjacent to a residential zoning district or area.

SECTION 12-312 FLOODPLAIN MANAGEMENT REGULATIONS

12-312-1 Statement of Purpose and Intent
12-312-2 Floodplain Overlay Districts
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12-312-1 STATEMENT OF PURPOSE AND INTENT

12-312-1.01 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. This article is also used to establish or maintain the Community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 512.22 (a) (3); and to meet the requirements of 44 CFR 60.3(d), K.S.A. 12-741, K.S.A. 12-766 and K.A.R. 5-44-4 by applying the provisions of this Article.

12-312-1.02 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.

7) Ensure that development is reasonably safe from flooding.

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.

12-312-2 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.

12-312-3 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 September 2, 2015 ", with the accompanying Flood Insurance Rate Maps and revisions thereto.

12-312-4 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.

12-312-5 FLOODPLAIN DEVELOPMENT WITHIN THE CITY OF LAWRENCE URBAN GROWTH AREA (UGA)

12-312-5.01 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.

12-312-5.02 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.

12-312-5.03 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.

12-312-5.04 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.

12-312-6 <u>DEVELOPMENT STANDARDS AND CRITERIA</u>

12-312-6.01 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.

e. Sewer lines shall be designed to eliminate infiltration of flood waters into systems and discharge from the systems into the floodwaters.

f. 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.

g. 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.

h. 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.

12-312-6.02 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 and all HVAC and mechanical equipment, 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, including all HVAC and mechanical equipment, shall have a) the lowest floor (including basement) elevated a minimum of one foot above the base flood elevation; or, b) together with attendant utility and sanitary facilities, be designed so that below 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 c) 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 fame 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.

12-312-6.03 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.

12-312-7 ADMINISTRATION AND RECORDS
12-312-7.01. 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.

12-312-7.02. 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.

d. 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.

12-312-8. DEVELOPMENT PERMIT
12-312-8.01 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.

12-312-8.02 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.

12-312-8.03 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.

12-312-9 <u>CERTIFICATION OF ELEVATION</u>
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.

12-312-10 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.

12-312-10.01 No non-conforming use or structure shall be altered, repaired or modified unless a permit is issued under this Section.

12-312-10.02 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.

12-312-10.03 Uses or adjuncts thereof, which are or become nuisances shall not be entitled to continue as non-conforming uses.

12-312-10.04 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.

12-312-11 AREAS OF SHALLOW FLOODING (ZONE AO AND ZONE AH)

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

12-312-11.01 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 lease 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.

12-312-11.02 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.

12-312-12 <u>AMENDMENTS</u>

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.

12-312-13 <u>DEFINITIONS</u>

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

12-312-13.01 Agency. The Federal Emergency Management Agency (FEMA).

12-312-13.02 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.

12-312-13.03 Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

12-312-13.04 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.

12-312-13.05 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.

12-312-13.06 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.

12-312-13.07 "Eligible Community". A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

12-312-13.08 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".

12-312-13.09 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.

12-312-13.10 Existing Structures. (See "Existing Construction")

12-312-13.11 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.)

12-312-13.12 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).

12-312-13.13 Flooding. [See "Flood"].

12-312-13.14 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.

12-312-13.15 Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

12-312-13.16 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.

12-312-13.17 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.

12-312-13.18 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.

12-312-13.19 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.

12-312-13.20 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.

12-312-13.21 Floodway Encroachment Lines. The lines marking the limits of Floodways on Federal, State and local floodplain maps.

12-312-13.22 Floodway Fringe. The area outside the Floodway encroachment lines, but still subject to inundation by the regulatory flood.

12-312-13.23 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.

12-312-13.24 Habitable Floor. Any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof.

12-312-13.25 Highest Adjacent. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12-312-13.26 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.]

12-312-13.27 Hydrologic and Hydraulic Study. An engineering study that is done in accordance with section 12-328-5.03 et al.

12-312-13.28 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.

12-312-13.29 Manufactured Homes [See "Mobile Home"]

12-312-13.30 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.

12-312-13.31 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.

12-312-13.32 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".

12-312-13.33 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.

12-312-13.34 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.

12-312-13.35 Participating Community. [See "Eligible Community"]

12-312-13.36 Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

12-312-13.37 Principally Above Ground. When at least 51 percent of the actual cash value of the structure, less land value, is above ground.

12-312-13.38 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.

12-312-13.39 Special Flood Hazard Area (SFHA). See ["Area of Special Flood Hazard"].

12-312-13.40 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.

12-312-13.41 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.

12-312-13.42 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.

12-312-13.43 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.

12-312-13.44 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.

12-312-13.45 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.

12-312-13.46 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.

12-312-13.47 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.

12-312-13.48 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.

12-312-13.49 Zone A. The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.

12-312-13.50 Zone AE. The special flood hazard area inundated by 100-year flood where the

base flood elevations have been determined.

12-312-13.51 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.

12-312-13.52 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.

SECTION 12-313 VIOLATION, PENALTIES, AND ENFORCEMENT
12-313-1 Responsibility for Enforcement
12-313-2 Compliance Required
12-313-3 Violations
12-313-4 Liability
12-313-5 Remedies and Enforcement Powers
12-313-6 Enforcement by Others
12-313-7 Continuation of Previous Enforcement Actions
12-313-8 Remedies Cumulative
12-313-9 Enforcement Procedures

12-313-1 RESPONSIBILITY FOR ENFORCEMENT

The Director of Zoning and Codes is responsible for enforcing the Zoning Regulations, except as otherwise expressly stated.

12-313-2 COMPLIANCE REQUIRED

All buildings and land used and all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered shall comply with all applicable provisions of these Regulations.

12-313-3 VIOLATIONS

12-313-3.01 Types of Violations

Unless otherwise expressly stated by these Regulations or state law, any violation of the Zoning Regulations, including but not limited to the following, will be subject to the remedies and penalties provided for in this Section.

a. to use land or buildings in any way not consistent with the requirements of the Zoning Regulations;

b. to engage in development activity in any way not consistent with the requirements of these Regulations;

c. to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits or approvals under these Regulations without obtaining all such required permits or approvals;

d. to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits under these Regulations in any way inconsistent with any such permit or approval or any conditions imposed thereon;

e. to obstruct or destroy any notice required to be posted or otherwise given under these Regulations; or

f. to violate any lawful order issued by any person or entity under these Regulations.

12-313-3.02 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the County constitutes a separate violation of the Zoning Regulations for purposes of calculating cumulative penalties.

12-313-4 LIABILITY

The owner, tenant or occupant of any land or structure, shall be presumed to know of activity occurring on the premises and thus may be charged with a violation under these Regulations for any violation occurring on any premises. Where an architect, engineer, contractor, builder, land surveyor, agent or other person appears to have participated directly in a violation of these Regulations, the Director of Zoning and Codes may also charge such person with a violation of these Regulations. All persons found to be responsible for the actions or inactions leading to a violation may be charged jointly and severally with violations as a result of the same incident or circumstances.

12-313-5 REMEDIES AND ENFORCEMENT POWERS

12-313-5.01 Withhold Permits And Approvals

The Director of Zoning and Codes may deny or withhold all permits, certificates, or other forms of authorization on any land, or structure or improvements thereon:

a. upon which there is an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the County;

b. owned or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the County.

12-313-5.02 Approval of Permits and Approval with Conditions

Instead of withholding or denying a permit or other authorization, the official with authority to approve the permit or authorization may grant such authorization only if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety or general welfare.

12-313-5.03 Revoke Permits and Approvals

Any permit or other form of authorization required under these Regulations may be revoked by the Director of Zoning and Codes or by any County official with authority to issue such permit when the Director of Zoning and Codes or other County official determines one of the following:

a. there is departure from the plans, specifications, or conditions as required under terms of the permit;

b. the development permit was procured by false representation or was issued in error;

c. or any of the provisions of these Regulations are being violated.

12-313-5.04 Stop Work

Whenever a building or land development, or part thereof, is being constructed, reconstructed, altered or repaired in violation of these Regulations, the Director of Zoning and Codes may order

the work to be immediately stopped.

a. The stop-work order shall be in writing and directed at the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.

b. Violation of a stop-work order constitutes a violation of these Regulations and is subject to the remedies provided in this Section.

12-313-5.05 Revoke Plans or Related Approvals

Where a violation of these Regulations involves a failure to comply with approved plans, or conditions to which the approval of such plans was made subject, the County may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan or other approval or condition its continuance on strict compliance with these Regulations, the provisions of financial security to ensure that construction is completed in compliance with approved plans, or such other conditions as the County may reasonably impose. Any required financial security shall be in a form approved by the County.

12-313-5.06 Forfeiture and Confiscation of Signs

Any sign installed or placed on public property, except in compliance with the applicable regulations of the County resolutions and regulations, will be subject to forfeiture to the County and to confiscation. In addition to other remedies and penalties of this Section, the County has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

12-313-5.07 Legal Relief

The County may commence a civil action or proceeding in District Court to stop any violation of these Regulations or of a permit, certificate or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation. The relief sought may include:

a. an injunction or other equitable relief;

b. an order in the nature of mandamus or abatement;

c. a judgment or order enforcing any requirement of, or under, these Regulations to pay a fee or reimburse, or compensate the County, including when the County is required or authorized to take specified action at the expense of the landowner; or

d. any other judgment or order available under Kansas law.

12-313-5.08 Criminal Penalties

Any person, firm, or corporation who shall violate any of the provisions of these Regulations, or fail to comply with any order or regulation thereunder, or who shall engage in development activity in violation of any specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall, of each and every violation and non-compliance respectively be deemed guilty of a misdemeanor, and upon conviction therefore shall be, for each offense:

a. fined a sum not less than $10 nor more than $500;

b. imprisoned for not more than 6 months; or

c. both fined and imprisoned.

12-313-5.09 Other Penalties and Remedies

The County may seek such other penalties and remedies, and employ such other enforcement powers, as are provided by Kansas law for violations of zoning, subdivision, sign or related provisions.

12-313-6 ENFORCEMENT BY OTHERS

12-313-6.01 Citizens

Pursuant to K.S.A. 12-761(b), any person, the value or use of whose property is or may be affected by a violation of these Regulations, is authorized to maintain a suit or action in any court of competent jurisdiction to enforce the provisions of these Regulations and to abate nuisances maintained in violation thereof.

12-313-6.02 State Officials

Pursuant to K.S.A. 12-761(c) and in the case of violations to the flood protection regulations, Section 12-312, the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas Board of Agriculture are authorized, in addition to other remedies, to institute injunction, mandamus, or other appropriate action or proceeding to prevent, correct or abate the violation.

12-313-7 CONTINUATION OF PREVIOUS ENFORCEMENT ACTIONS

Nothing in these Regulations prohibits the County's continuation of previous enforcement actions, undertaken by the County pursuant to previous and valid resolutions, regulations and laws.

12-313-8 REMEDIES CUMULATIVE

The remedies and enforcement powers established in these Regulations are cumulative, and the County may exercise them in any order.

12-313-9 ENFORCEMENT PROCEDURES

12-313-9.01 Non-Emergency Matters

In the case of violations of these Regulations that do not constitute an emergency or require immediate attention, the County shall give notice of the nature of the violation to the landowner or to any other person who is violating these Regulations or to any applicant for any relevant permit, after which the persons receiving notice will have 10 days to correct the violation before further enforcement action will be taken. Notice shall be given in person, by United States Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

12-313-9.02 Emergency Matters

In the case of violations of these Regulations that constitute an emergency situation as a result of public health or safety issues or public concerns or violations that will create increased problems or costs if not remedied immediately, the County may use the enforcement powers available under these Regulations without prior notice, but the County shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the landowner, to any other person who is violating these Regulations and to applicants for any relevant permit.

SECTION 12-314 GENERAL REGULATIONS/STANDARDS
314-1 Sign Regulations
314-2 Protection of Environmentally Sensitive Lands
314-3 Lighting

12-314.1 SIGN REGULATIONS

12-314-1.01 Purpose

These regulations are intended to:

a. Protect the general public from damage and injury which may be caused by the faulty and unregulated construction of signs;

b. Prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs; and

c. Ensure the visual quality of signs while preserving and promoting the rural aesthetic quality in unincorporated Douglas County Kansas.

12-314-1.02. Applicability

All signs must comply with the standards within this section.

12-314-1.03 Sign Permit

No person shall install, erect, construct, hang, or alter any sign without first obtaining a Sign Permit from the Director of Zoning and Codes with the following exceptions:

a. Governmental Signs;

b. Temporary signs which meet the standards established at Section 12-314-1.13;

c. Minor Signs; and

d. Fuel Pump Signs and Fuel Pump Topper Signs

12-314-1.04 Application and Review Process

Application for a sign permit shall be made to the Director of Zoning and Codes on a form provided by that office along with the required fee, as established by the Board of County Commissioners.

a. The applicant shall complete the application and shall provide sufficient information to allow a full and accurate overview of the proposed sign, sign alteration, or replacement of sign copy or sign face.

b. The Director of Zoning and Codes shall examine each application for a sign permit. Within 28 days of receiving an application, the Director shall approve the application unless:

1) The application is incomplete;

2) The application is determined to be fraudulent, to include a material misrepresentation, or to contain a false statement; or

3) The Zoning and Codes Director determines that the proposed sign or the proposed sign alteration does not conform to the sign regulations or other pertinent law.

12-314-1.05 Sign Permit Duration

Each sign permit shall be valid for a period of 180 days after issuance.

a. If the proposed sign or alteration is not completed and final approval of the sign is not obtained within that 180-day period, then the sign permit shall expire and shall be null and void; however,

b. Upon a showing of good cause, the Director of Zoning and Codes may grant an additional 180 days within which to complete the work and to obtain Final Approval.

12-314-1.06 Sign Permit Suspension or Revocation

a. The Director of Zoning and Codes shall have the authority to suspend or revoke any sign permit issued hereunder if the Director finds that the sign permit was issued on incorrect, inaccurate, or incomplete information, or the applicant's work is undertaken or performed in violation of the sign code or any other pertinent law.

b. Any Notice of Suspension or Notice of Revocation shall be transmitted to the applicant in writing. The notice shall inform the applicant of the reason for suspension or revocation, and shall state that the applicant has 14 days from the date noted on the notice in which to file any written Notice of Appeal with the Director of Zoning and Codes.

1) The Notice of Appeal shall state concisely the decision being appealed and why the appellant believes the decision is in error or otherwise in violation of the Sign Code or other pertinent law.

2) The Board of Zoning Appeals shall hear appeals of the Director's administrative determination per Section 12-307-8.

12-314-1.07 Inspections

The Director of Zoning and Codes may, from time to time, as deemed necessary, inspect any sign subject to the sign code to determine whether the sign is in good repair, in a proper state of preservation, and is otherwise in compliance with the sign code.

a. If the sign is in disrepair or is in violation of the sign code or other pertinent law, the Director shall issue a Notice and Order to the sign owner pursuant to Section 12-314-1.14 of this Article.

b. Upon completion of any sign or alteration of any sign, for which a sign permit was issued, the applicant shall inform the Director of Zoning and Codes, who shall make a final inspection. If the sign is compliant with the sign permit, sign code and other pertinent laws, the Director shall issue Final Approval of the Sign. If the sign is not in compliance with the sign permit, the sign code and other pertinent laws, the Director shall issue a Notice and Order pursuant to Section 12-314-1.14 of this Article.

12-314-1.08 Sign Standards

All signs shall be installed, erected, constructed, hung, or altered in accordance with these sign standards and all other pertinent laws in effect and enforced by the County and other regulatory agencies.

12-314-1.09 Dimensions.

a. Detached Signs. The area of a detached sign shall be computed by the entire area of the sign face, of the sign structure, sign cabinet or module, enclosed by the border of the frame.

b. Wall, window or other building-mounted signs. The size of the sign shall be measured by the area of the background.

c. Height. Sign height is measured from the lowest grade directly below the sign to the highest point on the sign or sign structure.

d. Clearance. Sign clearance is measured from the highest point of the ground directly below the sign to the lowest point on the sign structure enclosing the sign face.

12-314-1.10 Standards Applicable To All Signs

a. Maintenance. All signs, together with all supports, braces, guys, and anchors, shall be maintained in good repair and in a proper state of preservation.

b. Location. Signs shall not be located in any of the following:

1) A public road right-of-way, except for governmental signs installed by the County or Township, or other similar signs required by applicable federal, state, or local law;

2) The sight distance triangle.

3) A public utility or drainage easement.

c. Illumination. All illuminated signs shall be designed to eliminate negative effects on surrounding public right-of-way and adjacent properties.

1) The light associated with an illuminated sign shall not flash, oscillate, or otherwise create a negative effect on residential uses in direct line-of-sight of the sign.

2) External light sources illuminating any externally illuminated sign shall be directed and shielded to limit direct illumination of any object other than the sign.

12-314-1.11 Prohibited Signs.

The following sign types are not permitted:

a. Billboard signs;

b. Pole signs within the Urban Growth Area;

c. Electronic Messaging Centers;

d. Animated Signs;

e. Flashing Signs;

f. Mobile Signs;

g. Off-premise sign with a commercial content (not directional signage);

h. Any sign that makes use of any work, phrase, symbol, or character in such a manner as to interfere with, mislead, or confuse traffic on a public right-of-way; and

i. Any sign displaying any material, be it words, scenes, or graphics, that are obscene, indecent, immoral, or harmful to minors within the meaning of K.S.A. 21-6401, as amended.

12-314-1.12 Sign Regulations per Zoning District

On-premise signs are permitted in the following districts subject to the following standards:

a. AG-1 District

1) Maximum of one sign per lot/parcel and one building mounted sign per building.

2) Maximum size of 32 square feet per sign

3) Internally illuminated signs not permitted.

4) The sign may be externally illuminated, but illumination is to be turned off at the end of business hours.

5) Free standing signs must be set back a minimum of 10 feet from a road right-of-way, unless along a Federal or State Highway when the state or federal regulations shall apply.

b. AG-2 and V Districts

1) Maximum of one sign per lot/parcel and one building mounted sign per building.

2) Maximum size of 20 square feet.

3) Internally illuminated signs not permitted.

4) The sign may be externally illuminated, but illumination is to be turned off at the end of business hours.

5) Free standing signs must be set back a minimum of 10 feet from a road right-of-way, unless along a Federal or State Highway when the state or federal regulations shall apply.

c. LS DISTRICT

1) Maximum of one sign per building.

2) Maximum size of 8 square feet.

3) No illuminated signs permitted

4) Free standing signs must be set back a minimum of 10 feet from a road right-of-way, unless along a Federal or State Highway when the state or federal regulations shall apply.

d. LB and RT DISTRICT

1) Building Mounted Sign:
   i. Each business may have sign attached flat to the face of the building.

   ii. The sign may not exceed 32 square feet in area.

   iii. Internally illuminated signs not permitted.

   iv. The sign may be externally illuminated, but illumination is to be turned off at the end of business hours.

2) Free Standing Marker
   i. One free standing sign is permitted per lot/parcel.

   ii. The sign shall not be more than 4 feet in height from the ground and shall be limited to 32 square feet in area.

   iii. Free standing signs must be set back a minimum of 10 feet from a road right-of-way, unless along a Federal or State Highway when the state or federal regulations shall apply.

   iv. Internally illuminated signs not permitted.

   v. The sign may be externally illuminated, but illumination is to be turned off at the end of business hours.

e. GB, LI and GI DISTRICTS

1) Building Mounted Sign:
   i. Each business may have sign attached flat to the face of the building.

   ii. The sign shall not exceed 32 square feet in area.

   iii. External and/or internal illuminated signs permitted during business hours.

2) Free Standing Marker
   i. One free standing sign is permitted per lot/parcel.

   ii. The sign shall not be more than 4 feet in height from the ground and shall be limited to 32 square feet in area.

   iii. Free standing signs must be set back a minimum of 10 ft from a road right-of-way, unless along a Federal or State Highway when the state or federal regulations shall apply.

   iv. Internally illuminated signs not permitted.

v. The sign may be externally illuminated, but illumination is to be turned off at the end of business hours.

12-314-1.13 Temporary Signs

a. It shall be the duty of the person who causes the temporary sign to be installed, erected, or hung, to remove the temporary sign when the authorized display time has expired.

b. Temporary signs shall neither be illuminated nor painted with light-reflecting paint.

c. Temporary signs may be constructed of rigid or non-rigid material and must be securely anchored so as not to pose a distraction nor hazard to drivers, bicyclists, or pedestrians.

d. Temporary signs are limited to 60 days, with the following exception:

(1) The Director of Zoning and Codes is authorized to allow a temporary sign to remain on a parcel for longer than 60 days in a calendar year provided:

i. The property owner consents and the real property is being offered for sale through a real estate agent or through advertising in a local newspaper or the internet;

ii. The temporary sign is removed within 15 days after completion of the sale of the real property, or within 15 days after a contract for lease or rent of the real property has been executed.

e. The Director of Zoning and Codes is authorized to require the removal of any temporary sign that pertains to an expired event.

f. No more than 2 temporary signs shall be allowed on any property with the exception of temporary signs placed on a property for not more than 50 days prior to and 10 days after the date of a political election or ballot measure.

g. Public Works or the Director of Zoning and Codes is authorized to remove and to dispose of any temporary signs found on public property or in a right-of-way.

125-314-1.13 Nonconforming Signs

a. Nothing in these regulations shall prohibit the ordinary maintenance or repair of a nonconforming sign.

1) For the purpose of this section, replacement of sign copy, content or message is considered ordinary maintenance.

b. Any nonconforming sign that is structurally compromised, damaged by fire, explosion, collision, or other casualty by more than 50% of its present value shall not be repaired or replaced.

c. Any nonconforming sign that topples because its supports have been broken, have buckled, or are exhausted shall be considered to be damaged by more than 50% of its present value.

d. Internal illumination of nonconforming signs is prohibited.

12-314-1.14 Hazardous, Dangerous, Abandoned, and Vacant Signs; Signs Installed or Altered Without a Sign Permit

a. Notice and Order

1) Permanent Signs, if the Zoning and Codes Director finds that a permanent sign or sign structure is unsafe and insecure, is hazardous, presents a danger to the public, has been abandoned, or has been installed, constructed, erected, hung, or maintained in violation of these Regulations, then he or she shall give written Notice and Order to the owner of the real property to remove the offending sign or sign structure, or to correct any deficiency therein, within 30 days in order to come into compliance with the Sign Code. The Notice and Order shall specifically list the violation cited, shall give the owner 30 days to come into compliance, and shall notify the owner that they may appeal the Notice and Order to the Board of Zoning Appeals, in accordance Section 12-308.

2) Temporary Signs. If the Zoning and Codes Director finds that a temporary sign is unsafe and insecure, is hazardous, presents a danger to the public, has been abandoned, or has been installed, constructed, erected, hung, or maintained in violation of these Regulations, then they shall give written Notice and Order to the owner of the real property or the person responsible for placing the temporary sign to remove the offending temporary sign immediately in order to come into compliance with these Regulations. The Notice and Order shall specifically list the violation cited, shall give the owner 1 business day to come into compliance, and shall notify the owner that he or she may appeal the Notice and Order to the Board of Zoning Appeals in accordance to Sub-Section 12-308.

3) Filing of an appeal from this subsection does not stay any administrative enforcement action under these Regulations until the Board of Zoning Appeals has issued its final order.

12-314-1.15 Appeals

Any person aggrieved by a decision of the Director of Zoning and Codes related to any sign permit, Notice and Order, or other signage regulations shall have the right to appeal such a decision to the Board of Zoning Appeals, as noted in Section 12-308.

12-314-1.16 Definitions

a. Animated Sign: Any sign employing actual motion, the illusion of motion, or light and/or color changes achieved through mechanical, electrical, or electronic means.

b. Billboard: A permanent sign structure that is specifically intended for and used to display off-premises signs and is intended to be manually changed frequently or intermittently.

c. Electronic Message Center (EMC) Sign: A sign that utilizes computer-generated messages or some other electronic means of changing sign copy. EMC signs include displays using incandescent lamps, LEDs or LCDs, and may also enable changes to sign copy, message, or content to be made remotely.

d. Externally Illuminated Sign: Any sign, where the sign face reflects light intentionally directed upon it by an external light source.

e. Flashing Sign: A sign that contains flashing lights or exhibits noticeable changes in light intensity with a basic 'on-off' of the same light source or display pattern, or that includes the illusion of intermittent or flashing light by means of animation or an externally-mounted intermittent light source.

f. Fuel Pump Sign: A small sign or video screen mounted above or in, and integrated into the structure of an operable fuel dispensing pump, that is used to advertise the brand name of the fuel dispensed from the pump or to advertise goods offered for sale on the same lot on which the fuel pump is located, and that is neither legible, nor intended to be legible, from a public right-of-way.

g. Fuel Pump Topper Sign: A small sign affixed to the top of an operable fuel-dispensing pump that is used to advertise goods offered for sale on the same lot on which the fuel pump is located and that is neither legible, nr intended to be legible, from a public right-of-way.

h. Governmental Sign: Any type of sign that is constructed, placed, or maintained by, or at the direction of, federal, state, or local government. Governmental Signs include, but are not limited to: signs required to enforce or provide notice of a property owner's rights; signs for safety of the public; and traffic control or similar regulatory devices designed and located to control traffic movement and safety of vehicles and pedestrians in accordance with uniform traffic control device standards, such as the Manual for Uniform Traffic Control Devices (MUTCD).

i. Internally Illuminated Sign: Any sign for which the source of light is entirely enclosed within the sign.

j. Minor Sign: A sign, not more than 4 square feet in area, intended to convey messages to internal users of a site, and generally not visible from or intended to convey messages to persons in the public right-of-way. Examples include parking instructions, directional or wayfinding information, security warnings, business identification, or other similar communications that are accessory to the use of the site and any building located thereon.

k. Mobile Sign: A sign affixed to a truck, trailer, automobile or other vehicle.

l. Nonconforming Sign: Any sign that was lawful at the time of installation, erection, construction, or alteration, but is now prohibited by the sign code.

m. Off-premises Sign: A sign installed, erected, or constructed on a site that is not appurtenant to the use of, products being sold on, work being performed on, or the sale, lease, or rental of the land on which the sign is located, and shall include all billboard signs and political signs with a gross surface area of more than 32 square feet.

n. On-premises Sign: A sign installed, erected, or constructed on a site or property appurtenant to the use of, products being sold on, work being performed, on, or the sale, lease or rental of the land on which the sign is located.

o. Portable Sign: A sign or sign structure without a permanent foundation and not otherwise permanently attached to a fixed location that can be carried, towed, hauled, or transported and is primarily designed to be moved rather than limited to a fixed location, regardless of any modifications that may limit its portability.

p. Sign: Any name, identification, description, display, or illustration that is affixed to, painted on, or represented directly or indirectly upon a building or other outdoor surface or support structure and that directs attention to, or is designed or intended to direction attention to, the sign face or to an object, product, place, building, structure, activity, person, institution, organization, or business, including all parts, portions, units, and materials composing the same; together with the frame, background, and supports or anchoring thereof.

For the purposes of the sign code, a work of art, as defined in this article, is not considered to be a sign.

Any sign located entirely within an enclosed structure and not exposed to a public right-of-way or parking lot is not, for the purposes of the sign regulations, considered to be a sign.

q. Sign Copy: The letters, numerals, figures symbols, logos, and graphic elements constituting the content or message of a sign.

r. Sign Alteration: Any change or modification to the size, shape, height, width, or depth of a sign or sign structure; any replacement or reconstruction of a sign structure foundation nor base, or any replacement of poles or pylons that support a sign or sign structure.

Sign alteration does not include the replacement of existing sign face, ordinary repair or maintenance of an existing sign or sign structure (such as masonry tuck-pointing, sandblasting, patching of holes, painting or re-covering an existing sign pole), or replacement or upgrade to internal electrical components of an existing sign or sign cabinet.

s. Sign Structure: Any structure that is built or constructed and supports, or is capable of supporting, a sign, as defined herein. A sign structure shall include the foundation and base, the poles or pylons that support the sign, any structural extensions that support a sign or sign cabinet, and any structural framework that supports a sign, sign face, or sign cabinet.

t. Temporary Sign: A portable sign that is not permanently embedded in the ground or permanently affixed to a building or structure, and that is designed or intended to be displayed for a limited time. Typically, a temporary sign is constructed of cloth, canvas, light fabric, cardboard, wallboard, aluminum, or other similar light materials, with or without frames. A temporary sign does not include a permanent sign with temporary or changeable sign copy or a portable sign.

u. Vacant Sign**:** Any sign located on a building or property that is vacant and unoccupied for more than 60 days.

v. Work of Art: Any mural painting or decoration, inscription, mosaic, painted glass, gas-relieve, or other similar art form of a permanent character that is intended for decoration, ornament, or commemoration, and that is applied to, placed upon, or erected on any lot or parcel or wall of any building or structure. Typically, a work of art does not incorporate logos or other commercial speech

12-314-2 PROTECTION OF ENVIRONMENTALLY SENSITIVE LANDS

12-314-2.01 Applicability

The standards for the protection of environmentally sensitive lands shall apply to all construction and development within the unincorporated portion of the county that is subject to these Zoning Regulations.

12-314-2.02 Environmentally Sensitive Lands

If 500 square feet or more of a proposed development consists of lands falling in the following categories, any proposed development may proceed only in accordance with the processes allowed by this section. The lands affected by this section are listed below in a priority order for protection:

a. Regulatory Floodways, designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the County GIS Map;

b. Regulatory Floodway Fringe, designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the County GIS Map;

c. Jurisdictional Wetlands, as determined by the Army Corps of Engineers;

d. Stream Corridors as defined in these regulations;

e. Native Prairie and Restored Prairie; which have been voluntarily listed for protection;

f. Prime Farmland as defined by the Natural Resource Conservation Service;

g. Stands of Mature Trees as defined in these regulations; with priority to Heritage Woodlands (old growth forests); and

h. Archaeological and Historic Sites listed on local, state, or federal registers.

12-314.2.03 Procedures

a. Protection Required

Environmentally sensitive lands shall be protected with all types of developments, including residential, commercial, and industrial. Up to 40% of a property may be required to be protected if the property contains more than 40% of environmentally sensitive lands. The protected land shall be placed in a tract, easement, or future development area or may be further protected with a conservation easement or temporary set-aside agreement as noted in Section 11-104 of the Subdivision Regulations.

b. Development Process

Development on land which contains more than 500 square feet of environmentally sensitive lands shall require submission of a Sensitive Areas Site Plan and may proceed through one of the following processes:

1) Site Planning or Conditional Use.
The Sensitive Areas Site Plan may be provided separately or may be consolidated with any other required plan, but will be required prior to approval of a development proposal. The plan shall clearly delineate the environmentally sensitive lands to be protected and shall include information regarding protection measures and maintenance.

2) Platting or Certificates of Survey.
Environmentally sensitive lands to be protected shall be located within tracts, easements or future development areas. Information regarding ownership and maintenance responsibility of the tract or easement as well as protection measures, shall be included on the plat or certificate of survey.

c. Effect on Development Density
Protected Environmentally Sensitive Lands may be included in determining the allowable density or intensity of development and the allowable density, calculated on the total land area, may be transferred to other developable portions of the property.

d. Sensitive Areas Site Plan

1) Prior to development on land containing more than 500 square feet of environmentally sensitive lands listed in Section 12-314-2.02, a Sensitive Areas Site Plan shall first be submitted to and approved by the applicable office, the Planning Office or Zoning and Codes.

2) Contents:
The sensitive area site plan is not required to be completed by an engineer, architect, or other design professional. The plan shall:

i. Clearly delineate the property boundaries.

ii. Clearly delineate the boundaries of the environmentally sensitive lands listed in Section 12-314-2.02.

iii. Designate protected lands per the priority order in Section 12-314-2.02.

iv. Provide information on the ownership and maintenance responsibility of the protected lands.

v. Provide information on the methods to be used to protect environmentally sensitive lands, both during construction and after.

12-314-3. LIGHTING

12-314-3.01 Purpose

The outdoor lighting standards of this section are intended to eliminate spillover light and light glare on motor vehicle operators, nearby land uses, and pedestrians. Safety considerations and protection of the rural character of the unincorporated area are the primary basis for the regulations.

12-314.3.02 Applicability

The regulations of this section apply to all uses except:

a. Public street/highway lighting are exempt from the standards of this section but are subject to all applicable standards of the Kansas Department of Transportation or the County Public Works Department.

b. Residential uses are exempt except that spot lights, flood lights, or security lights that create a glare on neighboring properties are prohibited.

c. Holiday lighting; and

d. TV, Microwave, or Radio Towers; Wireless Facilities; and Wind Energy Conversion Systems.

12-314.303 Lighting Plan

a. An outdoor lighting plan shall be submitted to the Planning Director whenever outdoor lighting is to be installed or whenever site plan or conditional use permit review is required. The lighting plan shall be reviewed to determine whether the proposed outdoor lighting complies with the standards of this section.

b. The outdoor lighting plan shall include the following:

1) Scaled drawing of the site with all outdoor lighting fixture locations identified.

2) Fixture specifications, such as catalog cut-sheets.

3) The plan shall note the type of fixture, height, shielding, luminaire type, wattage, lumen level and, if an LED light, the BUG rating.

12-314.304 Lighting Standards

a. All outdoor lights shall, to the maximum extent feasible, confine emitted light to the property on which it is located.

b. Lights shall not be directed upwards to the sky, but may be pointed up to provide up-lighting to a building or sign.

c. All non-LED fixtures shall be full cut-off fixtures.

d. LED Standards (Reserved)

e. Wildlife Habitat or Conservation Area (Reserved)

12-315 DEFINITIONS

12-315.1 USE CATEGORIES

Accessory Dwelling Unit	A smaller, independent residential dwelling unit located on the same lot or parcel as a detached dwelling.
Agriculture	The use of land for the following purposes: • animal husbandry, • dairying, • pasturing livestock, • operating and maintaining a concentrated feeding operation, truck farming, • cultivating and growing field crops, hay, and sod, • cultivating and growing orchards and groves, • raising fish, birds, poultry, bees, • cultivating trees, shrubs, and flowers for wholesale distribution, the operation or maintenance of greenhouses, nurseries or hydroponic farms, and • operating a farm winery and tasting room as defined by state statute. Also includes activities directly related to such uses including the storage, processing, and sale of products. For purposes of these regulations the breeding, boarding, or training of kennel operations are not considered agricultural uses.
Agritourism	The intersection of agriculture and tourism, when the public visits agricultural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Typical uses include, but are not limited to corn mazes, farm stays, agriculturally related educational and learning experiences, recreation-related operations, and assembly type uses.
Amateur and receive only antennas	Amateur radio, also known as ham radio, is the use of radio frequency spectrum for purposes of non-commercial exchange of messages, private recreation, and emergency communication. Receive only antennas are typically used to receive radio waves and convert them to sound, as in radios.
Ancillary Agricultural retail sales	The limited sales of products not raised, grown, or otherwise produced on the site that are ancillary to an on-site agricultural use.
Animal Hospital or Clinic	Medical care facility for large or small animals, includes veterinarian hospital or office.
Asphalt or concrete batch plant	A temporary facility that produces or processes asphalt or concrete only for use in a particular construction project and only for the duration of that project.
Bank/Financial Institution	This office use includes banks, savings and loan, credit union, and other similar uses.
Bar or Tavern	A commercial establishment whose primary activity is the sale of alcoholic beverages to be consumed on the premises. Bars

	include taverns, night clubs, private clubs, and similar facilities serving alcoholic liquor.
Bed & Breakfast	An establishment located within a detached dwelling that is the principal residence of the operator, where short-term lodging is offered for compensation and that includes the service of one or more meals to guests.
Boat or other recreational vehicle sales/rental/service	The sales, rental, or service of boats and other recreational vehicles. Recreational vehicles include, but are not limited to snowmobiles, jet-skis, and all-terrain vehicles as well as motor homes and other recreational vehicles used as dwellings.
Boat/RV Storage	The storage of boats and other recreational vehicles. Recreational vehicles include, but are not limited to snowmobiles, jet-skis, and all-terrain vehicles as well as motor homes and other recreational vehicles used as dwellings
Campgrounds, Developed and Primitive	Any parcel wherein sites are offered for the use of the public or members of any organization for the establishment of temporary living sites to be occupied with recreational vehicles, tents, cabins, etc. A primitive campground has no facilities provided for the comfort or convenience of the campers. A developed campground has amenities such as restrooms, bathing facilities, etc. as well as roadways leading to all campsites.
Camping, Personal	A property owner's use of their own property for temporary overnight accommodations for them or their guests in recreational vehicles, tents, etc.
Camping, Special Event	Any temporary overnight accommodations proposed as part of a special event.
Caretaker/manager's residence	An accessory dwelling on a nonresidential premises, occupied by the person who oversees the nonresidential operations, and their family members.
Cemeteries	Land used for the burial of the dead and dedicated for cemetery purposes, excluding columbariums, crematories, mausoleums and mortuaries.
Clustered Housing	A development design that concentrates buildings in specific areas on a site. Typical uses include, but are not limited to manufactured home parks and tiny homes communities.
College and Schools,	An institution for the teaching of children or adults. This use Includes primary or elementary schools, junior high or middle schools, high schools, colleges, universities, and trade or business schools.
Commercial Compost	A solid-waste processing facility where organic matter such as yard, garden and non-meat food production wastes, but not including bio-solids, derived primarily or solely from off-site is processed by decomposition for commercial purposes. Activities of a commercial compost facility may include management, collection, transportation, composting, curing, storage, and marketing of compost.

Commercial Dog Kennel	Any place where two or more adult dogs are kept for a boarding or other fee, or any place where more than five dogs over three months of age are kept for any purpose.
Commercial Grain Storage	Structures or areas for storage and shipment of grain not raised on the site, as a commercial enterprise, rather than as an individual agricultural use. Typical uses include, but are not limited to seed houses and grain elevators.
Commercial Riding Stable or Academy	An establishment where horses are boarded and cared for, and where instruction in riding, jumping, and showing is offered. Horses may also be rented for riding.
Commercial Slaughtering/Processing General	A facility used for the killing and butchering of livestock that were not raised on the premises and the refining of their byproducts. Products are typically sold to butcher shops or grocery stores.
Commercial Slaughtering/Processing Limited	A small-scale facility used for the killing and butchering of livestock that were not raised on the premises and the refining of their byproducts. Products may be sold to butcher shops or grocery stores, but the service may also commonly be contracted by individuals.
Community Center, Libraries, Museums or art galleries	Facilities for preservation of historical or culturally significant items, collections of books or works of art, or assembly areas for neighborhood members or groups.
Construction Sales & Services	Construction activities and incidental storage on properties other than the construction sites. Includes the retail or wholesale sale from the premises of materials used in the construction of buildings or other structures including paint, fixtures and hardware but excludes
Contractor Shop/Yard	An establishment used for the repair, maintenance, or storage of a contractor's equipment or materials and may include the contractor's business office.
Day Care Center	A place, other than an occupied dwelling, where supervision and care is provided for children or elderly or functionally impaired adults for less than 24 hours a day.
Day Care Home	Care is provided for less than 24 hours a day for 12 or fewer individuals (not including the care of members of the provider's own family) as an accessory use to an occupied residence in which the occupant is the primary provider of the care.
Day Care Home non-occupant provider (CUP)	Care is provided for less than 24 hours a day for 12 or fewer individuals as an accessory use to an occupied residence in which the occupant is not the primary provider of the care. The primary provider resides elsewhere and travels to the facility.
Detached (Single-Family) Dwelling	A dwelling which is not attached to any other dwelling, excluding accessory dwelling units, and designed for or occupied as living quarters by a single family, a person, or group of persons living together as a household. Residential Design Manufactured Homes are a type of detached dwelling.

Equipment Storage (Heavy)	Storage of vehicles or equipment such as large trucks, farm equipment, excavation equipment.
Event Center/Public Assembly	A structure and/or grounds that accommodates a variety of social events such as, but not limited to, banquets, weddings, receptions, parties, community events. Meetings, or any other event that is intermittent and temporary in nature. This definition does not include a religious institution and similar congregations where a wedding or funeral is an ancillary use.
Extended Care Facility	A long term facility or part of an institution occupied by persons with a disability who require the provision of health care services under medical supervision for 24 or more consecutive hours and who need not be related by blood or marriage. The term 'disability' as used in this definition refers to a physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such impairment, or being regarded as having such impairment.
Exterior Storage	Outdoor storage of materials related to the principal use of the site, not including areas for special events, temporary outdoor events, seasonal events, or any other outdoor area dedicated to the sale of retail goods. Outdoor storage and sales areas open to the public and in which transactions can occur are not considered exterior storage. (Exterior storage that is incidental to a detached dwelling is not included in this term).
Fairgrounds	An area where buildings, structures, and land are used for the exhibition of livestock and farm products, agricultural related offices, carnivals, community meeting or recreational buildings.
Farm Employee Housing	Dwellings accessory to an agricultural/farm use that are occupied by farm employees and their family members. A farm employee housing unit may not meet the definition of an Accessory Dwelling Unit due to the fact that the housing is located on a parcel without a principal dwelling present or there may be more than one Farm Housing unit present on a property.
Farm Implement Repair Service	Repair service for agricultural machinery and equipment.
Farm Stand	A building, structure, or open-air stand used for the seasonal retail sales of unprocessed fruits, vegetables, flowers, herbs or other agricultural products grown on the premises.
Farmer's Market	An area, with or without buildings or structures, at which vendors gather to sell produce, eggs, honey or other products. The sale of other products such as pies and breads may also be permitted as part of the farmer's market.
Fireworks Sales	The seasonal sales of fireworks.
Gas and Fuel Sales	Retail sales from the premises of vehicular fuels with incidental sale of tires, batteries, and replacement items, lubricating services, minor repair services and food and beverage items.

	Typical uses include gas stations with or without convenience stores.
General Service and Repair Establishment	Establishments primarily engaged in the provision of individuals and households (excluding automotive and equipment repair use types). Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.
Government Buildings	A building or structure owned, operated, or occupied by governmental agency to provide a governmental service to the public.
Group Home, General	Any dwelling occupied by 11 or more persons, including 8 or more persons with a disability who need not be related by blood or marriage and staff residents who need not be related by blood or marriage to each other or to other residents of the home. The dwelling is licensed by one or more of the following regulatory agencies of the State: Department of Social and Healing Arts, Behavioral Sciences Regulatory Board, or State Board of Healing Arts. Disability means, with respect to a person (a) a physical or mental impairment which substantially limits one or more of such person's major life activities; (b) a record of having such impairment, or (c) being regarded as having such impairment. Such term does not include current illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C.802)
Group Home, Limited	Any dwelling occupied by not more than 10 persons, including 8 or fewer persons with a disability who need not be related by blood or marriage and not to exceed 2 staff residents who need not be related by blood or marriage to each other or to other residents of the home. The dwelling is licensed by one or more of the following regulatory agencies of the State: Department of Social and Healing Arts, Behavioral Sciences Regulatory Board, or State Board of Healing Arts. Disability means, with respect to a person (a) a physical or mental impairment which substantially limits one or more of such person's major life activities; (b) a record of having such impairment, or (c) being regarded as having such impairment. Such term does not include current illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C.802)
Heavy equipment repair/service	Repair of heavy construction equipment, aircraft, farm equipment, and other heavy equipment as well as the sale, installation, or servicing of automotive equipment and parts together with body repairs, painting, and steam cleaning. Typical uses include engine repair shops, body shops, and motor freight maintenance groups.
Heavy Equipment Sales and Rentals	Sale, retail or wholesale, or rental from the premises of heavy construction trucks, farm equipment, and other heavy equipment together with incidental maintenance. Typical uses include heavy construction equipment dealers and farm implement sales.
Hobby Farm	The raising of livestock, farm animals, fish, birds, bees, and crops that is operated accessory to a residential use or without the

	expectation of being a primary source of income. The farm is operated primarily for personal use or pleasure instead of a business venture.
Home Occupation Type 1	An occupation or business conducted within a dwelling by a resident of the property and is clearly incidental to the residential use. Typical uses include but are not limited to, the following low impact uses: small art class instruction, home crafts, office facilities, beauty shops.
Home Occupation Type 2	An occupation that is operated out of the home or within an accessory building and has no more than 4 employees. Typical uses include but are not limited to, the following medium impact uses: assembly, distribution, and repair of dairy equipment; assembly of mechanical devices and components; automobile painting, upholstering, rebuilding, and body work; welding and machine shops; and contractor's equipment and material storage.
Landfill	A place to dispose of refuse and other waste material by burying it and covering it over with soil, especially as a method of filling in or extending usable land.
Landscape and Lawn Care Businesses	A business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds. Such a business may be engaged in the installation and construction of underground improvements (such as irrigation and drainage facilities).
Light equipment repair/service	Repair of automobiles and other light equipment and the sale, installation, and serving of automobile equipment and parts but excluding body repairs and painting. Typical uses include tire repair and alignment, muffler shops, auto or motorcycle repair garages, and auto glass shops.
Light Equipment Sales and Rentals	Sale (retail or wholesale) or rental from the premises of autos, noncommercial trucks, motorcycles, trailers with less than 10,000 pounds gross cargo weight, motor homes and boats, together with incidental maintenance. Typical uses include automobile and boat dealers, car rental agencies, and recreational vehicles sales and rental agencies.
Major utilities	Services and utilities that have substantial impacts. Typical uses include, but are not limited to, major water storage facilities, public airports, and power generation plants.
Manufacturing & Production, General	The processing and manufacturing of materials or products predominately from extracted or raw materials. This manufacturing or production may produce noise, vibrations, illumination, or particulate matter that is perceptible to adjacent land uses.
Manufacturing & Production, Light	The manufacturing, assembly, fabrication, packaging, or other industrial processing of finished parts or products primarily from previously prepared materials. The manufacturing or production process will not produce noise, vibration, air pollution, fire hazard,

	or noxious emission that create significant impacts to adjacent land uses.
Medical or Dental Clinics or Offices	An office building or a group of offices for one or more physicians or dentists engaged in treating the sick or injured but not including rooms for abiding patients.
Mini- or Self- Storage	Storage or warehousing service within a building for individuals to store personal effects.
Mining, excavation and/or extraction of natural resources	The process of obtaining and processing sand, rock, aggregate, clay, or similar materials form an open excavation in the earth or the removal of top soil or soil from a site for sale or off-site use.
Minor utilities	Public utilities that have a local impact on surrounding properties. Typical uses include, but are not limited to, rural water district booster stations and water towers. Utilities such as transformers and gas meters are not considered minor utilities.
Motel/Hotel	A building or group of buildings in which lodging is provided to the transient guests, offered to the public for compensation.
Nature preserve	Open space areas generally or predominantly remaining in a natural or undeveloped state, including natural wildlife and plant habitat areas. Such areas may include hiking, bicycling, and equestrian trails and sitting and picnic areas.
Non-profit educational or philanthropic institutional uses	A variety of uses which are operated as non-profit, educational, philanthropic, or institutional uses. The following are examples of the types of uses that fit into this category: • Congregate living/group home for troubled youth that do not have disabilities as noted in the definition for a 'group home'; • Multiple group homes for developmentally challenged individuals on one property to create an agricultural community. The facility includes a community building, indoor riding arena, and greenhouse; • Open space visitor center;
Offices	Professional, governmental, executive, management, or administrative offices of private organizations or government agencies. Typical uses include, but are not limited to, government offices, attorney offices, architectural or engineering consulting firms.
Oil or natural gas drilling, storage. distribution	Infrastructure, equipment, and storage facilities for the drilling, storage, and distribution of oil, natural gas, and other similar natural resources.
Personal Services	Provision of small personal items or consumer oriented, personal services in a small scale setting. These include various general retail sales and personal services of a small neighborhood-scale. Typical uses include alteration/tailor shops, beauty salons and barbershops, nail salons, fine arts studios or other small scale craft classrooms.

Private Airstrip/ Heliport (Public or Private)	An airstrip or landing pad restricted, except for aircraft emergencies, tp use by the owner and, on an infrequent and occasional basis, by invited guests.
Public Parks/Playgrounds	A noncommercial, not-for-profit facility designed to serve the recreation needs of the residents of the community.
Radio, Television, and Microwave Towers	Towers for the placement of antennas for the purpose of sending and/or receiving radio, television, and/or microwave signals.
Recycling Collection Center	A center or facility for the acceptance by donation, redemption, or purchase of recyclable materials from the public. Typical collection measures include attended or unattended mobile collection units such as all-weather roll-off containers or bins, and indoor facilities ancillary to the primary activity of a business or organization.
Recycling Processing	A building or enclosed space used for the preparation of materials for efficient shipment, or to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, cleaning, and remanufacturing.
Religious Institution,	An institution for religious services involving public assembly such as customarily occurs in synagogues, temples, mosques, and churches.
Research Facility, Ag Related	Research of an agricultural nature generally provided as a service or conducted by a public agency or private firm.
Restaurant	An establishment, with or without a drive-thru, at which food and/or beverages is prepared and sold for consumption on the premises to patrons.
Retail Sales	Companies or individuals involved in the sale, lease, or rental of new or used produces to the general public.
Sale Barn/Auction House	A structure or enclosure where goods or livestock are sold to the highest bidder.
Salvage yards	A parcel of land with or without buildings used for storage of discarded materials where secondhand materials may be bought, sold, exchanged, store, processed, or handled. Materials include but are not limited to scrap iron and other ferrous metals, rubber tires, discarded goods, machinery, and inoperable motor vehicles.
Sexually Oriented Business	Sexually Oriented Business uses for the purposes of these regulations shall be broadly interpreted to include the following types of uses and activities: 1) <u>Adult arcade</u> 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 (5) 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."

2) 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:
   a) More than thirty (30%) 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);
   b) More than thirty percent (30%) of the gross sales (including rentals) result from the sale or rental of adult media;
   c) More than thirty percent (30%) of the dollar value of all merchandise displayed at any time is attributable to adult media;
   d) More than thirty percent (30%) of all inventory consists of adult media at any time;
   e) More than thirty percent (30%) of the merchandise displayed for sale consists of adult media; or
   f) More than thirty percent (30%) of the stock in trade consists of such items at any time.

3) Adult cabaret means a nightclub, bar, restaurant, or similar commercial where a significant and substantial portion of its business is featuring:
   a) Persons who appear in a state of nudity; or
   b) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
   c) 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."

4) 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.

5) 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”.

6) Adult motel means a hotel, motel or similar commercial establishment which:
   a) 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
   b) Offers a sleeping room for rent for a period of time that is less than 10 hours, or
   c) 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.

7) 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."

8) 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”.

9) 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:

a) Expert testimony as to the principle use of the item;

b) Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;

c) National and local advertising concerning the use of the item;

d) Evidence of advertising concerning the nature of the business establishment;

e) Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;

f) The physical or structural characteristics of the item; and

g) The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

10) 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 to privately model lingerie or to privately perform a striptease for another person.

11) 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.

12) Establishment means and includes any of the following:

a) The opening or commencement of any sexually oriented business as a new business;

b) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;

c) The addition(s) of any sexually oriented business to any other existing sexually oriented business; or

d) The relocation of any sexually oriented business.

13) 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.

14) 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.

15) Nudity or a state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

16) Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

17) 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.

18) Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:
    a) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
    b) 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.

19) 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.

20) Specified anatomical areas means
    a) Less than completely and opaque covered: human genitals, pubic region, buttocks and female breast a point immediately above the top of the areola; and
    b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

21) Specified sexual activities means and includes any of the following:
    a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
    b) Sex acts, normal or perverted, actual or simulated,

	including intercourse, oral copulation, or sodomy; c) Masturbation, actual or simulated, or d) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above. 22) 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. 23) 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 Article 20, Non-Conforming uses]. 24) Transfer of ownership or control of a sexually oriented business means and includes any of the following: a) The sale, leases, or subleases of the business, b) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or c) 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. Sexually Oriented Businesses shall include but not be limited to the following: 1. Adult arcades; 2. Adult media outlet, 3. Adult cabarets; 4. Adult motels; 5. Adult motion picture theaters; 6. Adult retail establishment; 7. Adult theaters 8. Escort agencies; 9. Nude model studios; and 10. Sexual encounter centers move to standards
Small Scale Industrial Uses	A small scale industrial use is a home occupation which has grown to the point it no longer meets the home occupation requirements but is not large enough to justify relocation to a non 'A' zoned property or within city limits. The use is small scale and has

	operational characteristics so as to be compatible with nearby land uses, while maintaining the rural character of the area.
Special Event	A short-term use of land or structures which is not otherwise included as a permitted or accessory use by the Zoning Regulations.
Sports or Recreation, Participant (Indoor/Outdoor)	Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis.) Typical indoor uses include, but are not limited to, bowling alleys, billiard parlors, fitness centers, indoor softball practice. Typical outdoor uses include, but are not limited to, driving ranges, golf courses, and swimming pools.
Stand of Mature Trees	An area of ½ acre (21,780 sq ft) or more located on the 'development land area' or on other contiguous properties containing trees that are 25 feet or more in height, or are greater than 8" Caliper, in an amount adequate to form a continuous or nearly continuous canopy. (Canopy may be determined from resources such as, but not limited to, NAIP: National Agricultural Imaging Program, County GIS aerials, and field surveys.)
Stream Corridor	A strip of land 100 feet wide, of which the centerline shall be the centerline of a stream that is not an ephemeral stream: a stream where flow occurs for only a short time after extreme storms and does not have a well-defined channel, similar to a drainage-way.
Temporary Business Use	The conduction of limited business uses on property that is not owned and regularly used by the applicant/sponsor of the business for such purpose; proved that, the 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 leased or borrowed for that activity. Typical uses include temporary batch plant, construction materials yard, flea market, and movie or video filming operations.
Temporary housing during Construction	Housing which is provided on site to facilitate the construction of another structure on the site. Temporary housing may be provided in various means including, but not limited to, RV's or accessory structures.
Vacation rentals	Any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests paying a fee or other compensation for a period of less than 30 consecutive days.
Value Added Agricultural Business	The process of increasing the economic value of an agricultural product through one of the following: • A change in the physical state or form of the commodity or product (such as milling wheat into flour, slicing produce, making brandy from fruit, or forming heating bricks from straw); • Production manner enhances the value (such as organically produced products);

	• Physical segregation of a commodity or product in a manner that enhances the value (such as identity preserved marketing system)
Wholesale storage & Distribution/ Warehousing	The storage and distribution of goods, as well as activities involving significant movement and storage of products or equipment. Uses include, but are not limited to, truck terminals, moving and storage facilities, and storage warehouses.
Wind energy Conversion System/ Commercial	Machines that converts the kinetic energy in the wind into electrical energy for the primary purpose of resale or off-site use; commonly known as a wind turbine.
Wind Turbine/ Residential or Accessory	Machine that converts the kinetic energy in the wind into electric energy, with a maximum capacity to produce up to 50 kilowatts of electrical power for on-site use.
Wireless Facilities	Structures, equipment, and appurtenances used to transmit, receive, distribute, provide, or offer wireless telecommunications services.

12-315-2 General Terms

Accessory Structure: A subordinate structure, or building, the use of which is clearly incidental to or customarily found in connection with, and located on the same lot or eligible parcel as the principal building or principal use of the land.

Accessory Use: A use which is clearly incidental to or customarily found in connection with, and on the same lot or parcel as the principal use of the premises.

Adjacent: Property that abuts another property; has a common border with or is contiguous to another property.

Agricultural Exemption Criteria:

1) If the premises on which the proposed building is located consists of 40 or more contiguous acres, the Department of Zoning & Codes will generally rely upon the owner's certification that the **existing or proposed building is, or will be** used solely for agricultural purposes, without further documentation.

2) If the premises on which the proposed building is located consists of less than 40 contiguous acres, the property owner shall provide the Department of Zoning & Codes additional documentation to establish to its satisfaction that the owner or tenant of the premises uses the premises for an agricultural use and that the existing or proposed building is, or will be used as an accessory to such agricultural use. Such documentation shall generally include a copy of Schedule F to the property owner's most recent IRS Form 1040, and may include additional documentation. (from Resolution 08-25)

Basement: That portion of a building that is partly or completely below the grade plane. A basement shall be considered as a story above the grade plane where the finished surface of the floor above the basement is:

1. More than 6 feet above the grade plane; or
2. More than 12 feet above the finished ground level at any point.

Base Setback Line: The line from which all required setbacks are measured for those sides of a property with road frontage. The Base Setback Line corresponds to the established ultimate road right-of-way line as set forth in the Subdivision Regulations [Section 11-110(e)(5)(2) County Code]. If the dedicated right-of-way exceeds the width required in the Subdivision Regulations, the existing right-of-way line is the Base Setback Line.

Board: The Board of Zoning Appeals of Douglas County.

Building: Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, or property of any kind.

Building, Completely Enclosed: Any building having no outside openings other than ordinary doors, windows, and ventilators.

Building, Principal: Any building which houses the principal use on the property.

Commission: The Lawrence-Douglas County Metropolitan Planning Commission.

Detached Dwelling: A residence which is not attached to any other residence; is surrounded by open space.

District: Any section of Douglas County within which the zoning regulations are uniform.

Dwelling: A building or portion thereof designed or used exclusively as the residence or sleeping place of one or more persons, but not including a tent, trailer, or mobile home.

Dwelling, Residential-Design Manufactured Home: Any structure that is manufactured to the standards embodied in the National Manufactured Home Construction and Safety Standards (generally known as the HUD Code) established in 1976 pursuant to 42. U.S.C. Sec. 5403.

Eligible Parcel: An eligible parcel is a piece of property that has a vested right to a building permit due to the fact that it was divided in accordance with the Subdivision Regulations in place at the time the division occurred or was in the current configuration prior to the adoption of zoning in the unincorporated portion of the County, 1966. These include rural development parcels created through the certificate of survey process, vested parcels as defined in Section 11-101(e) of the Subdivision Regulations, and exempt parcels which meet the criteria in Section 11-101(d))2)(vi) of the Subdivision Regulations.

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.

Frontage: That portion of the Lot or parcel that lies between the side property lines and is adjacent to the road from which access is taken.

Full Maintenance Road: A road in the unincorporated area of the County that receives maintenance on a regular basis in accordance with its road classification and traffic counts. A road which has not been officially designated a 'Minimum Maintenance Road.'

Garbage: Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Grade (also called Grade Plane): A reference plane representing the average of finished ground level slopes away from the exterior walls. The reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

Health Authority: The Lawrence Douglas County Health Officer or an authorized representative.

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.

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.

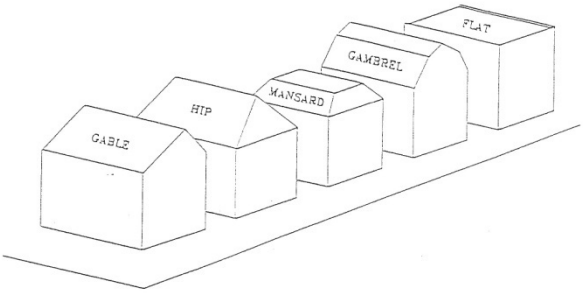


Diagram 1. Height of Building

Heliport: The area of land, water or a structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

Lagoon Or Sewage Lagoon: An artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer, for biological decomposition.

Litter: "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.

Livestock: Any animal customarily kept by humans for the purpose of providing food, clothing, or work, including but not limited to horses or animals of the equine species, cattle or species of the bovine species, goats or animals of the caprine species, sheep or all animals of the ovine species, hogs or all animals of the porcine species, and fowl; but excluding bees, rabbits, fish, and domesticated animals such as cats and dogs.

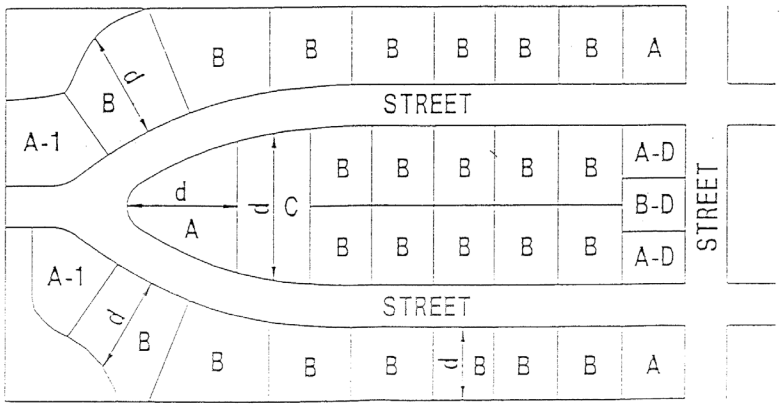
Loading Space: A space within the main building, or on the same lot or eligible parcel, providing

for the standing, loading, or unloading of trucks.

Lot: A designated area of land established through a Plat through the Subdivision Process to be used, transferred, developed or built upon as a unit.

Lot Area: The total horizontal area within the lines of the lot.

Lot/RDP/Eligible Parcel, Corner: A Lot, RDP, or Eligible Parcel located at the intersection of two or more roads. (See lots marked A in the diagram which follows.) A lot abutting a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A-1 in the diagram.



Lot/RDP/Eligible Parcel, Depth: The distance between the midpoint of the front lot, RDP, or parcel line and the midpoint of the rear boundary line. In irregularly shaped lots, RDPs or parcels, it is the mean (average) distance between the front and rear lot lines.

Lot/RDP/Eligible Parcel, Interior: A lot, RDP, or parcel bounded on both sides by other lots or parcels. (See lots "B" on the diagram.)

Lot/RDP/Eligible Parcel, Line: The line marking the boundary of a platted lot.

Lot/RDP/Eligible Parcel, Through: A platted lot abutting two roads but not at their intersection. A corner lot is not considered a through lot.

Lot/RDP/Eligible Parcel, Width: The distance between the side lot lines of a lot at the required front setback line, measured parallel to the abutting road.

Manufactured Home: A structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. Sec. 5403.

Nonconforming Lot, RDP, or Eligible Parcel: A nonconforming lot or eligible parcel is a tract of land, designated on a duly recorded subdivision plat or by a duly recorded deed, or by other lawful means, that was established prior to adoption of the County's first zoning regulations (September 23, 1966) or that complied with all applicable area, width and depth standards of the Zoning District in which it was located at the time of its creation, but which does not comply with the minimum area, width and depth requirements of the zoning district in which it is now located.

Parcel: A contiguous piece of land under the same ownership that was created by a survey, deed, or other instrument recorded with the Douglas County Register of Deeds. This term is typically used to refer to a property that has not been platted as a lot or tract.

Parking Space: All-weather surfaced area permanently reserved for the temporary storage of one automobile and connected to a road or alley by an all-weather surfaced driveway which affords satisfactory ingress and egress for automobiles.

Planning Director: The Director of the Lawrence-Douglas County Metropolitan Planning Office or his or her designee.

Premises: A lot or parcel together with all buildings and structures thereon.

Public Water Supply System: a system for delivery to the public of piped water for human consumption that has at least 10 service connections or regularly serves at least 25 individuals daily at least 60 days out of the year. This term includes any source, treatment, storage or distribution facilities used in connection with the system.

Refuse: All 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.

Rural Development Parcel: A parcel created through the certificate of survey process that is eligible for building permits for permitted uses, buildings and structures.

Road: A public thoroughfare which affords the principal means of access to property abutting thereon.

Road, Classification of: The functional classification given to a road based on anticipated future growth, posted speeds, and the current and anticipated traffic levels. For the purposes of these Zoning Regulations, County road classifications are established in Exhibit 9-506 of Chapter 9 of

the County Code.

Road Line: The perimeter line of a road right-of-way or road easement.

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.

Runway, Non-Precision Instrument: A runway with an instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved, or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document.

Runway, Precision Instrument: a runway with an instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). If a runway plans a precision approach system it must be so indicated on a FAA planning document.

Runway, Utility: A utility runway is one that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

Runway, Visual: A visual runway is a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, a military service approved military airport layout plan, or by any planning document submitted to the FAA by competent authority.

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.

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.

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 60% percent of said floor area is used for rooms, baths, or toilets. A half-story containing living quarters shall be counted as a full story.

Structure: Anything constructed or erected which requires permanent location on the ground or attached to something having a permanent location on the ground, excluding fences and walls that are used as fences. Structures include, but not limited to, carports, advertising signs, billboards, and manufactured homes.

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.

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 these regulations; they are:

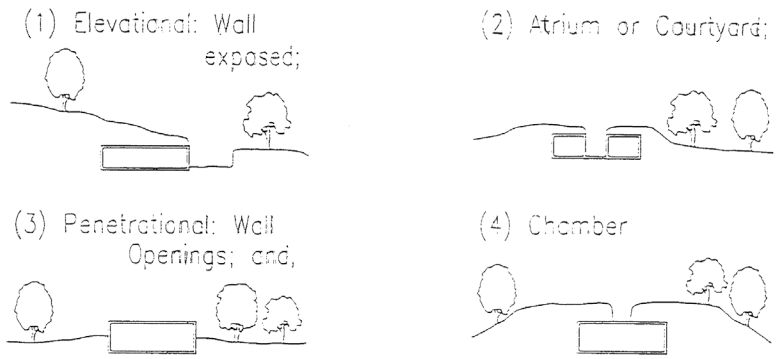
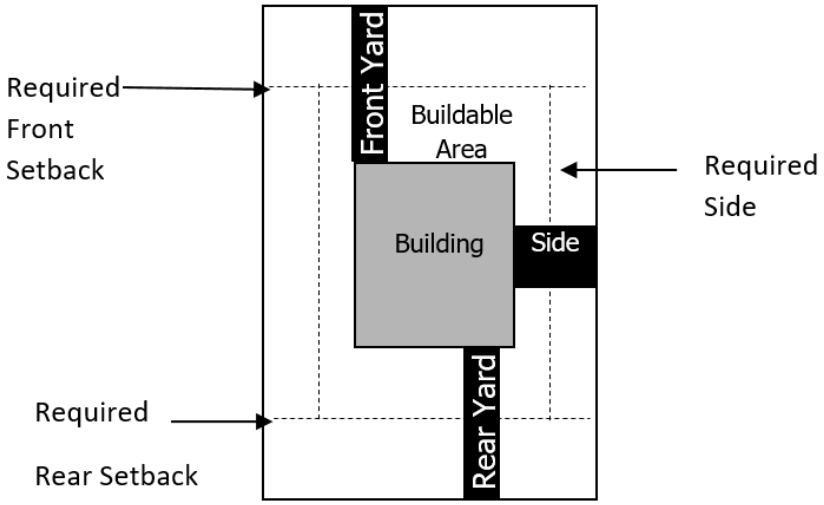


Diagram 3. Underground Structures

Village: Town sites or communities established or platted many years ago which never incorporated into towns or cities. Villages in Douglas County include the following: Vinland, Stull, Big Springs, Clinton, and Lone Star

Yard: An open space other than a court, on a lot eligible parcel which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these Regulations. 'Yard' refers to the actual open area that exists between a building and a lot or parcel line as opposed to the 'Required Yard' which is determined by the minimum setback listed in Section 12-xxx.



ZONING AND CODES DIRECTOR. The director of the Zoning and Codes Office and his or her designees.