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CHAPTER 1: ADMINISTRATION

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ARTICLE 1: GENERAL PROVISIONS

1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated "The Code of the County of Douglas, Kansas," and may be so cited. The Code may also be cited as the "Douglas County Code." (Code)

1-102. DEFINITIONS. In the construction of this Code and of all resolutions of the County, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of County Commissioners or the context clearly requires otherwise:

(a) Board, Board of County Commissioners, Commission, County Board, County Commission shall mean the Board of County Commissioners of Douglas County, Kansas.

(b) Code shall mean "The Code of the County of Douglas, Kansas."

(c) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday or legal holiday, that day shall be excluded.

(d) County means the County of Douglas in the State of Kansas.

(e) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the County to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.

(f) Gender. Words importing the masculine gender include the feminine and neuter.

(g) In the County shall mean and include all territory over which the County now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.

(h) Joint Authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(i) Month shall mean a calendar month.

(j) Number. Words used in the singular include the plural and words used in the plural include the singular.

(k) Oath. Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word “swear” is equivalent to the word “affirm.”

(l) Officers, departments, etc. Officers, departments, boards, commissioners and employees referred to in this Code shall mean officers, departments, boards, commissioners and employees of the County, unless the context clearly indicates otherwise.

(m) Owner as applied to a building or land shall include not only the owner of the whole, but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

(n) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as in individual.

(o) Property includes real, personal and mixed property.

(p) Real Property includes lands, tenements, and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(q) Shall, May. “Shall” is mandatory. “May” is permissive.

(r) Sidewalk means any portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

(s) Signature, subscription includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

(t) State shall be construed to mean the State of Kansas.

(u) Street means and includes public streets, avenues, boulevards, highways, road, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the county.

(v) Tenant or Occupant as applied to a building or land shall include any person holding a written or oral lease of or who occupies the whole or a part of such building or land, whether alone or with others.

(w) Tenses. Words used in the past or present tense include the future as well as the past and present.

(x) Writing or Written may include printing, engraving, lithography and any other mode of representing words and letter, except those cases where the written signature or the mark of any person is required by law.

(y) Year means a calendar year, except where otherwise provided. (Code)

1-103. EXISTING RESOLUTIONS. The provisions appearing in this Code, so far as they are in substance the same as those of resolutions existing at the time of the effective date of this Code, shall be considered as continuations thereof and not a new enactment. (Code)

1-104. EFFECT OF REPEAL. The repeal of a resolution shall not revive a resolution previously repealed, nor shall such repeal affect any right which has accrued, any duty imposed, any penalty incurred or any proceeding commenced under or by virtue of the resolution repealed, except as shall be expressly stated therein. (Code)

1-105. CATCHLINES OF SECTIONS. The catchlines of the sections of this Code printed in capital letters are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted. (Code)

1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the Code. Citations indicating only the source and the text may or may not be changed by this Code. Reference matter not in parenthesis is for information only and is not a part of this Code. (Code)

1-107. AMENDMENTS; REPEAL. Any portion of this Code may be amended by specific reference to the section number as follows; “Section (article or chapter) ____ of the Code of the County of Douglas is hereby amended to read as follows: (the new provisions shall then be set out in full)….” A new section not heretofore existing in the Code may be added as follows: “The Code of the County of Douglas is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provisions shall be set out in full).” All sections, articles, or chapters to be repealed shall be repealed by specific reference as follows: “Section (article or chapter) ____ of the Code of the County of Douglas is hereby repealed.” (Code)

1-108. RESOLUTIONS; SUBJECT AND TITLE; AMENDMENT. No resolution shall contain more than one subject, which shall be clearly expressed

in its title; and no section or sections of a resolution shall be amended unless the amending resolution contains the entire section or sections amended and the section or sections amended shall be repealed. (Code)

1-109. SAME; PUBLICATION; EFFECTIVE DATE. Resolutions, including amendments, additions or repeals to the Code, adopted by the Board of County Commissioners shall be published in the official County newspaper if such publication is required by State statute, or if the resolution requires such publication. Except when another effective date is stated in a resolution, published resolutions shall become effective upon publication or, if so required, final publication. All other resolutions shall become effective upon adoption, unless a different effective date is provided for therein. (Code)

1-110. SAME; RESOLUTION RECORDS. Following adoption of each resolution, the County clerk shall enter the same in the resolution records of the County. (Code)

1-111. ALTERING CODE. It shall be unlawful for any person, firm, corporation, or other group to change or amend, by additions or deletions, any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the County of Douglas to be misrepresented thereby. This restriction shall not apply to amendments or revisions of the Code authorized by resolution duly adopted by the Board of County Commissioners. (Code)

1-112. SCOPE. Any person convicted of doing any of the acts or things prohibited, made unlawful, or failing to do any of the things commanded to be done, as specified and set forth in this Code, shall be deemed in violation of the Code and punished in accordance with Section 1-113. Each day any violation of this Code continues shall constitute a separate offense. (Code)

1-113. GENERAL PENALTY. Whenever any offense is declared by any provision of this Code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with K.S.A. 19-101d (as amended). (Code)

1-114. SEVERABILITY. If, for any reason, any chapter, article, section, subsection, sentence, clause or phrase of this Code or the application thereof to any person or circumstance is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of the Code. (Code)

ARTICLE 2: BOARD OF COUNTY COMMISSIONERS

1-201. COMMISSION POWERS. The powers of Douglas County as a body politic and corporate shall be exercised by the Board of County Commissioners pursuant to K.S.A. 19-103 (1995). (Code)

1-202. SAME; NUMBER, DISTRICTS. The Board of County Commissioners shall consist of three (3) qualified electors. The Commission shall divide the County into three (3) commissioner districts as provided by law in K.S.A. 19-201 et. seq. (as amended). (Code)

1-203. REGULAR MEETINGS. The Board of County Commissioners shall meet at 9:00 a.m. on Monday and 6:35 p.m. on Wednesday every week at the County Courthouse Commission meeting room. When such meeting day shall be on a legal holiday (or any other day observed as a holiday by the County), the Board may fix the succeeding day not observed as a holiday as a regular meeting day. Upon a motion properly made and seconded, the board may cancel or reschedule any regular meeting of the Board or change the location of the meeting. All regular meetings will be convened pursuant to K.S.A. 75-4317 et seq and an agenda for each regular meeting will be prepared. (Code)

1-204. SPECIAL MEETINGS. The Board may meet in special session on the call of the Chairman for the transaction of any general or special business or at the request of a majority of the members on the Board. All special meetings will be convened pursuant to K.S.A. 75-4317 et seq and an agenda for each special meeting will be prepared. The nature of the business to be transacted at any called meeting shall be governed by the matters and things set out in the agenda for said meeting. (K.S.A. 19-209 (as amended)). (Code)

1-205. MEETING PROTOCOL. Meetings of the Board of County Commissioners will be convened by the Chairman at the time stated on the meeting agenda. The meetings will thereafter be conducted pursuant to Robert's Rules of Order.

Agenda items will be generally reviewed as follows:

A. Agenda item presented and explained by requesting party.
B. Commissioner discussion and questions.
C. Public input.
D. Final discussion and action by commissioners.

Persons attending meetings may be allowed to address the Board on agenda items when they have been recognized by the Chairman. However, no person has a right to be disruptive.

After discussion of an agenda item, the Board may take action by formal motion. A formal motion must be stated, seconded, and voted

on by public vote of each participating commissioner. No secret ballots are allowed.

1-206. EXECUTIVE SESSIONS. The Board of County Commissioners may hold executive sessions pursuant to K.S.A. 75-4319. In order to go into executive session the provisions of K.S.A. 75-3419(a) shall be followed.

1-207. ROUTINE BUSINESS, ABSENCE OF QUORUM. In the event that the temporary absence or illness of two members of the Board prevents a regularly scheduled meeting of the Board due to the lack of a quorum, the remaining Commissioner is hereby empowered to transact all routine administrative business of the Board. "Routine Administrative Business" shall include, but not be limited to:

(a) Approval of all valid claims, employee expense vouchers and payroll vouchers;

(b) Approval of all personnel actions consistent with the Douglas County Personnel Policy and other resolutions or policies of the Board;

(c) Approval of the purchase of supplies, equipment or contract services in accordance with the Douglas County Purchasing Guidelines, including the issuance of notices or solicitation of bids and approval of successful bids, when such purchases are necessary in order to:

i) Avoid additional expense to the County; or

ii) Avoid undue delay in the completion of a project or activity that has received previous commissioner authorization; or

iii) Avoid public inconvenience or a threat to the public health, safety or welfare; or

iv) Any engineering, utility, right-of-way and construction contracts for County road and bridge projects that have received previous Commission authorization. (Res. 85-49)

1-208. SAME; REPORT AND RATIFICATION. At the next regularly scheduled meeting of the Board at which a quorum is present, the Commissioner who exercised the power delegated by Section 1-207 of the Code shall make a full report on the routine administrative actions taken pursuant thereto. Upon a motion properly made and seconded, all such actions may be ratified by the Board. (Res. 85-49)

ARTICLE 3: OFFICE OF COUNTY ADMINISTRATOR

1-301. OFFICE OF COUNTY ADMINISTRATOR; ESTABLISHED. There is hereby established the Office of the Douglas County Administrator. The County Administrator shall be selected on the basis of administrative and executive ability, education, experience and knowledge of government operations. The County Administrator shall

be appointed and be subject to removal by a majority of the County Commission and the County Administrator shall receive all benefits received by County department heads and employees. The County Administrator shall serve in the "Classified-Exempt" service under the Douglas County Personnel Policy. (Res. 86-8-7, Sec. 1)

1-302. SAME; DUTIES. The County Administrator shall be the chief administrative officer of the County. Subject to the supervision and discretion of the County Commission, the County Administrator shall carry out the following duties and responsibilities within the limits of and in conformance with the requirements of Federal, State, and County laws and policies:

(a) Attend all meetings of the County Commission and present proposed policies, programs and plans aimed at addressing overall County needs for review, revision and approval by the County Commission; and

(b) Present an annual recommended operating budget, capital improvements program and long range strategic plan for all County operations for review, revision, and adoption by the County Commission; and

(c) Identify and recommend individuals to the County Commission for appointment to boards and commissions; and

(d) Recommend individuals to the County Commission for appointment to offices for which the County Commission is the appointing authority by law. Evaluate and recommend the compensation, suspension or dismissal of all such appointed administrative officers; and

(e) Coordinate and supervise the administrative operation of the departments of all officials appointed by the County Commission. All officers and employees therein shall be administratively responsible to the County Administrator; and

(f) Administer and supervise the operations of the Administrative Services Department and the divisions thereof as established under Section 1-303; and

(g) In conjunction with the County Commission, prepare the meeting agenda of the County Commission; and

(h) Coordinate the administrative services of County departments and agencies, offices of elected officials, and advisory and governing boards appointed by the County Commission. Provide technical assistance to such departments, offices, agencies and boards as needed; and

(i) Coordinate county programs and operations with other local government units, Federal and State governments, the Kansas Association of Counties and other governmental and non-governmental entities; and

(j) Supervise, evaluate and recommend the compensation and discipline of personnel in the County Commissioner's department; and

(k) Execute such contracts and other documents as approved by the County Commission; and

(l) Approve the appointment, compensation, discipline, and change in status of personnel in the departments of all officials appointed by the County Commission. Review and approve such actions within the departments of elected County officials for compliance with the personnel, budget and other policies of the County Commission. All employees affected by such decisions shall continue to have access to all appellate and other rights granted them by the Douglas County Personnel Policy; and

(m) Monitor and provide regular reports to the County Commission concerning adherence by County departments to the personnel, purchasing, budget, accounting and other administrative policies of the County Commission; and

(n) Perform such other duties as shall be lawfully delegated by the County Commission. (HR 86-8-7, sec. 1)

1-303. ADMINISTRATIVE SERVICES DEPARTMENT ESTABLISHED. There is hereby established within Douglas County government a Department of Administrative Services. The Department shall be under the administrative supervision of the Assistant County Administrator, and shall be responsible for the areas of Personnel, Risk Management, Budget, Purchasing, Accounting, Division of Information Services (HR 97-6-1) and Switchboard. The Director shall be appointed by the County Administrator, confirmed by the County Commission, and considered as "Classified-Exempt" under the Douglas County Personnel Policy. Within the limits of appropriations provided therefor, the Assistant County Administrator shall appoint, evaluate, compensate, suspend and dismiss all employees of the Department of Administrative Services. (HR 94-2-2, Sec. 3)

1-304. COUNTY COUNSELOR. The County Counselor shall be appointed by the County Commission and shall be responsible thereto. The County Counselor shall serve to protect the County's interest in all legal proceedings and matters and shall carry out the following duties:

(a) Provide direct legal counsel, advice and services to the County Commission, County Administrator, County department heads and elected officials; and

(b) Ensure County policies, programs and operations are in compliance with statutory and other legal requirements by providing review and oversight thereof; and

(c) Represent the County in all legal proceedings; and

(d) Carry out such other duties or projects of a legal nature as provided by law or as the County Commission or County Administrator may from time to time direct or request. (HR 86-8-7, Sec. 3)

ARTICLE 4: PERSONNEL POLICIES, REGULATIONS AND POSITIONS

1-401. POSITION CLASSIFICATION SYSTEM. The County Commission is hereby authorized to establish and adopt by ordinary resolution a position classification system for use in all the departments of Douglas County government. The position classification system may be amended by motion as needed from time to time and shall, at a minimum, consist of the following:

1-402. PAY PLAN.

(a) The County Commission is hereby authorized to adopt by ordinary resolution a pay plan containing appropriate pay grades and steps. The pay plan shall:

(1) Provide for equal compensation for work of equivalent responsibility;

(2) Establish a method of rewarding employees for continued service; and

(3) Establish pay rates which compare favorably with those of other public and private organization competing for well-qualified employees for positions similar to those found in County government. The pay plan shall provide for the annual compensation of the individuals holding the offices of Clerk, Register of Deeds, Sheriff and Treasurer and the employees thereof.

(b) The pay plan may be amended by ordinary resolution as needed from time to time to keep the pay plan current. Policies for continuing administration of the pay plan also may be amended by ordinary resolution. (HR 86-7-6, Sec. 2)

1-403. RELATED COMPENSATION POLICIES. The County Commission is hereby authorized to adopt such related personnel and compensation policies as it deems necessary to effectuate the position classification system and pay plan. Such policies may include, but shall not be limited to, matters concerning compensation for tenure of service (longevity), performance appraisal, probation, and limits on additional compensation. (HR 86-7-6, Sec. 3)

1-404. INCORPORATION OF PERSONNEL POLICY. There is hereby adopted and incorporated by reference the Douglas County Personnel Policy. This policy may be amended by motion of the Commission.

1-405. SAME; DISTRIBUTION. Each Douglas County department shall have a minimum of one (1) personnel policy manual accessible to employees within the department. It shall be the responsibility of the Assistant County Administrator to distribute such personnel policy manuals and to maintain a list of the location of all such manuals. (Res. 95-15, Sec. 2)

1-406. PUBLIC SAFETY EMPLOYEE SMOKING POLICY; DEFINITIONS. The following words and phrases when used in Sections 1-407– 1-408 of this Code shall, for the purposes of those sections, have the meanings respectively ascribed to them herein:

(a) Public Safety Employee means any employee eligible for coverage by the Kansas Police and Firemen's Retirement System.

(b) Smoke/smoking means inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or weed. Such terms also mean chewing, sniffing or otherwise using smokeless tobacco.

(c) Physical Fitness Test means a series of tests designed to measure an individual's overall physical fitness and approved by the County Administrator. (HR 98-2-2, Sec 2)

1-407. SAME; NON-SMOKING AS A CONDITION OF EMPLOYMENT. On and after the effective date of this resolution, all eligible public safety employees who are offered and accept employment with Douglas County shall agree as a condition of such employment to refrain from smoking during the scheduled workday and while off duty. A violation of this condition of employment shall constitute insubordination as defined by Sections 6.18 and 6.19 of the Douglas County Personnel Policy, as amended. Such violation shall be subject to the appropriate disciplinary action as provided therein. (HR 98-2-2, Sec. 3)

1-408. PHYSICAL FITNESS REQUIREMENTS. (a) Pre-employment. On and after the effective date of this section, all final candidates for public safety positions shall be administered a physical fitness test. Candidates must achieve an overall score at or above the 40th percentile in order to be eligible for employment for a public safety position. In the event of extenuating circumstances, the County Administrator (or his/her designee) may make exceptions to the 40th percentile requirement. When such an exception has been granted, the individual shall be required to achieve the 40th percentile on the physical fitness test prior to the completion of the individual's first year of employment.

(b) Post-employment. Each public safety employee shall be required to take an annual physical test. In order to be eligible for a merit and/or bonus award for the calendar year, the employee must achieve at least the 40th percentile total score on the physical fitness test.

(1) Exceptions.

(A) Personal Medical Condition. Should an employee be unable to perform the physical fitness test due to a medical condition not caused by a work-related activity, the employee must submit a written note from his/her personal physician detailing (1) the condition preventing the employee from participating in the testing; (2) how long this medical condition is expected to continue. Should the condition be expected to continue

beyond the calendar year, for the purposes of determining merit eligibility, the employee will be assigned the previous year's physical fitness test score. Should a public safety employee be unable to participate in physical fitness testing for two (2) or more consecutive years due to one (1) or more medical conditions, in addition to the physician's note as described above, the employee will be required to provide a statement from his/her personal physician that the employee is able to perform all the duties of the job as described in his/her job description, which is to be provided to the physician by the department head.

(B)If the medical condition is due to a work-related injury and treatment is being supervised by Douglas County, such medical notes will be requested by Douglas County of the treating physician.

(2) REFUSAL. Refusal to participate in the physical fitness testing program and/or refusal to provide a qualifying statement from a physician, shall be considered insubordination and shall be subject to the appropriate disciplinary processes as described in the Douglas County Personnel Policy. (HR 98-2-2)

1-409 OFFICES OF COUNTY AUDITOR AND ASSISTANT COUNTY AUDITOR ESTABLISHED. The offices of County Auditor and Assistant County Auditor are hereby established. The County Auditor and Assistant County Auditor shall be appointed by the Board for a term of two years commencing January 1 of odd-numbered years, to serve until December 31 of the following even-numbered year or until a successor is appointed and qualified. The appointment of the County Auditor and Assistant County Auditor shall be by motion and vote by the board and shall be placed in the minutes of the Board. (HR 89-4-1, Sec. 1)

1-410 SAME; COMPENSATION. The compensation of the County Auditor and Assistant County Auditor shall be as determined by the Board. Such offices may be held by persons who are also employed by Douglas County in some other capacity, and the Board shall determine whether the additional duties of such offices shall result in additional compensation. (HR 89-4-1, Sec. 2)

1-411 SAME; DUTIES. (a) The duties of County Auditor shall be as directed by the Board and shall specifically include the duty to audit and approve claims pursuant to the "Uniform Procedure for Payment of Claims and Other Indebtedness" under K.S.A. 12-105a and K.S.A. 12-105b. The Assistant County Auditor shall perform such duties in the absence of the County Auditor.

(b) In the absence or other unavailability of the Assistant County Auditor to audit and approve claims, such duties shall be

exercised by the County Counselor of Douglas County. (HR 89-4-1, Sec. 3)

1-412 CHARTER RESOLUTION 07-6-2. Sections 1-409, 1-410, 1-411 are amended by and subject to the provisions of Charter Resolution No. 07-6-2, which provides as follows:

Section 1. Exemption. The County, by the power vested in it by K.S.A. 19-101b, hereby elects to exempt itself from and make inapplicable to it, the provisions of K.S.A. 19-620, K.S.A. 19-621, and K.S.A. 19-626.

Section 2. Substitute Provisions for K.S.A. 19-620. The County, by the power vested in it by K.S.A. 19-101b, hereby provides substitute and alternate provisions for K.S.A. 19-620 as follows:

> The Board of County Commissioners shall have the power to appoint a person as the County Auditor, to serve at the pleasure of the Board of County Commissioners, until such person is removed from office or resigns from office, whichever occurs first. In addition to other duties authorized or required by law, the County Auditor shall perform such duties as the Board of County Commissioners may, from time to time, prescribe.

Section 3. Substitute Provisions for K.S.A. 19-621. The County, by the power vested in it by K.S.A. 19-101b, hereby provides substitute and alternate provisions for K.S.A. 19-621 as follows:

> Within 10 days after being appointed as County Auditor, such person shall execute and file with the County Clerk, a surety bond in favor of the County, in the penal sum of $20,000 or such greater amount as the Board of County Commissioners may require. The bond shall be conditioned that the County Auditor will faithfully perform the duties of his or her office. The bond and surety thereon shall be approved by the Board of County Commissioners, which approval shall be made a part of its records. A bond conditioned and approved as set forth above, and executed by a surety authorized to do business under the laws of the State of Kansas, shall constitute sufficient surety, and the premium on said bond shall be pay by the County.

Section 4. Substitute Provisions for K.S.A. 19-626. The County, by the power vested in it by K.S.A. 19-101b, hereby provides substitute and alternate provisions for K.S.A. 19-626 as follows:

> The Douglas County Auditor shall receive such salary, together with such cost of living adjustments, as the Board of County Commissioners may, from time to time, determine appropriate.

ARTICLE 5: PUBLIC RECORDS

1-501. PUBLIC RECORDS; FEES FOR ACCESS OR COPIES. The Board delegates to the County Administrator the authority and duty to adopt and, from time to time, amend a fee schedule for the various custodians of the records of Douglas County to use when assessing charges for access to and copies of the public records of Douglas County. The fee schedule, however, shall not assess charges in excess of those permitted by applicable law. (Res. 15-21, Sec. 1)

1-502. ADVANCE PAYMENT; WHEN NECESSARY. County records custodians may require advance payment of estimated fees when the total fees will exceed $1.00, when the request is made through mail or electronic communication, or when it is determined by advance payment is advisable to ensure prompt payment of applicable charges. (Res. 15-21, Sec. 1)

1-503. DEPOSIT OF CHARGES. The records custodians of the various departments of Douglas County shall remit all money received pursuant to Section 1-501 of this Code to the County Treasurer at least monthly. Upon receipt, the County Treasurer shall deposit the entire amount and credit the same to the general fund of the County, unless otherwise specifically provided by law. (Res. 15-21, Sec. 1)

1-504. LOCAL FREEDOM OF INFORMATION OFFICER. Pursuant to K.S.A. 45-226, the County Administrator shall appoint a freedom of information officer. The local freedom of information officer shall be available to the general public and records custodians to answer questions, resolve disputes, and assist in appropriately responding to requests for inspecting and copying public records. (Res. 15-31, Sec. 1)

1-505. OFFICIAL CUSTODIANS.

a. APPOINTMENT. Except as otherwise provided by other applicable law, all department heads are official records custodians for public records on file in their respective departments.

b. SUBORDINATE OFFICERS. Each of the official custodians appointed in subsection (a) of this section may designate any subordinate officers or employees to serve as record custodians. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

c. DUTIES OF CUSTODIANS. All Douglas County officers and employees appointed or designated under this section shall:

(1) Protect public records from damage and disorganization.

(2) Prevent excessive disruption of the essential functions of the Douglas County.

(3) Provide assistance and information upon request and ensure efficient and timely action and response to all written applications for inspection or copying of public records.

(4) Comply with the Kansas Open Records Act and carry out the procedures adopted for inspecting and copying public records.

d. WRITTEN REQUESTS TO BE DIRECTED TO CUSTODIANS.

(1) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their written requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(2) Whenever any Douglas County officer or employee appointed or designated as a custodian under this section is presented with a written request for access to, or copy of, a public record, which record the custodian does not possess and for which the custodian has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. The person making the request shall be informed as to which custodian the request should be addressed to, if such is readily known by the custodian receiving the request. (Res. 15-31, Sec. 1)

1-506 ACCESS AND COPYING PROCEDURES. The following procedures are adopted and shall be applied by each official custodian and record custodian.

a. Consistent with the policy, duties and procedures established by the Kansas Open Records Act, all Douglas County record custodians shall provide full access and assistance in a timely and efficient manner to persons who request access to open public records In writing. Certain records, however, may be excluded from public access. These records are identified and K.S.A. 45-221(a).

b. Record custodians may adopt and apply additional open public record access and copy procedures consistent with the policies of the Douglas County and with the provisions of the Kansas Open Records Act.

c. Record custodians may adopt and apply procedures that will ensure the protection and preservation of public records with respect to the manner in which such records are inspected and copied.

d. Record custodians shall take necessary measures, not inconsistent with their duties, to provide access to open public records and to ensure that the essential functions of the custodian's office, department or agency are not disrupted by requests for record inspection and copying.

e. A records custodian may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form. Except as otherwise provided by Kansas Open Records Act and this section, a records custodian shall not require that a request contain more information than the requester’s name and address and the information necessary to ascertain the records to which the requester desires access and the requester’s right of access to the records. A records custodian may require proof of identity of any person requesting access to a public record. No request shall be returned, delayed or denied because of any technicality unless it is impossible to determine the records to which the requester desires access.

f. Each written request for access to a public record shall be acted upon as soon as possible, but not later than the end of the third business day following the date that the request is received. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection.

g. If the written request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third business day following the date that the request for the statement is received.

h. The custodian may refuse to provide access to a public record, or to permit inspection, if a request is not in writing, places an unreasonable burden in producing public records or if the custodian has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency. However, refusal under this subsection must be sustained by preponderance of the evidence.

i. If access to public records or the purpose for which the records may be used is limited pursuant to K.S.A. 45-221 or 45-230, and amendments thereto, the records custodian may require a person requesting the records or information therein to provide written certification that:

(1) The requester has a right of access to the records and the basis of that right; or

(2) The requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed. (Res. 15-31, Sec. 1)

ARTICLE 6: PURCHASING POLICIES AND SERVICE AGREEMENTS

1-601. ADMINISTRATION. There is hereby adopted and incorporated by reference for the purpose of establishing purchasing policies and procedures the document entitled the Douglas County Purchasing Policy. This policy may be amended by motion of the Commission.

1-602. CONTRACTS FOR PERSONAL PROPERTY TAX COLLECTION. The County Commission may employ or enter into such contract or contracts it deems advisable with attorneys or other persons to assist the County in the collection of personal property taxes remaining unpaid from and after the date the same became a judgment of the County against the person or persons responsible therefor as provided in K.S.A. 1985 Supp. 79-2101, as amended. Any such contract shall be in writing and may be on a contingent fee basis, but in no event shall such fee exceed 50 percent of the amount collected. Any taxes so collected shall be credited ratably to the funds for which said taxes were levied. (HR 86-8-8, Sec. 1)

1-603. SAME; BOND, REPORT. Any person, other than the sheriff, with whom the County has contracted for the collection of personal property taxes shall furnish a good and sufficient bond, in an amount to be fixed by the County Commission, for the faithful discharge of his or her duties and for the payment to the County of all moneys collected pursuant tot he contract. Such contract shall provide that the contract collector shall, at least monthly, on a date fixed in the contract, file with

the County Treasurer a verified report and account of the taxes collected during the preceding month and at the same time, the contract collector shall pay to the County Treasurer the full amount collected during such month. (HR 86-8-8, Sec. 2)

1-604. TREASURER ACCEPT PARTIAL PAYMENTS. In order to facilitate the systematic collection and payment of delinquent personal property taxes, the County Treasurer is hereby authorized to accept any partial payments of personal property taxes that may be collected by the contract collector and paid to the County Treasurer. At his or her discretion, the County Treasurer also may accept such other partial payments as the Treasurer may deem advisable. The acceptance of any partial payments, however, shall not relieve the taxpayer of the obligation to pay the interest penalty prescribed by K.S.A. 79-2004a on the full amount of the personal property tax judgment until the tax debt is paid in full. (HR 86-8-8, Sec. 3)

ARTICLE 7: DEPOSIT AND INVESTMENT OF PUBLIC FUNDS

1-701. DEPOSITORIES OF ACTIVE FUNDS.

a) The Board of County Commissioners shall, from time to time, designate by official action recorded on its minutes, those financial institutions that shall serve as depositories of such of the County's funds that are required for payment of current claims and expenses of the County. Only those state and nationally chartered banks, savings and loan associations, and savings banks that are eligible to serve as depositories pursuant to K.S.A. 9-1401 and amendments thereto may be designated as depositories of such active funds. (Res. 11-10, Sec.1)

b) The County Investment Officer and the Assistant County Administrator shall, from time to time, issue a request for bids to all financial institutions eligible to serve as a depository of County funds, requesting bids for the total cost of administering the County's active account. Upon receipt of such bids and analysis thereof by the County Investment Officer and the Assistant County Administrator, the Board of County Commissioners shall select a primary depository institution for such funds. (R-01-38, Sec. 1)

c) If required by the Board of County Commissioners or the County Investment Officer, each official depository designated by the Board shall enter into a depository contract with the Board detailing the terms of the deposit of County funds therein.
(Res. 11-10, Sec.1)

1-702. INVESTMENT OF IDLE FUNDS. The County Investment Officer shall deposit County funds not immediately required for the purposes

for which collected or received in accordance with the provision of K.S.A. 12-1675 et seq., as amended and this Article. (R-01-38, Sec. 1)

1-703. INVESTMENT POLICY. In investing the County's funds, the primary objectives of the Board of County Commissioners are (in order of priority): (1) safety of principal, (2) maintenance of adequate liquidity, and (3) maximization of earnings from County funds. To satisfy the first two objectives and also satisfy the third objective, it is the policy of the Board of County Commissioners that an aggressive cash management program and investment policy be pursued to take advantage of investment interest as a viable and material revenue source for all operating and capital funds. It is further the policy of the Board of County Commissioners to invest its funds and use the earnings from the investment of its funds in a manner consistent with all applicable state and local laws. (R-01-38, Sec. 1)

1-704. COUNTY INVESTMENT OFFICER. The Douglas County Treasurer is hereby designated the official County Investment Officer. The County Investment Officer shall invest the County's funds in accordance with the provisions of this Article. In furtherance of this office, the County Investment Officer shall do the following: (1) Maintain economic forecasts and investment strategies; (2) solicit and evaluate possible investment opportunities; (3) prepare reports on collateral and ensure sufficient collateral has been established; and (4) in consultation with the Assistant County Administrator, prepare reports on the cash flow needs of the County and the County's available liquid funds to determine when additional idle funds will be available for investment or when invested idle funds will be needed. (Res. 11-10, Sec. 1)

1-705.(Repealed, Res. 11-10, Sec.1)

1-706. OVERSIGHT OF BOARD OF COUNTY COMMISSIONERS. The activities of the County Investment Officer under this Article shall be subject to the oversight and control of the Board of County Commissioners. (Res. 11-10, Sec. 1)

ARTICLE 8: ADVISORY COUNCILS AND BOARDS

1-801. LAWRENCE-DOUGLAS COUNTY ADVISORY COUNCIL ON ECONOMIC DEVELOPMENT.

(a) There is hereby established the Lawrence-Douglas County Advisory Council on Economic Development. The Council shall consist of seven members, three of whom shall be appointed by the Douglas County Board of County Commissioners and three of whom shall be appointed by the City of Lawrence. One member shall be jointly appointed.

(b) The individuals who are first appointed to serve on the Council shall serve for the following terms of office or until their

successors are appointed and qualified: two City appointees and two County appointees shall serve initial terms of four years; the joint appointee and one City appointee and one County appointee shall serve initial terms of two years.

(c) After appointment of the initial members of the Advisory Council, all individuals appointed to the Council shall serve terms of office of four years. No person may serve more than two consecutive four year terms on the Council. Each appointee shall continue to serve on the Council until his or her successor is appointed and qualified.

(d) One City Commissioner, the City Manager, one County Commissioner and the County Administrator shall serve as non-voting ex-officio members of the council. (Res. 89-44, Sec. 1)

1-802. SAME; FUNCTIONS. The Advisory Council shall carry out the following functions and responsibilities:

(a) Meet at least on a quarterly basis with representatives of the economic development marketing program to review progress with the retention and recruitment of manufacturing and other businesses which may have a significant economic impact on the Lawrence-Douglas County area.

(b) Review the proposed budget of the economic development marketing program each year and recommend to the County and City a level of funding in support of the program for the next fiscal year; and

(c) Review on an ongoing basis the economic development policies of the City and County and advise the City and County thereon. (Res. 89-44, Sec. 2)

1-803. DOUGLAS COUNTY FAIR BOARD, ANNUAL APPOINTMENT. On or before November 1 of each year, the Board of County Commissioners shall appoint 10 residents of the County to serve on the Douglas County Fair Board. No more than one individual shall be appointed from each of the nine townships and the City of Lawrence. (HR 88-9-5, Sec. 1)

1-804. SAME; TERMS AND VACANCIES. Individuals appointed to serve on the Douglas County Fair Board by the Board of County Commissioners may serve a maximum of six one-year terms of office. Each such term shall commence on February 1 and conclude on January 31 of the following year. If a board member resigns, an appointment shall be made by the Board of County Commissioners to fill the unexpired one-year term. Any such appointee shall be eligible to serve the remaining number of one-year terms of the person they replace, and at the end of such period that person may be considered by the Board of County Commissioners for appointment for six one-year terms. (HR 88-9-5, Sec. 2)

1-805. SAME; RESPONSIBILITIES. As provided in K.S.A. 2-133, the Douglas County Fair Board of its executive board shall have

responsibility for the management and control of the business of the fair association and its property, subject to the approval of the Board of County Commissioners. At the December meeting, the Fair Board may invite the newly appointed members of the Fair Board whose terms of office shall commence on February 1 of the succeeding year to meet in joint session with the current Fair Board. Such joint meeting shall be held for the purpose of insuring continuity of board operations. (HR 88-9-5, Sec. 3)

1-806 TERM LIMITS FOR BOARDS AND COMMISSIONS. (a) Neither the Board of County Commissioners nor any individual member of the Board of County Commissioners shall reappoint any individual to any particular board, authority, committee, commission, council, or other body, whether purely advisory, having specific authority or a combination of both, if such individual shall have already served two full consecutive terms or six full consecutive years, whichever is longer. For purposes of determining eligibility for reappointment, the unexpired term of an individual appointed to fill an unexpired term shall not count as a full term of service and the years in the unexpired term shall not count as years of service.

(b) The limitation of paragraph (a) shall not apply to the extent it is in conflict with term limits set forth in any applicable statute, resolution, interlocal agreement, or other governing document relating to the appointment of individuals to any particular board, authority, committee, commission, council or other body.

(c) The limitation of paragraph (a) shall not apply to limit the reappointment of employees or officials of Douglas County to any particular board, authority, committee, commission, council or other body or to limit the appointment of ex officio members to any such body. (HR 04-1-1, Sec. 1)

ARTICLE 9. SMOKING IN PUBLIC BUILDINGS AND VEHICLES

1-901 It shall be unlawful for any person to smoke within a building or vehicle which is owned or leased by Douglas County, Kansas.

1-902 There shall be no areas within buildings or vehicles which are owned or leased by Douglas County, Kansas, designated as smoking areas. The County Administrator may designate areas outside of buildings owned or leased by the County as areas in which smoking is permitted.

1-903 Smoking shall be defined as the use of cigarettes, cigars, pipes, and shall include nicotine delivery devices that create a smoke or vapor, such as e-cigarettes and vaporizers.

1-904 Violation of this Article shall be deemed to be in violation of the provisions of the Kansas Indoor Clean Air Act, K.S.A. 21-6109 through 21- 6116, inclusive, as amended. To the extent that the prohibitions in this Article are broader than the foregoing act, violations may be prosecuted the same as violations of county codes and regulations, and the penalty shall be the same as for violations of K.S.A. 21-6110, as amended. (HR 14-10-3, Sec. 1)

ARTICLE 10. OFFICIAL COUNTY NEWSPAPER

1-1001 OFFICIAL COUNTY NEWSPAPER. The *Lawrence Journal World* is the official county newspaper.

1-1002 PUBLICATION OF QUARTERLY STATEMENTS. In addition to publication in the official county newspaper, all quarterly statements published by the county shall be published in *The Baldwin Ledger* and *The Eudora News*.

ARTICLE 11. ISSUANCE OF TEMPORARY NOTES

1-1101 FACTORS TO BE CONSIDERED TO DETERMINE WHEN NOTES WILL BE PURCHASED AS AN INVESTMENT. The Director of Assistant County Administrator or his/her designee will consult with the County Treasurer to determine the desirability of purchasing temporary notes of the County on a case by case basis. The factors to be considered shall include, but not be limited to, the amount of liquid funds available in the County treasury, the future cash needs of the County , the length of the term of the notes, and the amount of the notes. (Res. 96-46, Sec. 1)

1-1102 INTEREST PAID ON NOTES. One of the following formulas, at the discretion of the County Administrator or his/her designee, shall be used to determine the interest rate to be paid on notes purchased by the County:

(a) The annual interest rate, determined by the County Treasurer, shall be an amount equal to the Investment Rate established for the State of Kansas pursuant to K.S.A. 75-4210 not greater than two (2) weeks prior to the issuance of the temporary notes plus fifty (50) basis points.

(b) The annual interest rate shall be an amount equal to the lowest of three (3) solicited rates from banks involved in the purchase of bank-qualified notes not greater than two (2) weeks prior to the issuance of the temporary notes. (Res 96-46, Sec. 1)

ARTICLE 12. DESIGNATION OF VEHICLES AS AUTHORIZED EMERGENCY VEHICLES

1-1201 APPLICATIONS. Prior to any vehicle being designated an authorized emergency vehicle the owner shall submit an application to the Sheriff of Douglas County, hereinafter call Sheriff. The application shall be on such form as the Sheriff provides.

1-1202 REVIEW OF APPLICATIONS. After receipt of an application the Sheriff shall review the application and make such further investigation as the Sheriff deems necessary.

1-1203 DESIGNATION OF VEHICLES. If, after review of the application, the Sheriff finds that the designation of such vehicle is necessary to the preservation of life or property or to the execution of emergency governmental function, the Sheriff shall issue, in writing, a designation of the vehicle as an authorized emergency vehicle.

1-1204 USE OF VEHICLES. The document furnished by the Sheriff designating a vehicle as an authorized emergency vehicle shall be carried in the vehicle at all times and shall be used in compliance with the statutes pertaining to emergency vehicles. A vehicle designated as an authorized emergency vehicle shall be operated for the emergency purpose set out in the application for designation as an authorized emergency vehicle and shall at all times be used in compliance with the statues pertaining to emergency vehicles.

1-1205 IMPROPER USE OF VEHICLE. Whenever the Sheriff shall receive information that a vehicle that has been designated as an emergency vehicle has been or is being operated in violation of the statues pertaining to emergency vehicles or these regulations, if it is the first such violation by the owner or operator of said vehicle reported to the Sheriff, he shall send a warning notice by certified mail, return receipt requested, advising the owner of the violations complained of an admonishing the owner that any further violation will result in cancellation of the designation of the vehicle as an authorized emergency vehicle. Upon receipt of information of a subsequent violation of the statutes pertaining to emergency vehicles or of these regulations by an operator the designated vehicle or another designated vehicle owned by the same owner, the Sheriff shall notify the owner of said vehicle of the purported violations by certified mail, return receipt requested, and shall give the owner ten (10) days from the date of mailing of the notice in which to show good cause why the designation should not be cancelled. Upon receipt of the response the Sheriff shall review the same if the Sheriff deems the response to be inadequate, or if no response is received within ten (10) days of the mailing of the notice, the Sheriff shall enter an order canceling the designation of the vehicle as an authorized emergency vehicle. A copy of the order of cancellation shall be mailed to the owner by certified mail, return receipt requested.

1-1206 DEFINITION. The term “owner” as used herein shall include any public official operating or causing to be operated any designated emergency vehicle.

ARTICLE 13. CEREAL MALT BEVERAGES AND ALCOHOLIC BEVERAGES

1-1301 SUNDAY SALES FOR ON PREMISES CONSUMPTION. Pursuant to K.S.A. 41-2704(b)(2), Sunday sale of cereal malt beverage is hereby authorized in Douglas County, Kansas at any place of business licensed to sell cereal malt beverage for consumption on premises, which derives not less than 30% of its gross receipts from the sale of food for consumption on the licensed premises. (Res. 05-25, Sec. 1)

1-1302 SUNDAY SALES FOR OFF PREMISES CONSUMPTION. Pursuant to Section 9(a) of Senate Bill 298, 2005 Kansas Session Laws Chapter 201, the Board hereby (i) expands permissible days of sale at retail of cereal malt beverage in the original package to allow such sale within the unincorporated area of Douglas County on any Sunday, except Easter, between the hours of 12 noon and 8 p.m.; and (ii) expands permissible days of sale at retail of alcoholic liquor in the original package, to the extent licensing of such sale of alcoholic liquor is otherwise authorized within the unincorporated area of Douglas County, to allow such sale within the unincorporated area of the Douglas County on any Sunday, except Easter, between the hours of 12 noon and 8 p.m. and on Memorial Day, Independence Day and Labor day. (Res. 06-10, Sec. 1)

1-1303 DEFINITIONS. The term “cereal malt beverage” used in Section 1-1302 shall have the same meaning as in the Kansas Cereal Malt Beverage Act; and the term “alcoholic liquor” used in Section 1-1302 shall have the same meaning as in the Kansas Liquor Control Act. (Res. 06-10, Sec. 2)

ARTICLE 14. ECO2 COMMISSION

1-1401 ESTABLISHMENT OF COMMISSION. The ECO^2 Commission (pronounced “ECO Squared Commission”) is hereby established as a joint advisory commission to the City and the County. (Res. 04-22, Sec. 1)

1-1402 PURPOSE OF COMMISSION. The ECO^2 Commission shall report to and advise both the City and the County on matters relating to its dual goals of (i) preservation, access, and management of open space, and (ii) acquisition of land, facilities and other supports to expand job opportunities in Douglas County, Kansas, including financing of both purposes. (Res. 04-22, Sec. 2)

1-1403 GUIDING PRINCIPLES. The ECO^2 Commission shall be guided by the following three principles: (i) participation of landowners should be wholly voluntary and the ECO^2 Commission shall not recommend the involuntary taking of private property; (ii) to the extent possible and in order to maximally leverage available funds, the ECO^2 Commission shall emphasize partnerships with developers, land trusts, and other parties positioned to advance the dual goals of economic development and open space preservation; and (iii) the ECO^2 Commission should not break the dual goals of economic development and open space preservation and pursue either separately. (Res. 04-22, Sec. 3)

1-1404 ADVISORY COMMISSION: ADDITIONAL DUTIES. The ECO^2 Commission shall initially serve in an advisory capacity. The City, the County, and other incorporated cities within Douglas County may, by separate agreement between themselves, assign additional duties and responsibilities to the ECO^2 Commission, including but not limited to preparing, approving and implementing the annual operating budget; managing acquired funding and real assets; hiring administrative staff; and entering into contracts in furtherance of the goals of the ECO^2 Commission. (Res. 04-22, Sec. 4)

1-1405 NUMBER AND QUALIFICATIONS OF MEMBERS. The ECO^2 Commission shall be comprised of eight members, each of whom shall reside within the geographic boundary of Douglas County, Kansas and none of whom shall hold either a salaried position or elective office with any City government in Douglas County or the County government; provided, however, that the initial appointments made to the ECO^2 Commission in June of 2004 may include members who served on the ECO^2 Initiative prior to adoption of the Joint Resolution that do not reside in Douglas County. Those members shall be exempt from the residency requirement until their initial term of appointment expires. Membership on the ECO^2 Commission shall be voluntary and no member shall receive payment for service on the commission. (Res. 04-22, Sec, 5; Res. 05-14, Sec. 1)

1-1406 APPOINTMENTS. The Mayor of the City and the Chair of the County Commission shall jointly appoint the members to the ECO^2 Commission upon recommendation of the ECO^2 Commission. In each case, appointments shall be made with the consent of a majority of each respective body. The appointments shall consist of the following: three members representing economic development interests, three member representing open space interests, and two members representing farm advocacy interest. (Res. 04-22, Sec. 6)

1-1407 REGULAR TERMS: TERM LIMITS. ECO^2 shall recommend to the City and County Commissions a staggered term structure that provides for both continuity and the periodic introduction of new members and ideas. (Res. 04-22, Sec. 7)

1-1408 INITIAL TERMS. ECO^2 shall recommend to the City and County Commissions initial term lengths that set in motion the staggered term structure noted in Section 1-2207. (Res. 04-22, Sec. 8)

1-1409 INITIAL MEETING. The ECO^2 Commission shall initially convene at such time and place as shall be fixed by the Chair of the County and the Mayor of the City and shall thereupon proceed to organize and elect a Chair and Vice-Chair and to fix and determine times and places of future meetings. (Res. 04-22, Sec. 9)

1-1410 BYLAWS. The ECO^2 Commission shall prepare bylaws to govern the Commission's structure and decision making process and shall submit said bylaws to the City and County for joint approval. At a minimum, the bylaws shall require the same representative structure of the Commission's members as set forth in this Resolution and shall further require the affirmative vote of at least three-fourths of all then-current members appointed and serving on the Commission to recommend project funding or take other significant Commission-related action. Until such time that the bylaws are prepared and approved by the City and County, the Commission shall have a Chair who shall call and preside over all meeting of the Commission and a Vice-Chair who shall serve in the absence of the Chair. (Res. 04-22, Sec. 10)

1-1411 OPEN MEETINGS AND OPEN RECORDS. All meetings of the ECO^2 Commission shall be held in compliance with the Kansas Open Meetings Act and its records shall be subject to the Kansas Open Records Act. (Res. 04-22, Sec. 11)

1-1412 WITHDRAWAL BY CITY OR COUNTY. Either the City or the County may withdraw its support of the ECO^2 Commission and terminate the ECO^2 Commission's role with respect to such body upon not less than thirty (30) days notice to the other governmental body. (Res. 04-22, Sec. 12)

1-1413 EVALUATION OF COMMISSION. Both the County and City shall, approximately five years from the effective date of this Resolution, review whether the continued existence of the ECO^2 Commission is necessary or desirable, and if so, whether any amendments should be made to this Resolution or to the responsibilities of the ECO^2 Commission. If neither the County of the City takes formal action to terminate the continued existence of the ECO^2 Commission or make any amendments to this Resolution or the ECO^2 Commission's responsibilities, the ECO^2 Commission shall continue according to the provisions of this Resolution. (Res. 04-22, Sec. 13)

ARTICLE 15: TOWING

1-1501. TOWING/IMPOUNDING VEHICLES.

A. Authority to Tow. The Sheriff's Office and its members may cause any vehicle to be immediately towed under any of the following circumstances, without the prior consent or authorization of the owner or operator of the vehicle:

1. When a vehicle is unattended or abandoned upon a public road or public property and either is parked in a tow zone, interferes with the normal movement of traffic or public business, or otherwise poses a danger to the public health, safety or welfare; or
2. When a vehicle is unattended or abandoned upon a public road or public property for a period of 48 hours; or
3. When a vehicle has been reported stolen or taken without the consent of its owner; or
4. When the owner or operator of a vehicle is unable to provide for its custody or removal; or
5. When a vehicle upon a public road or public property (or adjacent to a public road as a result of an accident) is so disabled or unsafe as a result of an accident or otherwise as to constitute an obstruction to traffic or otherwise poses a danger to the public health, safety or welfare, and the owner or operator of the vehicle is unable or refuses to provide for its custody or removal (the failure of the owner or operator to request a specific tow service provider that is willing and able to respond within the timeframe that the Sheriff's Office or its members determines necessary under the exigencies of the situation shall be deemed the refusal to provide for its removal); or
6. When the person in charge of a vehicle has been arrested or otherwise taken into custody or detained for an alleged offense; or
7. When a vehicle has been used in the commission of a crime or is otherwise subject to seizure as evidence in a criminal prosecution; or
8. When a vehicle is subject to seizure or forfeiture under the laws of Kansas or the United States; or
9. Any other reason authorized by applicable law.

B. Authority to Impound. The Sheriff's Office and its members may cause any vehicle to be immediately impounded as they deem necessary within the normal course of business. Any vehicle so impounded for evidence shall be disposed of in accordance with any orders of a court having jurisdiction over the matter, or as

otherwise allowed by law once the vehicle is no longer needed for evidentiary purposes.
(Res. HR 12-9-2, Sec. 1)

1-1502. NOTICE TO OWNER OF TOWED VEHICLE. Whenever any vehicle is towed pursuant to the provisions of Section 1-1501 of this Article, as amended, the tow service provider shall comply with all notice provisions as outlined in K.S.A. 8-1102 through 8-1104, and amendments thereto.
(Res. HR 12-9-2, Sec. 1)

1-1503. RELEASE OF TOWED VEHICLE. Unless the vehicle is being held or seized as evidence, all vehicles towed pursuant to the provisions of this Article shall be released to the owner or authorized representative by the tow service provider upon satisfaction of the provisions as outlined in K.S.A. 8-1102 through 8-1108, and amendments thereto, except fees and charges shall not exceed those provided for in Section 1-1513 of this Article, as amended.
(Res. HR 12-9-2, Sec. 1)

1-1504. SALE OF VEHICLE. An authorized tow service provider may proceed to dispose of towed vehicles, or to foreclose any possessory lien created by operation of law, in the manner provided in K.S.A. 8-1102 through 8-1108, and amendments thereto, unless a hold has been requested for a particular vehicle by the Sheriff's Office or other law enforcement agency. (Res. HR 12-9-2, Sec. 1)

1-1505. CONTRACT TOWING. It is hereby declared and found by the Board of County Commissioners to be of vital importance to the safety of the traveling public for disabled or abandoned vehicles and vehicles found on public streets to be removed as promptly as possible; that delay in removal can impede the movement of traffic unnecessarily and can cause further accidents; that the solicitation of tows at accident scenes can lead to unnecessary traffic congestion and unsafe and chaotic conditions; and, as a result, that the towing of vehicles from public roads and public property is a matter affecting public safety. Consequently, vehicle tows should be subject to contracts with the County for the purpose of safeguarding the public.

It is further declared and found by the Board of County Commissioners that the practice of towing, removing and storing of vehicles are matters affecting public safety and require uniformity, efficiency, dependability, and consistency, and any person desiring to perform towing operations for the Sheriff's Office and other County officials shall enter into a Tow Service Provider Contract and comply with the provisions of this Article. The purpose of these Tow Service Provider Contracts and the provisions of this Article are to provide a uniform, efficient, dependable, and consistent system for obtaining services

from tow companies which are engaged in or which intend to engage in the practice of towing, removing and storing of vehicles at the request of the Sheriff's Office and other County officials.

Any person desiring to perform tow services at the request of the Sheriff's Office or other County official and who meets the requirements of all other provisions of this Article and enters into a Tow Service Provider Contract shall be eligible to be placed on the County contract tow rotation list and be called on a rotation basis. (Res. HR 12-9-2, Sec. 1)

1-1506. TOWING SERVICE PROVIDER CONTRACT REQUIRED. Each tow service provider seeking placement on the County contract tow rotation list and designation as an authorized tow service provider to perform tow services at the request of the Sheriff's Office, the Emergency Communications Department, or other County official shall make written application to the County Administrator or his designee at least 30 days prior to the desired effective date and shall enter into a Tow Service Provider Contract with the County, in form and substance that the County Administrator approves. Each Tow Service Provider Contract shall generally be for a calendar year and renewal applications should be submitted at least 30 days prior to the expiration date of the then-current contract term. A tow service provider may terminate its designation as an authorized tow service provider, and therefore be removed from the County contract tow rotation list, by providing 5 calendar days advance written notice to the County Administrator. (Res. HR 12-9-2, Sec. 1)

1-1507. CONTRACT TOW REQUIREMENTS. The following requirements and criteria shall be met by any tow service provider desiring placement on the County contract tow rotation list and designation as an authorized tow service provider pursuant to a Tow Service Provider Contract:

A. Exclusive of state recognized holidays, each authorized tow service provider shall have a representative available (by phone or at the premises where a towed vehicle is stored) from 8:00 a.m. to 5:30 p.m., Monday through Friday to release any towed vehicle within one hour of the owner's or authorized representative's request. No additional charge shall be assessed for releasing a vehicle during these days and hours. During all other times, the authorized tow service provider shall have a representative available by phone and able to meet the owner or authorized representative at the premises where the towed vehicle is stored or kept for releasing a vehicle. For a vehicle released during these other times, the authorized tow service provider may not assess a fee in excess of the maximum charges provided for in Section 1-1513 of this Article, as amended. Each authorized tow service provider shall

conspicuously post a sign at the front of its business stating the business name and a telephone number where information can be obtained about any vehicle towed or stored by the business. If an authorized tow service provider's phone number changes during the term of any Tow Service Provider Contract, the authorized tow service provider shall provide the County Administrator with the new number before the change becomes effective.

B. Each authorized tow service provider shall have drivers and wrecker services available to respond to tow requests on a 24 hour per day, 7 days a week basis.

C. Each authorized tow service provider shall clean-up accident debris including but not limited to dirt, broken glass, metal, and other car pieces associated with the vehicle being towed, including but not limited to the use of oil dry or a similar product to clean up any fluid spills, unless otherwise directed by an official overseeing or having jurisdiction of the accident.

D. Each authorized tow service provider must have properly zoned adequate storage facilities within the County. Outside storage areas shall be fenced, with at least 6 foot high chain link or similar security fence and shall be adequately secured.

E. Each authorized tow service provider must have available storage area which is totally enclosed within a building for the protection and security of vehicles with broken windows and valuable property left in vehicles.

F. Each authorized tow service provider must agree to handle and tow abandoned vehicles in addition to tow requests received for damaged or disabled vehicles.

G. Each authorized tow service provider must provide the County with proof of the following insurance protection:

1. Public liability insurance indemnifying the public generally against damages arising out of the operation of the wrecker service. The authorized tow operator shall be responsible for entering the County on such policy or policies of insurance as a named insured. Such policy or policies of insurance shall be in an amount of at least $500,000.00 for one person, $500,000.00 for one accident, and $500,000.00 property damage and a minimum aggregate limit of $1,000,000.00. This coverage can be provided as a combined single limit.

2. Garage keeper's minimum liability policy covering fire, theft or damage to or loss of property while in tow or otherwise in the care, custody and control of the authorized tow operator. Such policy or policies of insurance shall be in an amount of at least $100,000.00 for each individual claim up to a maximum aggregate limit of $200,000.00 per occurrence.

Proof of insurance must be furnished on standard Acord© certificate of insurance forms. The County is to be named as a named insured on all required insuring agreements and each certificate must state that the County will be given 10 days advanced written notice if the policy is canceled or changed.

H. Each authorized tow service provider must enter into and sign a Tow Service Provider Contract with the County.

I. Each authorized tow service provider must provide the County with proof that it has a valid certificate of public service issued from the Kansas Corporation commission. (Res. HR-12-9-2, Sec. 1)

J. Each authorized tow service provider must be in compliance with all city, county, state, and federal laws. Any tow operator not in compliance with all city, county, state, and federal laws by the end of any given calendar year shall be required at that time to deliver to Douglas County such documentation evidencing progress toward compliance with any such incompliance.

K. Each authorized tow service provider that is a legal entity formed by filing with the Kansas Secretary of State or any other state must be active and in good standing in the state of formation and, if a foreign entity, must be registered to do business in the State of Kansas.

L. Each tow service provider entering into a Tow Service Provider Agreement and desiring to become an authorized tow service provider so as to be placed on the county tow rotation list must be separate and distinct from any other authorized tow service provider on the county tow rotation list, and cannot be affiliated with another authorized tow service provider having the effect of taking two slots on the county tow rotation list when, in fairness and reality, it should only take one slot. Evidence of separate and distinct tow operators includes, but is not limited to, separate certificate of public service from the Kansas Corporation Commission; separate insurance policies; separately owned equipment, such as trucks, dollies, etc.;

separate offices or arms length leases for share office space; separate storage facilities or arms length leases for shared storage facilities; separate accounting records and income tax filings; financial independence, such that no authorized tow operator is dependent upon financing from another authorized tow service provider; and the ownership of each tow service provider, together with who benefits from operating profits and is burdened by operating losses, is substantially different. In the case of personnel, a stricter level of scrutiny will be used to determine if a tow operator is dependent upon the personnel of another tow operator. To facilitate separation of operations within a sanctioned shared office space environment, clerical staff may be shared only in the event that separate phone numbers are maintained for each tow office and if written documentation exists representing the relationship between tow operators and shared personnel. In the event drivers or other non-clerical personnel are shared between tow operators, documentation evidencing the nature of the shared relationship may be requested. This documentation could be in the form of a contract or agreement and should include a description of the employee-employer relationship with details regarding how transitions from one tow operator employer to another transpire as well as how each company compensates the shared employee(s). Each tow operator desiring to become an authorized tow operator may be required to deliver to Douglas County such documentation as Douglas County reasonably requests to verify the independence of tow operators, including but not limited to motor vehicle titles and evidence of ownership of other equipment, lease agreements for use of office and storage space necessary to conduct towing operations, payroll information, and other documentation establishing that no tow operator is dependent upon the equipment or personnel of any other tow operator to provide its towing operations. Douglas County shall have the authority to suspend or revoke any Tow Service Provider Agreement if it determines that two or more authorized tow service providers are not separate and distinct from each other.

M. The criteria and requirements set forth in this Subsection A through I of this Section shall not apply when the owner or operator of the vehicle to be towed requests services from a specific tow service provider and the vehicle is towed by that provider. (Res. HR 14-10-05, Sec. 1)

1-1508. COUNTY CONTRACT TOW ROTATION LIST. Based upon information provided by the County Administrator or his designee, the Emergency Communications Department shall maintain a list of authorized tow service providers to be used in providing rotation tow services for the County.

A. When a tow is needed, the law enforcement officer will communicate the need for a tow to the dispatcher on duty. On receiving this communication, the dispatcher shall, as a general rule, call the next authorized tow service provider on the County contract tow rotation list to remove the vehicle and that authorized tow service provider shall then be moved to the bottom of the list. On each succeeding communication, the next tow service provider on the list is generally assigned. In the event an authorized tow service provider cannot be reached by the dispatcher or cannot provide the requested tow within the timeframe required, that authorized tow service provider shall forfeit its turn, that authorized tow service provider shall be moved to the bottom of the list, and the dispatcher shall generally call the next succeeding authorized tow service provider on the list. If an authorized tow service provider at the top of the contract tow rotation list is dispatched and the dispatch does not result in a vehicle tow due to no fault of the authorized tow service provider, such authorized tow service provider shall be moved back to the top of the list. The dispatcher shall keep a continuous rotation of each authorized tow service provider on the master County contract tow rotation list.

B. The County contract tow rotation list provided for in this Article may be used for tows that are initiated by law enforcement officers or other officials of other jurisdictions within the County if the governing body of that jurisdiction specifically requests the Emergency Communications Department to use such list for its tows, in which case, the provisions of this Article and the Tow Service Provider Contract shall apply to such tows.

C. Placement on the County contract tow rotation list shall be by alphabetical order. In the event a new tow service provider becomes authorized, it shall be placed on the list in alphabetical order, regardless of its resulting place in the rotation.

The Sheriff's Office and other County officials shall not be obligated to use the County contract tow rotation list for any of the following: (i) special events where one or more tows may be necessary; (ii) tows involving impounding of a vehicle for evidentiary or other criminal investigation or law enforcement purposes; or (iii) tows involving County owned vehicles. Instead, the County may enter into an agreement with one or more tow service providers as needed for any such purposes. For purposes of this Section, special events shall include, but not be limited to, concerts, festivals, sobriety checkpoints, or any other similar event.
(Res. HR 12-9-2, Sec. 1)

1-1509. MAXIMUM FEES AND CHARGES. No authorized tow service provider towing a vehicle pursuant to the County contract tow rotation list, and no any towing company towing a vehicle, without the prior consent or authorization of the owner or operator of the vehicle shall charge any towing, storage, or related fees in addition to or in excess of those provided for in Section 1-1513 of this Article, as amended. The County shall not be responsible for unpaid towing charges for such contract tows except as agreed to in writing by a County official. (Res. HR 12-9-2, Sec. 1)

1-1510. SUSPENSION OR REVOCATION OF APPROVAL AND AUTHORIZATION; GROUNDS.

A. Suspension or Revocation. The County Administrator or his designee may order that the approval and authority of an authorized tow service provider be suspended or revoked. Any such suspension shall temporarily remove the tow service provider from the contract tow rotation list and may be effective a maximum of 60 calendar days after any noted deficiency is corrected, with the period of suspension to be determined by the County Administrator or his designee. Any such revocation shall permanently remove the tow service provider from the contract tow rotation list and shall terminate the Tow Service Provider Contract with the tow service provider. A revoked tow service provider may be reinstated after entering into a new Tow Service Provider Contract but only upon terms and conditions that lead the County Administrator or his designee to conclude that whatever problems or deficiencies had existed are permanently remedied. Such suspension or revocation may be based upon good cause, including but not limited to any one or more of the following:

1. The tow service provider obtained its authority as an authorized tow service provider by fraudulent conduct or false statements;
2. The tow service provider has failed to comply with the provisions of this Article;
3. The tow service provider violated the fee and charge schedule by overcharge;
4. The tow service provider has consistently refused to respond to requests for services from the Emergency Communications Department or the Sheriff's Office or has consistently failed to answer telephone calls from them at the telephone number supplied by the tow service provider;
5. The tow service provider has responded to the scene of an accident, emergency, or impoundment situation, when

not specifically called to do so, and solicited wrecker or towing business; and

6. The County is not satisfied with the general services of the owner and/or employees of the tow service provider or with the cooperation it has received from such tow service provider or other justifiable cause.

B. Appeal: Such suspension or revocation shall be by written notice to the tow service provider and shall contain the reasons for the suspension or revocation. The tow service provider may appeal such decision to the Board of County Commissioners or its designee by filing notice with the County Administrator within 10 calendar days of the notice of suspension or revocation. The Board of County Commissioners or its designee shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation.

C. No Vested Rights: Nothing in this Article, the County's designation as an authorized tow service provider, the County's entering into a Tow Service Provider Contract with any tow service provider, or the County's utilization of any tow service provider for tows shall confer any vested property rights upon the tow service provider to continue as an authorized tow service provider, to remain on the County contract tow rotation list, or to tow any vehicle for the County. (Res. HR 12-9-2, Sec. 1)

1-1511. SOLICITATION PROHIBITED. No tow service provider or tow service provider's employee, driver or contractor shall stop, stand or park a tow truck at or near the scene of an accident or at or near a disabled vehicle within the unincorporated areas of the County for the purpose of soliciting an agreement for towing services, unless such tow service provider, employee, driver or contractor has been called to the scene by the Emergency Communications Department, the Sheriff's Office, another law enforcement agency, or by the owner or authorized representative of an involved vehicle.
(Res. HR 12-9-2, Sec. 1)

1-1512. ACCESS TO PERSONAL PROPERTY. Any owner or authorized representative of a vehicle towed pursuant to this Article shall have access to personal property that is not affixed to such vehicle for up to 96 hours after such vehicle has been towed, and such personal property shall be released to said owner or authorized representative within one hour of the owner or authorized representative's request; except, however, if it is being held or seized as evidence. By becoming an authorized tow service provider and being placed on the County contract tow rotation list, each authorized tow service provider waives any possessory lien, to the extent it even has one, in any such personal property. The authorized tow service provider shall not

charge any additional fee for retrieval of personal property during the hours and days specified in Section 1-1507 of this Article, as amended. For personal property released during other times, the authorized tow service provider may not assess a charge in excess of the maximum fee provided for in Section 1-1513 of this Article, as amended. (Res. HR 12-9-2, Sec. 1)

1-1513. MAXIMUM TOW, STORAGE, AND RELATED FEES.

A. Charges for towing, storage and other related services in connection with any vehicle towed or impounded pursuant to the County contract tow rotation list or otherwise towed without the prior consent or authorization of the owner or operator of the vehicle shall not exceed the maximum fees and charges that the Board of County Commissioners adopts by resolution, as amended and in effect from time to time. These charges are the sole and exclusive charges that may be legally imposed for such towing, storage and other related services and it shall be unlawful to charge fees in addition to or in excess of such maximum fees and charges. All other charges not identified in this Article or by resolution are expressly prohibited, including, without limitation, fuel surcharges, gate fees or other similar unauthorized fees to retrieve vehicles or remove personal property.

B. These fees include clean-up of all accident debris, including but not limited to the use of oil dry or a similar product to clean up any fluid spills.

C. A tow service provider or other tow operator may charge a full day's storage fee for any portion of a day the vehicle is stored; provided, however, that no fee shall be charged if the owner or authorized representative retrieves the vehicle within the first 24 hours; provided further that no fee shall be charged for any additional day if a vehicle is stored for the additional day as a result of the tow service provider's or tow operator's failure to release the vehicle to the owner or authorized representative as required of authorized tow service providers in this Article. (Res. HR 12-9-2, Sec. 1)

1-1514. SEVERABILITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.
(Res. HR 12-9-2, Sec. 1)

1-1515. PENALTY.

A. Anyone who directly or indirectly violates any provision of this Article shall be guilty of a misdemeanor fined not less than $100 nor more than $500, or by up to one month imprisonment in jail, or both such fine and imprisonment.

B. Any penalty imposed by this provision shall be in addition to any other remedy at law or equity available to the County, including but not limited to damages for any failure to comply with the provisions of a Tow Service Provider Contract.
(Res. HR 12-9-2, Sec. 1)

CHAPTER 2. ANIMAL CONTROL

Article 1. Dangerous Dogs
Article 2. Prohibiting Certain Animals
Article 3. Stray Animals
Article 4. Euthanization of Certain Animals
Article 5. Vicious Dogs

ARTICLE 1. DANGEROUS DOGS

2-101. DEFINITIONS: As used in this article, unless the context clearly indicates otherwise, the following words and terms shall have the following meanings:

(a) Animal Control Director - The person appointed by the Douglas County Sheriff to supervise the administration of these regulations.

(b) Animal Control Officer - Any law enforcement officer or other person employed or appointed by the Douglas County Sheriff to assist in enforcing these regulations.

(c) Dangerous Dog - Means any dog that demonstrates one or more of the following types of behavior:

(1) Any dog who is known to its Owner or Possessor, or reasonably should be known to its Owner or Possessor, to have a propensity, tendency or disposition to attack without provocation, to cause bodily injury or to otherwise endanger the safety of human beings or domestic animals;

(2) Any dog which has bitten, inflicted injury, assaulted, or otherwise attacked a domestic animal or livestock without provocation, if such assault or attack occurs on property other than that of the Owner or Possessor of the attacking dog;

(3) Any dog which has bitten, inflicted bodily injury, assaulted, or otherwise attacked a person on any property, public or private, without provocation when such person is conducting himself or herself peacefully and lawfully; or

(4) Any dog kept for the purpose of fighting or any dog trained for fighting.

(5) EXCEPTION: Notwithstanding the definition of Dangerous Dog in this section, no dog may be determined a Dangerous Dog if:

(i) Any injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass upon the premises of the Owner or Possessor of the dog , was committing or attempting to commit or had just committed or attempted to commit another crime, or was teasing, tormenting or abusing the dog; or

(ii) The dog was protecting or defending a person or another animal within the immediate vicinity of the dog from an unjustified attack or assault; or

(iii) The dog is used by a law enforcement agency in connection with the agency's official duties.

(HR 01-2-1, Sec. 3)

(d) Dangerous Exotic Animal - Any live animal which, due to its inherent nature, may be considered dangerous to humans, including a non-human primate or prosimian (chimpanzees, monkeys) and any member of the *canidae, felidae, ursidae, or proboscidae* families, including hybrids thereof, and which include:

(1) Any member of the dog (*canid*) family not customarily domesticated by man, or any hybrids thereof, including wolf hybrids which are a cross between a wolf and a domestic dog, but not including domestic dogs (*Canis familiaris*);

(2) Any member of the cat family weighing over fifteen (15) pounds not customarily domesticated by man, or any hybrids thereof, but no including domestic cats (*Felis catus*);

(3) Any member of the bear (*ursidae)* family, or any hybrids thereof; and

(4) Any member of the elephant (*proboscidae*) family, or any hybrids thereof.

(HR 05-7-6, Sec. 1)

(e) Own or Possess - A property interest in an animal, actual or claimed, or the exercise of dominion or control over an animal, or the intent to exercise dominion or control over an animal with the present ability to do so.

(f) Owner or Possessor - A person who Owns or Possesses an animal.

(HR 01-2-1, Sec. 3)

2-102. ANIMAL CARE: The following shall apply to animals and Owners and Possessors thereof:

(a) Dangerous Dogs - It shall be unlawful for a person to Own or Possess a Dangerous Dog, except in accordance with the following requirements:

(1) Dangerous Dog Confinement - All Dangerous Dogs shall be securely confined within a building or in a securely enclosed and locked kennel or pen.

(2) Standards for Kennels of Pens of Dangerous Dogs - A kennel or pen used for confining a Dangerous Dog must have secure sides of sufficient height and a secure top attached to the sides to prevent escape. Such kennel or pen must have a secure bottom or floor attached to the sides of the kennel, or the sides of the kennel must be embedded in the ground no less than two (2) feet. The kennel or pen must be locked with a key or combination lock when the Dangerous Dog is within the kennel or pen. Any such kennel or pen must comply with all applicable zoning and building regulations.

(3) Confinement Indoors - No Dangerous Dog may be kept on a porch, patio or in any part of a house or other structure that would allow the Dangerous Dog to exit such house or other structure on its own volition. In addition, no Dangerous Dog may be kept in a house or other structure when screen doors or screen windows are the only obstacle preventing the dog from exiting the house or other structure.

(4) Control of Dangerous Dogs – No person shall permit a Dangerous Dog to go outside its kennel or building unless: (1) the Dangerous Dog is secured on a leash no longer than four feet in length, (2) a person has physical control of the leash, and (3) the Dangerous Dog is securely muzzled. The muzzle shall be made and used in a manner that will not cause injury to the animal or interfere with its vision or respiration, but shall prevent it from biting any person or animal. A Dangerous Dog shall not be leashed to inanimate objects such as trees, posts, or buildings.

(5) Dangerous Dog Signage - All Owners or Possessors of a Dangerous Dog shall display in a prominent place on their premises a sign easily readable by the public in letters at least four (4) inches high using the words: “Beware of Dog.” In addition, a similar sign shall be posted on the kennel or pen of the Dangerous Dog.

(6) Registration And License - The Owner or Possessor of a Dangerous Dog shall annually register the Dangerous Dog with the Animal Control Director on such forms designated by the Animal Control Director, and shall have a microchip inserted in the dog by the

Lawrence Humane Society, or such other entity as authorized by the Animal Control Director. The microchip shall detail the Dangerous Dog registration and such other information as may be appropriate to determine the Owner or Possessor of the dog. The Owner or Possessor of the dog shall pay a an annual registration and license fee as determined by the Douglas County Commission from time to time, with the initial annual fee being $50, and shall pay all costs associated with the microchip procedure and registration of the dog. The Owner or Possessor shall notify the Animal Control Director within seven (7) days of a change in address for the Owner or Possessor and the Dangerous Dog. The Animal Control Director shall, in turn, notify the Lawrence Humane Society, or such other entity currently inserting the microchips in Dangerous Dogs.

(7) Destruction of Dangerous Dogs - A Dangerous Dog shall be ordered humanely destroyed by order of the District Court if such court finds by a preponderance of the evidence that the animal is a Dangerous Dog as the term is defined in these regulations **and** also finds by a preponderance of the evidence that any one or more of the following factors are applicable:

(i) The Owner or Possessor of such Dangerous Dog has previously been found guilty of any offense pertaining to such dog which involves failing to adequately confine or control such dog; or

(ii) The Owner or Possessor has failed to comply with the provisions of these regulations pertaining to the confinement and control of Dangerous Dogs on one or more occasions after such dog has been finally determined to be a Dangerous Dog; or

(iii) The dangerous propensities of the Dangerous Dog are such that such dog presents an imminent threat to the public health and safety; or

(iv) The Dangerous Dog has caused great bodily harm to, or killed a human being.

In making its determination, the District Court may consider the nature and severity of the any attack, prior attacks and offenses, and such other information determined relevant by the District Court. An order of destruction provided for in this section may be sought and obtained in an independent civil proceeding brought by Douglas County or requested as relief or restitution as a part of any criminal proceeding applicable to a Dangerous Dog or Owner or Possessor thereof. The Owner or Possessor of a Dangerous Dog shall be liable for the expense of destruction and disposal of such dog.

(b) Permitting or Directing Animals to Bite - It shall be unlawful for any person to permit or direct an animal to bite or attack another person, a domesticated animal or livestock. This subsection shall not apply to the use of dogs by law enforcement agencies or to lawful defense of a person, dwelling, or property.

(c) Dangerous Exotic Animals - It is unlawful to Own or Possess a Dangerous Exotic Animal in the unincorporated areas of Douglas County, Kansas.

(1) Exclusion, Zoos, and Other Facilities - The provisions of this Section shall not apply to properly maintained zoological parks accredited by the Association of Zoos and Aquariums; licensed or accredited medical institutions; accredited educational institutions; veterinary clinics or humane societies in possession of Dangerous Exotic Animals for impoundment, treatment, or rehabilitation purposes; or wildlife rescue facilities as designated by the Kansas Department of Wildlife and Parks.

(2) Exclusion, Transitional Transporting - The provisions of this Section shall not apply to persons transporting Dangerous Exotic Animals through Douglas County, provided that the transit time through Douglas County shall not be more than twelve (12) hours.

(HR 05-7-6, Sec. 2)

(d) Nuisance Animals - It shall be unlawful for any person to Own or Possess any animal which engages in any of the following types of behavior:

(1) Molests or interferes with another person in the public right-of-way;

(2) Damages public or private property other than that of its Owner or Possessor by its activities;

(3) Harasses or inflicts minor injury to any person, livestock, or domestic animal without provocation;

(4) Scatters refuse on public or private property, other than the property of the Owner or Possessor, if the refuse had been bagged or otherwise contained;

whether or not done with the knowledge of the Owner or Possessor. A violation of this Section shall be considered a lesser included offense to a violation of Sections 2-102(a), 2-102(b), or 2-102(c).

(HR 01-2-1, Sec. 4)

2-103. ANIMAL IMPOUNDMENT: Animals subject to the provisions of these regulations or state law may be impounded in accordance with the following regulations:

(a) Impoundment, General - Any Dangerous Dog that is Owned or Possessed in violation of Sections 2-102(a) or 2-102(b), any Inherently Dangerous Animal that is Owned or Possessed in violation of Section 2-102(c), or any animal in violation of similar provisions under state or other local law, may be impounded and placed in the county animal shelter, or other location approved by the Animal Control Director, by an Animal Control Officer, a law enforcement officer or other person authorized by law to impound animals.

(b) Impoundment Costs - All costs and fees associated with impounding or boarding an animal pursuant to this section shall be paid for by the Owner or Possessor of such animal. In the event that the Owner or Possessor of such animal fails to pay such costs and the County pays such costs, the County shall be entitled to seek reimbursement of such costs either in an independent civil proceeding or the costs may be requested as restitution as a part of any applicable criminal proceeding. Notwithstanding the foregoing, if the animal is not found to be in violation of these regulations or other provision of state or local law, the Owner or Possessor shall not be required to pay the costs and fees of impounding or boarding the animal.

(c) Euthanization or Other Disposition - If no Owner or Possessor can be located, or if no Owner or Possessor will redeem the animal within five (5) days after the animal is available for redemption, the animal may be humanely destroyed or released to a humane society at no charge. However, if any animal is destroyed within ten (10) days of the date of any bite or scratch of a human being, such animal shall be preserved for rabies testing in accordance with applicable law. No Owner or Possessor shall be relieved of liability for payment of an impoundment or boarding charges incurred because an animal is euthanized or delivered to a humane society as provided herein.

(d) Removal of Animals from Animal Control Officers or Shelters Prohibited - No person shall remove an animal from the custody of an Animal Control Officer, county animal shelter, or other location at which an animal is located, whether by force, deceit or otherwise, when such animal has been impounded by such officer under the provisions of this regulations or state law, unless the Animal Control Director or a court of appropriate jurisdiction has expressly authorized the release of the animal.

(e) No Limitation In Rabies Cases -The provisions of these regulations shall not reduce or otherwise limit any other requirements of applicable law that require the impounding or holding of animals for observation following a bite or scratch by an animal that could possibly carry rabies or other communicable diseases. In addition, nothing in these

regulations shall prohibit the humane destruction of an animal suspected of carrying rabies if such destruction is done in compliance with other applicable law. In the event that an animal would otherwise be impounded under this Section, but is held at a different location for observation, the animal shall be impounded under this Section immediately upon expiration of the observation period.

(HR 01-2-1, Sec. 5)

2-104. ADMINISTRATION AND ENFORCEMENT OF ANIMAL CONTROL REGULATIONS - The provisions of this article shall be administered as follows:

(a) Animal Control Director, Appointment and Duties - The provisions of these regulations shall be administered by the Animal Control Director. The Animal Control Director shall be appointed and serve at the pleasure of the Douglas County Sheriff.

(b) Animal Control Officers, Appointment and Duties - The Douglas County Sheriff shall appoint or designate one or more persons as Animal Control Officers, including any deputy sheriff, whose duty it shall be to enforce the provisions of these regulations.

(c) Animal Shelter, Establishment - The Douglas County Commission, with the advice of the Animal Control Director, shall provide an animal shelter or shelters for the reception and humane care of the animals impounded under these regulations, and for this purpose may contract with any governmental entity, not for profit corporation or association or licensed kennel upon such terms and conditions as are mutually deemed appropriate.

(d) Interference with Health Officials and Animal Control Officers Prohibited - No person shall knowingly interfere with any person appointed under the provisions of these regulations in the performance of his or official duties as prescribed herein. It shall be unlawful for any person to refuse to identify himself or herself by correct name and address when asked to do so by an Animal Control Officer when the officer has reason to believe that such person has violated these regulations.

(e) Refusal to Deliver Animals to Animal Control Officers Prohibited - No person shall refuse to deliver an animal to an Animal Control Officer when requested to do so under impoundment provisions of these regulations.

(HR 01-2-1, Sec. 6)

2-105. INTERPRETATION AND SEVERABILITY - The regulations enacted by these regulations are intended to be supplementary to other provisions or remedies authorized or prescribed by law or rule or regulation enacted thereunder. The invalidity of any particular regulation enacted herein shall

not affect the validity of any other provision and all regulations hereunder shall be construed as consistently and harmoniously as possible with each other and other applicable provisions of law. These regulations also shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which they are intended.

(HR 01-2-1, Sec. 7)

2-106. JURISDICTION - These regulations shall be applicable to all unincorporated areas within Douglas County, Kansas.

(HR 01-2-1, Sec. 8)

2-107. VIOLATIONS AND ENFORCEMENT - It shall be unlawful for any person to violate or fail to abide by any provisions of this Article. Such violation shall cause such person to be subject to one or more of the following enforcement provisions:

(a) Criminal Proceedings **-** Any person who violates any provision of this Article shall be guilty of a misdemeanor, punishable as follows:

(1) First offense, fine of $100 to $200 and, in addition, confinement in the county jail not to exceed six months; provided, however, that any violation of these resolutions that results in no bodily injury or harm to a person or injury to domesticated animals or livestock shall result in a fixed fine of $50 with no confinement in the county jail.

(2) Second and subsequent offense, fine of $500 to $1,000 and, in addition, confinement in the county jail not to exceed one year; provided, however, that any second or subsequent violation of these resolutions that results in no bodily injury or harm to a person or injury to domesticated animals or livestock shall result in a fixed fine of $100 with no confinement in the county jail.

(3) Instead of the penalties set forth in Sections 2-107(a)(1) and 2-107(a)(2) , any person who violates the provisions of Section 2-102(d) (relating to Ownership or Possession of animals engaging in certain nuisance activities) shall be guilty of a misdemeanor, punishable by a fixed fine of $50 with no confinement in the county jail.

(4) Each day's violation shall constitute a separate offense.

(b) Restitution - The court shall order reasonable restitution in connection with any convicted criminal offense involving the violation of these regulations.

(c) Other Remedies - The County shall have such other remedies as are and as may be from time to time provided by other applicable law.

(d) Initiation of Criminal Proceeding - In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under these regulations by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution.

(HR 01-2-1, Sec. 9)

ARTICLE 2. PROHIBITING THE OWNERSHIP, POSSESSING, KEEPING, OR HARBORING OF CERTAIN ANIMALS

2-201. DEFINITIONS. (a) Domesticated shall mean bred for and adapted to use as a family pet capable of living within a household or to use as a product of animal husbandry generally accepted by the school of agriculture at Kansas State University.

(b) Owner shall mean the person who owns, keeps, harbors or possesses an animal or specified animal.

(c) Temporarily shall mean a period of less than two weeks.

(HR 93-5-3, Sec. 1)

2-202 OWNING CERTAIN ANIMALS PROHIBITED. It shall be unlawful to own, keep, harbor, or possess any animal which is not domesticated as defined herein.

(HR 93-5-3, Sec. 2)

2-203 EXCLUSIONS. The prohibition contained herein shall not apply to the following animals:

(a) Domestic dogs, other than those which are hybrid with a wild canine.

(b) Domestic cats, other than those which are hybrid with a wild feline.

(c) Domesticated rodents.

(d) Domesticated European ferrets.

(e) Rabbits.

(f) Birds, other than those protected by state or federal law.

(g) Nonvenomous snakes and lizards, other than those protected by state or federal law.

(h) Turtles, other than those protected by state or federal law.

(i) Amphibians, other than those protected by state or federal law.

(j) Fish, other than those protected by state or federal law.

(k) Invertebrates, other than those protected by state or federal law.

(l) Llamas.

(m) Horses, cows, sheep, mules, donkeys, or goats.

(n) Any animal in the ownership of a veterinary clinic operated by a licensed veterinarian.

(o) Any animal in the ownership of a person designated and licensed as an animal rehabilitator by the Kansas Wildlife and Parks Department.

(p) Any animal in the ownership of a person temporarily transporting such animal through the County.

(q) Any animal in the ownership of a bona fide medical institution or accredited educational institution.

(r) Any animal temporarily owned by a facility licensed by the Kansas Animal Health Department for the purposes of impounding, sheltering, or caring for animals.

(s) Ostrich.

(HR 93-5-3, Sec.3)

2-204 ENFORCEMENT. (a) Confiscation. The County may bring an action to seek confiscation of a prohibited animal in the District Court. The District Court judge may order the immediate confiscation of the prohibited animal by the county sheriff upon a finding that the animal poses an immediate danger to the public or itself. Upon conviction of a person for owning an animal prohibited by this article, the District Court judge shall order the county sheriff to confiscate the animal. The sheriff may delegate the actual confiscation to the Kansas Department of Parks and Wildlife or to any appropriate licensed animal rehabilitation or care facility. Any animal confiscated pursuant to this provision shall be transferred to an appropriate licensed animal rehabilitation or care facility. The District Court judge may order the animal released to the owner upon showing that the animal will be transferred to an appropriate licensed animal rehabilitation or care facility or to a location outside the County where such animal may be legally kept. If the owner fails to make such a showing within fourteen (14) days of the confiscation of the animal the Court shall order the animal to be disposed of by the rehabilitation or care facility in such a manner as the director of such facility sees fit. If the animal is sold by the facility the proceeds of the sale shall be first used to pay all expenses incurred by the facility in confiscating, housing, caring for, and disposing of the animal; then for payment of any fines or court costs which remain unpaid; and then the balance shall be paid to the owner.

(b) Criminal Penalty. Any person convicted of violating the provisions of this article shall be fined not less than $50.00 nor more than $500.00, and upon any second or subsequent conviction shall be fined not less than $100.00 nor more than $1,000.00 and confined in the County jail for not more than 10 days. Each consecutive day's violation shall constitute a separate offense.

(HR 93-5-3, Sec. 4)

ARTICLE 3. STRAY ANIMALS

2-301 Impounding; Redemption and Disposition. (a) A dog, cat or other animal found to be abandoned or in violation of the resolutions o the county by a member of the sheriff's department within the boundaries or unincorporated area of Douglas County may be taken into custody by the sheriff's officer, or brought in by other citizens and may be impounded in a place provided for such purpose. The officer shall make a record o fall dogs, cats, or other animals so impounded with their description, date of impoundment and rabies vaccination number. If, within 5 days from the date any animal is impounded the owner of such animal shall appear and claim his or her animal, said animal may be released upon payment of the fees required to be paid by Douglas County. (Res. No. 94-33, Sec. 1,a.)

(b) If any animal impounded as above provided is not claimed by the owner thereof within three (3) days of the date of such impounding, the animal shall become property of the agency with whom the animal was impounded. (Res. No.98-14, Sec. 1)

ARTICLE 4. EUTHANIZATION OF CERTAIN ANIMALS

2-401 This Article will apply if: (a) The owner or custodian of the animal or animals has been charged with a violation of K.S.A. 21-4310;

(b) The Douglas County Humane Society or other animal shelter has taken or been given custody of the animal or animals who are the subject of such charges; and

(c) one of the following conditions exist

(1) Notice has been given or a reasonable attempt has been made to notify the owner or custodian of the animal or animals, said notice or attempt being made at least twenty (20) days prior to the filing of the petition for placement or euthanization, and the owner or custodian is not known or reasonably ascertainable after twenty (20) days after the animal is taken into custody; or

(2) the owner or custodian of the animal or animals has not filed a renewable case or performance bond with the County Clerk in an amount not less than the cost of care and treatment of the animal for thirty (30) days. (Res. 98-44, Sec. 1)

2-402 If the conditions of 2-401 have been met, the animal shelter may initiate and file a petition with the Douglas County District Court, wherein the Court is asked to determine whether the animal may be placed for adoption or euthanized. (Res. 98-44, Sec. 2)

ARTICLE 5. VICIOUS DOGS

2-501 FINDINGS. The Board of County Commissioners hereby finds that certain dogs, because of a combination of their physical attributes and disposition or training

for aggression, fighting, or attack pose a clear and present threat to public safety in Douglas County, Kansas. Although relatively few in number, such dogs represent a threat to all persons of Douglas County, particularly those persons who can not protect and defend themselves such as children and the elderly. Regardless of the procedures taken to confine such dogs, their mere presence in Douglas County creates an unacceptable risk to the public because such dogs may escape or be released at any time. Because of the clear and present threat to public safety, such dogs are found to be a public nuisance. As a result, the Board of County Commissioners hereby prohibits the ownership and possession of these vicious dogs within Douglas County, Kansas and imposes related regulations, as set forth in this Article. (Res. HR-03-7-3, Sec. 1)

2-502 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

(a) County Animal Control Director means the person employed by Douglas County and appointed by the Douglas County Sheriff to supervise and administer animal control rules and regulations.

(b) Court means the Kansas District Court and any county court that Douglas County may establish from time to time or, if the context requires, a judge, whether a District Judge, a District Magistrate Judge, Judge Pro Tem, a judge of any county court, acting in the judge's official capacity for the such Court, or any other judge authorized to hear cases arising under this Article.

(c) Law Enforcement Officer means any sworn law enforcement officer, whether of Douglas County or any city within Douglas County, or other person authorized, employed or elected to preserve peace, make arrests or enforce the law within the jurisdiction to which this Article applies.

(d) Own or Possess means a property interest in an animal, actual or claimed, or the exercise of dominion or control over an animal, or the intent to exercise dominion or control over an animal with the present ability to do so. Any person who keeps, harbors, controls, acts as a custodian of, or knowingly permits an animal to remain on or about any premises shall be deemed to Own or Possess the animal.

(e) Owner or Possessor means a person who Owns or Possesses an animal.

(f) Vicious Dog means any dog which,

(1) Kills a human being; or

(2) Inflicts Severe Injury to a human being through a sustained and vicious attack; or

(3) Has been trained to fight and possess physical attributes such as size, build, or bite strength to inflict Serious Injury to a human being; for this purpose, the following shall be presumed to have been trained to fight: (i) any dog involved in a staged fight, (ii) any dog exhibiting wounds or bodily disfigurements commonly associated with dog fighting, (iii) any dog found or kept on premises at which equipment is located that is commonly associated with training dogs to fight, and (iv) any dog found or kept with other dogs that (a) have been trained to fight or (b) are presumed to have been trained to fight; or

(4) Because of its disposition and physical attributes, such as size, build, or bite strength, poses a substantial threat to the life and safety of public safety and emergency response personnel (such as law enforcement officers, fire fighters and paramedics) who are seeking or may seek lawful access to any property in order to perform their duties; or

(5) Has the propensity, tendency or disposition to attack a human being without provocation and possesses physical attributes such as size, build, or bite strength to inflict Severe Injury to a human being.

Exceptions. Provided, however, that no dog shall be deemed or declared a Vicious Dog:

(6) Solely because it inflicted Severe Injury on a human being if the human being was, at the time the Severe Injury was sustained, (i) assaulting the Owner or Possessor of the dog, provided the Owner or Possessor of the dog was not the aggressor, (ii) committing a willful trespass upon the premises of the Owner or Possessor of the dog, or (iii) provoking, tormenting abusing, or assaulting the dog, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the dog at other times; or

(7) Solely because it inflicted Severe Injury on a human being if the dog was, at the time the Substantial Injury was sustained, (i) responding to pain or injury, (ii) protecting itself, its kennel, its offspring, or its Owner or Possessor's property, or (iii) protecting or defending another human being within the immediate vicinity of the dog from an unjustified attack or assault; or

(8) Is Owned or Possessed by a federal, state, or local law enforcement agency.

(g) Severe Injury means serious bodily injury, such as muscle tears, broken bones, serious disfigurement requiring corrective or cosmetic surgery, or serious impairment of any bodily function.

(Res. HR-03-7-3, Sec. 1)

2-503 UNLAWFUL ACTS CONCERNING VICIOUS DOGS.

(a) Vicious Dogs as Public Nuisance. Vicious Dogs are declared to be a public nuisance and are hereby prohibited in Douglas County, Kansas.

(b) Ownership or Possession of Vicious Dog. It shall be unlawful to Own or Possess a Vicious Dog in Douglas County, Kansas. An Owner or Possessor of a dog that falls within the definition of "Vicious Dog" shall be strictly liable under this Section and a conviction shall not require proof of (i) any criminal intent, or (ii) the Owner or Possessor's knowledge of any particular propensity, tendency or disposition of the dog. Each Vicious Dog Owned or Possessed in violation of this Section shall constitute a separate offense.

(c) Ownership or Possession of Dog following Conviction. It shall be unlawful for any person convicted of Owning or Possessing a Vicious Dog in violation of Section 2-503(b) to Own or Possess any dog, whether or not found to be a Vicious Dog, for a period of 3 years following the date of such conviction.

(Res. HR-03-7-3, Sec. 1)

2-504. EUTHANIZATION OF VICIOUS DOG. If the Court finds, after hearing evidence, that any dog is a Vicious Dog, the Court shall, in addition to any other applicable penalties or remedies, order the County Animal Control Director to cause the dog to be euthanized in accordance with applicable state euthanization laws. The Court may enter such an order as part of a criminal proceeding brought pursuant to Section 2-506 or in a separate civil proceeding brought for such purpose and, in either event, shall impose against the Owner or Possessor of the Vicious Dog the expenses of impounding, keeping, and euthanizing the Vicious Dog. Regardless of whether part of a criminal proceeding or civil proceeding, the standard of proof to determine whether the dog is a Vicious Dog shall be by a preponderance of the evidence. The Owner or Possessor shall be notified (at the Owner or Possessor's last known address) at least 5 days in advance of the date and time of any evidentiary hearing pursuant to this Section and may present contrary evidence at such hearing. The failure of the Owner or Possessor to attend or participate in the hearing, however, shall not prevent the Court from making an appropriate determination concerning the dog.

(Res. HR-03-7-3, Sec. 1)

2-505 IMPOUNDMENT OF VICIOUS DOGS.

(a) Impoundment. When the County Animal Control Director or any other Law Enforcement Officer has probable cause to believe that any dog is a

Vicious Dog, such officer may, in his or her discretion, take custody of the dog and impound it until such time as evidence shall be heard and a determination made as to whether the dog is a Vicious Dog; provided that if the Owner or Possessor of the dog is not known, the dog may be disposed of pursuant to other applicable law. The dog may be impounded at any incorporated humane society or other location that the County Animal Control Director permits and which is consistent with applicable state impoundment laws. A warrant may be obtained to allow the County Animal Control Director or any other Law Enforcement Officer to go onto any property and take custody of any dog for which there is probable cause to believe it is a Vicious Dog. In addition, the Court may, through its contempt power, compel the Owner or Possessor of any dog to surrender it to the County Animal Control Director or any other Law Enforcement Officer. In the event any dog is found to be a Vicious Dog, the Owner or Possessor of such dog shall be responsible for payment of any expenses of impounding and keeping the dog pending disposition of the case and expenses of euthanizing the dog.

(b) Discretionary Testing of Suspected Vicious Dog. Whenever any dog is impounded pursuant to this Section based upon probable cause to believe that the dog is a Vicious Dog under Section 2-502(f)(3) (dogs trained to fight with physical attributes to inflict Serious Injury), under Section 2-502(f)(4) (dogs with physical attributes to pose a substantial threat to the life and safety of public safety and emergency response personnel), or Section 2-502(f)(5) (dogs with the propensity, tendency or disposition to attack without provocation with physical attributes to inflict Serious Injury), the County Animal Control Director or any other Law Enforcement Officer may, in his or her discretion, cause any person who is knowledgeable in identifying dogs trained to fight, or who is trained or certified at evaluating animal temperament, including appropriate representatives of the Lawrence Humane Society, to examine the dog and render an opinion as to whether the dog is a Vicious Dog under Section 2-502(f)(3), Section 2-502(f)(4), or Section 2-502(f)(5), with the person examining and rendering the opinion to be chosen at by the County Animal Control Director or other Law Enforcement Officer requesting the examination.

(c) Unauthorized Removal of Impounded Dogs: Actual or Attempted. No person shall remove or attempt to remove a dog from the custody of the County Animal Control Director, any Law Enforcement Officer, or any animal shelter at which the dog is impounded, whether by force, threat, deceit or otherwise, when such dog has been impounded under the provisions of this Section or any other law, unless the County Animal Control Director or a court of appropriate jurisdiction expressly authorizes the release of the dog.

(d) Post-Impoundment Review. Within 10 days of impounding a dog pursuant to this Section without a warrant, the Court shall review documentary evidence substantiating the County Animal Control Director's or Law Enforcement Officer's probable cause to determine whether the dog is a Vicious Dog. If the Court determines that the evidence is not sufficient to establish

probable cause that the dog is a Vicious Dog and the dog's Owner or Possessor is known, the dog shall be released to its Owner or Possessor as soon as practical.

(Res. HR-03-7-3, Sec. 1)

2-506 CRIMINAL PENALTIES. In addition to any applicable restitution, any person who violates the provisions of this Article shall be subject to the following penalties:

(a) Violation of Vicious Dog Provisions. Any person who Owns or Possesses a Vicious Dog in violation of Section 2-503(b) shall be guilty of a misdemeanor, punishable as follows:

(1) First offense, a fine, which shall be set at $500. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 90 days.

(2) Second offense committed within 5 years of a prior offense, a fine, which shall be set at $1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 6 months.

(3) Third offense committed within 5 years of 2 prior offenses, a fine, which shall be set at $1,000. The fine shall be mandatory and the Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall sentence the defendant to confinement in the county jail for a minimum of 30 days and a maximum of 6 months. The defendant shall be required to serve the minimum 30 day jail sentence and the Court shall have no authority to suspend the first 30 days of such sentence.

(b) Violation of Provisions Regarding Unauthorized Removal of Impounded Dogs. Any person who removes or attempts to remove a dog from the custody of the County Animal Control Director, any Law Enforcement Officer, or any animal shelter at which the dog is impounded, in violation of Section 2-505(c), shall be guilty of a misdemeanor, punishable by a fine in the amount of $1,000. The Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 6 months.

(c) Violation of Other Provisions. Any person who Owns or Possesses a dog in violation of Section 2-503(c) or violates any other provision of this Article, shall be guilty of a misdemeanor, punishable by a fine in the amount of

$250. The Court shall have no authority to suspend the fine or any portion thereof. In addition, the Court shall have the authority to sentence the defendant to confinement in the county jail for a maximum of 30 days.

(Res. HR-03-7-3, Sec. 1)

2-507 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (Res. HR-03-7-3, Sec. 1)

2-508 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas that adopts an ordinance or resolution or takes other formal action consenting to have this Article apply within such city's boundaries; provided, however, that any city's election to have this Article apply within such city's boundaries shall not, by implication, serve to repeal or invalidate any other animal control regulations otherwise applicable within such city. (Res. HR-03-7-3, Sec. 1)

2-509 SUPPLEMENTAL REGULATIONS. This Article is supplemental to other existing regulations concerning animal control and the adoption of this Article shall not serve to repeal or invalidate any such regulation. (Res. HR-03-7-3, Sec. 1)

CHAPTER 3. BUILDING AND HOUSING

Article 1. Reserved
Article 2. Reserved
Article 3. Reserved
Article 4. Reserved
Article 5. Sanitary Code
Article 6. Fair Housing

ARTICLE 5. SANITARY CODE

3-501 DECLARATION OF NECESSITY. The Board of County Commissioners of Douglas County, Kansas (the "Board") declares that the proposed Douglas County Sanitary Code is necessary for the protection of the health and welfare of the public. (Res. 08-44, Sec.1)

3-502 ADOPTION OF CODE. The Douglas County Sanitary Code, as proposed by the Lawrence-Douglas County Health Board and submitted to and, on August 7, 2008, approved by the Secretary of Health and Environment of the State of Kansas, and as presented to the Board at the public hearing on October 15, 2008, is hereby adopted and the provisions thereof are incorporated and made a part of this Resolution as if fully set forth within the text of this code. (Res. 08-44, Sec. 2)

3-503 PURPOSE OF CODE. The purpose of the Douglas County Sanitary Code is to set forth procedures and regulations that shall be followed and administered to promote and protect the health, safety, comfort and general welfare of the people of Douglas County, Kansas. Enforcement of the Douglas County Sanitary Code will reduce and retard the development of environmental conditions that are hazardous or could be potentially hazardous to the public's health and safety. (Res. 08-44, Sec. 3)

3-504 AREAS SUBJECT TO THE CODE. The boundaries of the areas to be subjected to the Douglas County Sanitary Code are the boundaries of Douglas County, Kansas; provided that, the Douglas County Sanitary Code shall not apply to incorporated cities within Douglas County, Kansas or to any premises under one ownership which exceeds 650 acres in area and which is used only for agricultural purposes. For this purpose, "agricultural purposes" means a purpose related to the production of livestock or crops. (Res. 08-44, Sec. 4)

3-505 COPIES AVAILABLE FOR INSPECTION. Copies of the Douglas County Sanitary Code adopted by this Resolution 08-44 are available for public inspection at the Lawrence-Douglas County Health Department, 200 Maine, Suite B, Lawrence, Kansas. (Res. 8-44, Sec. 5)

3-506 REPEAL OF PRIOR RESOLUTION. . Resolution No. 01-37 and the prior version of the Douglas County Sanitary Code adopted by Resolution No. 01-37 are hereby repealed and replaced by this Resolution and the Douglas County Sanitary Code adopted by this Resolution. (Res. 8-44, Sec.6)

3-507 EFFECTIVE DATE. This Resolution shall take effect and be in force from and after publication once in the official Douglas County newspaper. (Res. 8-44, Sec. 7)

SANITARY CODE
DOUGLAS COUNTY, KANSAS

CHAPTER 1 ADMINISTRATIVE PROCEDURES

SECTION 1 AUTHORITY AND POLICY

1-1.1 Legal Authority. This code is adopted under the authority granted to the Board of County Commissioners by K.S.A. 19-3701 et. seq. as amended.

1-1.2 Purpose. The purpose and intent of this code is to set forth procedures and regulations that shall be followed and administered to promote and protect the health, safety, comfort and general welfare of the people of Douglas County, Kansas. The enforcement of this code will reduce and retard the development of environmental conditions that are hazardous or could potentially be hazardous to people's health and safety.

1-1.3 Title. This code shall be known and referred to as the Douglas County Sanitary Code.

1-1.4 Applicability. The standards shall not apply to incorporated cities or to any premises under one ownership which exceeds 650 acres in area and which is used only for agricultural purposes. For the purposes of these standards "agricultural purposes" means a purpose related to the production of livestock or crops.

1-1.5 Effective Date. This code shall take effect and be in force from and after its adoption by county resolution and publication of the resolution once in the official county newspaper.

SECTION 2 DEFINITIONS

The following words and phrases, when used in this code, shall have the meanings ascribed to them in this section, unless indicated otherwise.

1-2.1 Administrative Rules: those rules and regulations contained in Chapter 1 of this code which prescribe general procedures to be followed in the administration of the code adopted by the county.

1-2.2 Authorized Representative: any employee of the Lawrence-Douglas County Health Department who is designated by the Health Officer to administer this code.

1-2.3 Board of County Commissioners: the Board of County Commissioners of Douglas County, Kansas.

1-2.4 Board of Health: the Lawrence-Douglas County Health Board.

1-2.5 Health Officer: the legally appointed Health Officer of Douglas County or his/her duly authorized representative.

1-2.6 KDHE: the Kansas Department of Health and Environment.

1-2.7 Local Health Department: the Lawrence-Douglas County Health Department; also referred to herein as "Health Department".

1-2.8 Person: any individual, association, firm, partnership, corporation or government entity.

1-2.9 Premises: any one or more lots or tracts of land, including all buildings, structures, or facilities located thereon.

1-2.10 Sanitary Code: rules, standards and regulations adopted by the county designed to minimize or control those environments and environmental conditions that may adversely affect the health and well being of the public. Such environments and environmental conditions may include but are not restricted to: wastewater and wastewater disposal; water supply; food and food handling. Whenever the term "code" is used herein, such reference shall be to the Sanitary Code of Douglas County, Kansas.

SECTION 3 ADMINISTRATIVE POWERS AND PROCEDURES

1-3.1 Right of Entry. The Health Officer or his/her authorized representative may, at any reasonable time, enter upon, examine and/or survey all such premises, establishments and buildings as he/she shall deem necessary for the enforcement of this code. In the event that the owner or person lawfully in control of the premises refuses to consent to such entry, then, upon application by the Health Officer or his/her authorized representative, any court of competent jurisdiction shall issue an exparte order requiring the owner or person lawfully in control of the premises to permit entry upon the premises and permitting the Health Officer, when accompanied by the county sheriff, to enter forcibly upon the premises and conduct the examination and/or survey.

1-3.2 Permit and License.

a. Applications for Permits and Licenses. All persons required by this code to obtain a permit or license shall make application for such permit or license to the Health Department on standard forms provided for that purpose.
b. Issuance of Permit or License. After receipt of an application for a permit or license required by this code, the Health Officer shall begin such investigations and inspections as he/she shall deem necessary to determine whether the permit or license should be issued or denied, and shall issue or deny the permit or license within a reasonable period of time, depending upon information and data requested. If the permit or license is denied, the Health Officer shall send the applicant a written notice with the reasons for denial stated thereon.
c. Permit Non-transferable. No permit or license required by this sanitary code shall be transferable, nor shall any fees required and paid therefore be refunded.
d. Errors and Omissions.

1) The issuance of a permit shall not prevent the Health Department from thereafter requiring the correction of errors in plans and specifications or from preventing construction activity being carried on thereunder when such activity would be in violation of this code or of any other code or resolution or from revoking any permit or license when issued in error.

2) The Health Department may, in writing, suspend or revoke a permit issued under provisions of this code whenever the permit is issued in error or on the basis of incorrect information provided by the applicant.

e. Standard Fees. For the purpose of defraying all or part of the costs of administration of this code, the Lawrence-Douglas County Health Board shall establish a schedule of fees for all permits and licenses required by the code, payable upon submission of the application for such permit or license.

1-3.3 Notices, Orders, Appeals.

a. Notice of Violations. Whenever the Health Officer determines that there has been, or is likely to be, a violation of any provisions of this code, he/she shall give notice of such alleged violation. The notice:

1) Shall be in writing;

2) Shall identify the code violation and the factual basis therefore;

3) Shall specify necessary corrective action;

4) Shall specify a reasonable period of time for performance of any corrective action and/or work required by the notice; and

5) Shall be properly served upon the owner or occupant of the premises; provided, that such notice shall be deemed properly served upon such owner or occupant when a copy thereof has been sent by registered or certified mail to the last known address of the owner or occupant as identified on the latest county tax rolls. If properly addressed and mailed, the failure of an owner or occupant to actually receive or sign for receipt of such notice shall not affect the validity of service of such notice.

The failure of the Health Officer to serve such a notice upon the owner or occupant shall not be a defense to any criminal prosecution for violation of any provision of this code.

b. Request and Hearing for Review of Notices and Decisions; Variances. Any person aggrieved by any notice or decision by the Health Officer under the provisions of this sanitary code, or aggrieved by the strict application of specific provisions hereof, may request, and shall be granted, a hearing on the matter before the Board of Health; provided that if such request is to review a notice or decision by the Health Officer, such person shall file the request with the Board of Health within ten working days after the date of issuance of the notice or decision. For good cause, the Board of Health may grant extensions to the ten day request period. Any request for hearing shall be in writing and set forth the grounds upon which the request is made. Upon receipt of such request, the Board of Health shall set a time and place for such hearing, and shall provide written notice thereof to the requestor. At such hearing, the requestor shall be given an opportunity to be heard and to show why such notice or decision should be modified or withdrawn, or why a variance or waiver of the strict application of specific provisions hereof should be granted. After such hearing, the Board of Health may sustain, modify, or withdraw the notice or decision. In addition, the Board of Health may grant a variance or waiver of the strict application of specific terms of this code in cases in which it is impossible or impractical to strictly comply with such terms and the variance or waiver will not undermine the health, safety, comfort and general welfare of the people of Douglas County, Kansas. The Board of Health shall notify the requestor of its decision in writing. The decision of a majority of the Board of Health on such appeals shall be final, with no right of appeal to the Board of County Commissioners. Any persons aggrieved by the final decision of the Board of Health may appeal such decision to the district court in the same manner that final decisions of the Board of County Commissioners are appealed.

c. Emergency Orders. Whenever the Health Officer finds that an emergency exists which requires immediate action to protect the public health, he/she may, without notice or hearing, issue an order reciting the existence of such an emergency and require that such action be taken as he/she may deem necessary to meet the emergency, including the suspension of the permit. Notwithstanding any other provisions of this code, such order shall be effective immediately and shall be enforceable in Douglas County District Court.

1-3.4 Records, Permit Applications. Applications for permits or licenses required by this code shall be filed with the Health Department.

1-3.5 Disclaimer of Liability. This code shall not be construed or interpreted as imposing upon the County or any city adopting this code its officials or employees (1) any liability or responsibility for damages to any property; or (2) any warranty that any system, installation or portion thereof that is constructed or repaired under permits and inspections required by this code will function properly. In addition any employee charged with the enforcement of this code, acting in good faith and without malice in the discharge of his or her duties, shall not thereby be personally liable and is hereby relieved from personal liability for damage that may occur to any person or property as a result of any act required by this code in the discharge of his or her duties.

1-3.6 Separability. No decision of a Court of competent jurisdiction declaring any section, subsection, paragraph, sentence, clause or phrase of this code invalid, shall affect the remaining portion of this code, which shall remain in full force and effect; and to this end the provisions of this code are hereby declared to be severable and shall be presumed to have been adopted knowing that the part of section declared invalid would be so declared.

1-3.7 Penalties and Enforcement Procedures. Any person who shall willfully violate any provision of this code, shall be subject to the penalties provided for such violation pursuant to K.S.A. 19-3707. Each day's violation shall constitute a separate fineable offense. In addition, the Health Department is hereby authorized to apply to the District.

SANITARY CODE
DOUGLAS COUNTY, KANSAS

CHAPTER 2 CONVENTIONAL, ALTERNATIVE, EXPERIMENTAL, AND INNOVATIVE ON-SITE SEWAGE MANAGEMENT SYSTEMS

SECTION 1 DEFINITIONS

In addition to the definitions provided in Chapter 1 of this code, the words, terms and phrases listed below, for purposes of this Chapter 2, are defined as follows:

2-1.1 Absorption Field: a configuration of on-site trenches installed to absorb sewage effluent from a septic tank or other sewage solids removal device.

2-1.2 Absorption Pit: a pit or hole in which gravel is placed, which receives sewage effluent.

2-1.3 Absorption Trench: a trench that is laid to convey and distribute septic tank effluent.

2-1.4 Alternative On-Site Sewage Management System: any on-site sewage management system which has been approved by the Health Department, and has proven reliability and performance in field use, but which differs in design or operation from approved conventional septic tank and absorption-field systems.

2-1.5 Approval or Approved: accepted or acceptable by the Health Department in accordance with applicable specifications stated herein or with additional criteria accepted by the Department.

2-1.6 Available Sewer: any Public Sewer within 200 feet of a building which is permitted by the owner of the public sewer to be connected to the public sewer system.

2-1.7 Buildable Lot: any lot, parcel, or tract of land which has been determined by the Douglas County Zoning and Codes Department to meet all requirements necessary for issuance of a building permit**.**

2-1.8 Building Sewer: that part of the piping of a drainage system beyond the building which receives and conveys liquid wastes to a Public Sewer, private sewer, on-site sewage management system or other disposal system.

2-1.9 Chamber System: an absorption field that utilizes vaulted plastic chambers rather than gravel.

2-1.10 Cistern: a container or receptacle utilized to contain potable water delivered from a public water supply for household domestic uses. To be approved by the Health Department, cisterns shall have a minimum capacity of 1,000 gallons and meet minimum standards for material, design and construction.

2-1.11 Composting Toilet: a biological composting unit used for the disposal of human excreta.

2-1.12 Conventional On-Site Sewage Management System: a system that includes a septic tank, absorption field, and all other elements intended to be used for management and disposal of sewage on-site.

2-1.13 Domestic Sewage: sewage originating primarily from kitchen, bathroom, and laundry sources, including waste from food preparation, dishwashing, garbage-grinding, toilets, baths, showers, and sinks.

2-1.14 Experimental or Innovative On-Site Sewage Management System: any on-site sewage management system which has been approved by the Health Department and is installed for testing and observation.

2-1.15 Floodplain: the 100-year Floodplain.

2-1.16 Grade: the ratio of vertical drop of pipe invert, trench bottom, or ground surface to the horizontal distance transversed.

2-1.17 Grease Trap: a device that captures grease in sewage and from which the grease may be removed for proper disposal.

2-1.18 Health Department: the Lawrence-Douglas County Health Department.

2-1.19 Industrial or Commercial Wastes: any wastes produced as a by-product of any industrial or commercial process or operation, other than domestic sewage.

2-1.20 Installer License: an annual license issued by the Health Department authorizing an individual to install, construct, repair, or alter on-site sewage management systems in Douglas County, Kansas.

2-1.21 KDHE: the Kansas Department of Health and Environment.

2-1.22 Lagoon or Sewage Lagoon: an artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer for biological decomposition.

2-1.23 Lateral Rock: washed gravel or washed crushed stone ranging in size from three-fourths (3/4) inch to two (2) inches in diameter (p. 12, KDHE Bulletin 4-2, or as amended).

2-1.24 Lot: the smallest basic portion of a subdivision or other tract of land, normally intended to be developed and transferred individually.

2-1.25 Multi-Family Building: any building intended to be occupied as living quarters by more than one family.

2-1.26 Non-Public Water Supply: all water supplies for domestic uses that do not meet the definition of Public Water Supply.

2-1.27 Non-Residential Building: any building intended to be utilized for business, religious, or commercial purposes, which is not intended to be occupied by one or more persons as living quarters.

2-1.28 On-Site Sewage Management System: a conventional, alternative, experimental, or innovative sewage disposal system which serves a single family residential building or a single non-residential building.

2-1.29 Package Plant: an approved watertight structure installed underground to receive, agitate and aerate sewage from a building sewer, effecting separation and organic decomposition of sewage solids and discharging effluent to an absorption field.

2-1.30 Private Water Supply: any water supply line which is privately owned and not owned by a public water supply.

2-1.31 Pit Privy: an enclosed structure having a seat with one or more holes over an earthen pit, serving as an outdoor toilet, which is not connected to a water supply or an absorption field.

2-1.32 Public Water Supply: a system for delivery to the public of piped water for human consumption that has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. This term includes any source, treatment, storage, or distribution facilities used in connection with the system.

2-1.33 Public Sewer: any public or community sewerage system for collection, treatment and disposal, including sewers, treatment plants, pumping stations, force mains and all other elements owned, operated or managed by a public entity (including agents thereof) and serving more than one residential premises.

2-1.34 PVC: polyvinyl chloride.

2-1.35 Sanitary Privy: a covered facility with a water-tight vault designed to receive, store and provide treatment for periodic removal of non-water carried wastes from the human body.

2-1.36 Septic Tank: an approved watertight structure installed underground to receive sewage from a building sewer, effecting separation and organic decomposition of sewage solids and discharging effluent to an absorption field.

2-1.37 Sewage Holding Tank: a watertight receptacle used to contain domestic sewage discharged from a building which has a water supply and does not discharge to an On-Site Sewage Management System or Public Sewer.

2-1.38 Sewage Vault: a watertight receptacle used to contain sewage generated from a building which does not have a water supply and does not discharge to an On-Site Sewage Management System or Public Sewer.

2-1.39 Single Family Residential Building: any building intended to be occupied by one family as living quarters.

2-1.40 Subdivision Regulations: the Lawrence-Douglas County Subdivision Regulations.

2-1.41 Toilet: a sanitary fixture meeting Health Department and plumbing code requirements for receipt and conveyance of human body wastes.

2-1.42 Water Supply Main: any water line, including the water meter, which is owned by a public water supply.

2-1.43 Water Well: any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

SECTION 2 DISPOSAL OF DOMESTIC SEWAGE

2-2.1 No person shall urinate or defecate in a public place other than in a toilet or other disposal receptacle approved by the Health Department. Flush toilets must be connected to a public sewer, an approved on-site sewage management system, or an approved sewage lagoon. Privies must meet requirements of the Health Department as to design and installation in lieu of a flush toilet and must be specifically approved by the Health Department.

2-2.2 All sinks, lavatories, garbage disposals, dishwashers, clothes washing machines, shower baths, bathtubs, basins and similar plumbing fixtures or appliances shall be connected to a public sewer, an approved on-site sewage management system, or an approved sewage lagoon.

2-2.3 Foundation drain water or other non-sewage or surface water must not go into the septic tank or on-site sewage management system. Only domestic sewage shall be permitted to discharge to an approved on-site sewage management system.

2-2.4 No household, industrial or commercial wastes shall be discharged into any watercourse, impoundment, storm sewer or public thoroughfare. The discharge of sewage into cesspools, absorption pits, abandoned wells, cisterns, streams, or upon the surface of the ground shall be prohibited. In no case shall treated or untreated sewage, or the effluent from a septic tank or on-site sewage management system, be permitted to drain directly or indirectly into a ditch or stream, nor shall it be allowed to surface or run or drain across any adjacent land.

2-2.5 In the event that a failure of an on-site sewage management system occurs and it is determined by the Health Department that the system cannot be repaired, then either connection to a public sewer shall be made or a new approved on-site sewage management system shall be installed.

2-2.6 Where no public sewer is available or where conventional on-site sewage management is not possible, experimental, innovative, or alternative systems may be considered for approval by the Health Department.

2-2.7 On-site sewage management systems shall be maintained in sanitary condition by regular maintenance and/or repair.

2-2.8 No two or more residential and/or non-residential buildings shall be connected to the same on-site sewage management system without written approval from the Health Department or KDHE.

2-2.9 All onsite wastewater systems shall be designed, constructed and operated in accordance with standards set forth in KDHE Bulletin 4-2 "Minimum Standards for Design and Construction of Onsite Wastewater Systems" published March, 1997, as amended, by KDHE and Kansas State University Agricultural Experiment Station and Cooperative Extension Service. KDHE Bulletin 4-2 is hereby adopted by reference and is included herein as an Appendix to this Code.

SECTION 3 TOILETS

2-3.1 Every newly constructed residential building shall be provided with at least one flush toilet in accordance with the provisions of this regulation.

2-3.2 Flush toilets shall at all times be provided with sufficient water and pressure to provide adequate flushing.

2-3.3 Composting toilets or electrically incinerating toilets may be approved by the Health Department on an individual basis only if the use of such devices does not create a public health nuisance.

SECTION 4 CONNECTION TO SEWER

2-4.1 The owner, lessee or agent thereof of any building, residence or other facility designed or used for human occupancy or congregation, shall provide on the premises a system to dispose of the sewage generated within the building, residence or other facility.

2-4.2 If a public sewer is available and a new building is being constructed then the building sewer shall be connected to the available sewage system.

2-4.3 A public sewer shall be considered available if it is within two hundred (200) feet of the building, and connection to the sewerage system is permitted by the owner of the available public sewage system.

2-4.4 When a public sewer has become available to premises served by an on-site sewage management system and failure of the on-site sewage management system occurs, the owner, lessee or agent shall be required to connect properties affected to the available public sewer system within 30 days.

SECTION 5 SEWAGE CONDUITS FOR ON-SITE SEWAGE MANAGEMENT SYSTEMS

2-5.1 Size of sewage conduits. Sewage conduits connecting component parts of on-site sewage management systems shall be a minimum of four (4) inches in diameter.

2-5.2 Materials. All pipe and fittings used in sewage conduits and/or in absorption fields shall meet nationally-recognized standards for their designated use, such as standards published by the American Society for Testing and Materials or the National Sanitation Foundation, and shall have been approved by the Health Department for use in on-site sewage management systems. Sewage conduits under driveways or similar areas of load or impact shall be of material capable of withstanding maximum anticipated loads. All perforated sewer pipe shall be constructed of PVC and shall be marked to indicate it meets or exceeds a three thousand (3,000) pound "crush test" rating. All non-perforated sewer pipe shall be constructed of PVC. All non-perforated sewer pipe from the building to the septic tank, and the first ten (10) feet exiting the septic tank, shall be marked to indicate it meets or exceeds a Schedule 40 pipe or heavier (p. 8, KDHE Bulletin 4-2, or as amended). All non-perforated sewer pipe beyond that point shall be marked to indicate it meets or exceeds an SDR-35 or three thousand five hundred (3,500) pound "crush test" rating.

2-5.3 Construction. Sewage conduits (other than perforated pipe used in absorption fields) shall be installed with sealed, watertight, root-resistant joints and shall be laid on a firm foundation. This shall not be subject to settling, and shall be installed at a grade not less than one-eighth (1/8) inch per foot. All pipe from the structure to the absorption field shall be laid "bells up" if bell-and-spigot pipe is used.

2-5.4 Cleanouts. Cleanouts shall be placed outside the building at the junction of the building drain and building sewer and at intervals not to exceed one hundred (100) feet between the building and septic tank.

2-5.5 The building sewer shall not cross above or below any private water line and shall be a **minimum** horizontal distance of ten (10) feet from a private water line (p. 4, KDHE Bulletin 4-2, or as amended), unless the building was constructed prior to October 10, 1997. The building sewer shall be covered by a minimum of twelve (12) inches of soil.

2-5.6 The building sewer shall not cross above or below any public water main and shall be a minimum horizontal distance of twenty five (25) feet from any public water line or water meter (p. 4, KDHE Bulletin 4-2, or as amended), unless written approval is granted by the public water supplier.

SECTION 6 ON-SITE SEWAGE MANAGEMENT SYSTEMS

2-6.1 Permits Required

a. No person shall be issued a building permit without having first obtained from the Health Department a permit to construct an on-site sewage management system. A fee shall be charged by the Health Department for the on-site sewage management system permit.
b. No person shall construct, repair or alter an on-site sewage management system without obtaining a construction permit for such purpose from the Health Department. No permit for the construction, repair or alteration of an on-site sewage management system shall be issued until the Health Department has inspected and approved the site and the proposed location and design of the on-site sewage management system. A fee shall be charged by the Health Department for the service. No on-site sewage management system constructed, altered or repaired may be covered totally or in part until it has been inspected and approved by the Health Department. The system may be inspected by the Health Department at any stage of construction. Permits for the construction, repair, or alteration of an on-site sewage management system shall be valid for two years from the date issued.

c. All applicants, or agents for the applicants, will be required to sign an application form to acknowledge the on-site sewage management system must be inspected and installed according to the approved plan and requirements of the Douglas County Sanitary Code.
d. No house or structure shall be occupied or used until a final inspection shows the on-site sewage management system has been approved by the Health Department.
e. An owner or agent for the owner may request an on-site review by the Health Department of a lot without obtaining a permit to construct the system. A fee shall be charged for this consultation service.
f. No portion of an on-site sewage management system shall be located within the floodplain for any land divisions after January 1, 2007 [Subdivision Regulation 20-811 (d) (2) (iii), p. 57, or as amended].
g. For individual lots, tracts, or parcels which contain three (3) or more adjoining acres but less than five (5) adjoining acres, no permit for the construction of a new on-site sewage management system shall be issued after the effective date of this Sanitary Code before a water supply is approved by the Health Department. Approval of the water supply shall include one of the following requirements:

    1) A letter of confirmation has been issued by the appropriate public water supply district that a water meter has been purchased for the property. [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].
    2) A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required). [Subdivision Regulation 20-811 (e) (1) p.58, or as amended].

h. For individual lots, tracts, or parcels which contain five (5) or more adjoining acres, no permit for the construction of a new on-site sewage management system shall be issued after the effective date of this Sanitary Code before the water supply is approved by the Health Department. Approval of the water supply shall include one of the following requirements:

    1) A letter of confirmation has been issued by the appropriate public water supply district that a water meter has been purchased for the property. [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].
    2) A permit has been issued by the Health Department for a private water well to be constructed. Lots, tracts, or parcels divided after January 1, 2007, and are located within the City of Lawrence Urban Growth Area, shall use private water wells for irrigation purposes only and the wells shall not be connected to a residential or commercial building (a public water supply is required) [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].
    3) A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area. [Subdivision Regulation 20-811 (e) (1) p. 58, or as amended].

2-6.2 <u>Installer License Required</u>

a. No person shall install, construct, repair, or alter an on-site sewage management system without having first obtained an annual installer license from the Health Department. An annual fee shall be charged by the Health Department for the license.
b. An installer license may be issued to a commercial contractor or homeowner. A homeowner shall install, repair, or alter an on-site sewage management system located on his/her property only.

c. A licensed installer shall be on site at all times when an on-site sewage management system is being installed, constructed, repaired, or altered.

d. The licensed commercial contractor shall be responsible for informing the property owner regarding recommended maintenance of an on-site sewage management system that the contractor installs, repairs, or alters.

e. No person shall receive an installer license from the Health Department without having first passed a written examination. A minimum of seventy (70) percent of the answers on the written examination shall be answered correctly to receive the installer's license.

f. Written examinations may be taken at any time during the calendar year. Any person wishing to take a written examination may do so by making an appointment with the Health Department. There will be a test fee for taking the examination.

g. Annual licenses shall expire on December 31 of the calendar year in which they are issued. The annual license fee shall be the same for any fraction of the year as for the entire year.

h. Installer License Revocation. A license may be revoked for continued failure to comply with the requirements of this Sanitary Code.

2-6.3 Area Requirements

a. Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual on-site sewage management system shall not be constructed upon any parcel, tract, or lot of less than:

1) Three (3) adjoining acres when a public water supply or cistern is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (ii), p. 57, or as amended]. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area [Subdivision Regulation 20-811 (e) (1), p.58, or as amended].

2) Five (5) adjoining acres when a water well is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management system use [Subdivision Regulation 20-811 (d) (2) (i), p.57, or as amended].

New private water wells constructed after the effective date of this Sanitary Code, which are located within the City of Lawrence Urban Growth Area, shall be installed for irrigation purposes only, and shall not be connected to any residential or commercial building [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

3) The exemptions to this requirement are when:

a) A division of property which is less than the above stated minimums has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997.

b) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.

c) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d)(2)(ii), p. 7, or as amended].

b. Non-Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual on-site sewage management system shall not be constructed upon any parcel, tract, or lot of less than:

1) Three (3) adjoining acres when a public water supply or cistern is provided. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (ii), p. 57, or as amended]. Cisterns shall not be installed on lots, tracts, or parcels divided on or after January 1, 2007, within the City of Lawrence Urban Growth Area [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

2) Five (5) adjoining acres when a water well is provided. Any land divided after January 1, 2007, which is located within the floodplain, shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management system use [Subdivision Regulation 20-811 (d) (2) (i), p. 57, or as amended].

   New private water wells constructed after the effective date of this Sanitary Code, which are located within the City of Lawrence Urban Growth Area, shall be installed for irrigation purposes only, and shall not be connected to any residential or commercial building [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

3) The exemptions to this requirement are when:
   a) A division of property which is less than the above stated minimums has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997.
   b) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.
   c) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d)(2)(ii), p. 7, or as amended].

4) Reserve area for absorption field required. A reserve area for a future secondary absorption field shall be required for all new non-residential building sites constructed after the effective date of this Sanitary Code. The reserve area shall be the same size as the area required for the primary absorption field.

2-6.4 Data Requirements

a. Residential. The following shall be submitted to and accepted by the Health Department before issuance of a permit to construct an on-site sewage management system:

1) An application form including the following:
   a) Name, address and phone number of applicant and owner.
   b) Location of building site, including legal description with section, township and range.
   c) Number of bedrooms in the home.

2) A drawing of the lot or site, showing:
   a) Overall dimensions of the lot.
   b) Location of buildings, driveways and geographical features near the proposed absorption field.

   c) Location and type of all water supplies, and location of all water service lines.

   d) Layout of entire on-site sewage management system, including septic tank, absorption field, interconnecting lines, and / or any other components.

e) Location of foundation footing or any other non-sewage drain(s).

f) An arrow indicating North direction.

3) Other supportive data or information required by the Health Department.

4) A letter from the Douglas County Zoning and Codes Department which states that the lot, tract or parcel is a Buildable Lot.

5) For lands divided after January 1, 2007, a copy of a Certificate of Survey which clearly displays what acreage, if any, is included within the floodplain and what acreage, if any, is included outside the floodplain [Subdivision Regulation 20-811 (d) (2) (i) & (ii), p. 57, or as amended].

b. Non-Residential. The following data shall be submitted to and accepted by the Health Department prior to issuance of a permit to construct an on-site sewage management system:

1) An application form including the following:
   a) Name, address and phone number of applicant and owner.
   b) Location of building site, including legal description with section, township and range.

2) A site plan of the entire property under development showing:
   a) Overall dimensions of the lot, area in square feet.
   b) Location of buildings, structures, driveways, parking, access roads, loading areas, receptacle locations, buffers, public and private easements and any geographical features near the proposed on-site sewage management system.
   c) Location and type of all water supplies and location of all water service lines.
   d) Layout of entire on-site sewage management system, including septic tank, absorption field, interconnecting lines, and/or any other components.
   e) Location of foundation footing or any other non-sewage drain(s)
   f) An arrow indicating North direction.

3) Other supportive data or information required by the Health Department, including but not limited to size of building, type of establishment, anticipated water usage and peak daily sewage flow, whether the sanitary facilities are for private and/or public use, an estimate of the maximum number of customers, employees, etc., all water-using equipment or appliances, the specific use of the facilities including identification of any industrial or commercial wastes that may be discharged from the building, existing and proposed topography, and proposed drainage.

4) A letter from the Douglas County Zoning and Codes Department which states that the lot, tract or parcel is a Buildable Lot.

5) For lands divided on or after January 1, 2007, a copy of a Certificate of Survey which clearly displays what acreage, if any, is included within the floodplain and what acreage, if any, is included outside the floodplain [Subdivision Regulation 20-811 (d) (2) (i) & (ii), p. 57, or as amended].

2-6.5 Field Data Requirements

a. Water Table Borings. Borings to determine groundwater elevation in low areas may be required by the Health Department. Borings shall be made to a minimum depth of seven (7) feet. Water table elevations shall not be recorded until sufficient time has elapsed for stabilization of groundwater (such stabilization in clay soils may require several hours or overnight). Location, identification number and depth to water table shall be recorded on the plat or site plan which may indicate topography, if required. Other records of water table elevation, including seasonal peaks, may be submitted or required.
b. Rock Borings. Where surface outcroppings or subsurface rock or hard-pan exist or are suspected, a sufficient number of borings to a minimum depth of four (4) feet may be required by the Health Department to determine if such conditions may interfere with installation, performance or repair of the proposed on-site sewage management system. Boring locations and data shall be recorded by number on the plat or site plan which may indicate topography, if required.
c. Evidence of the presence of water in the borings shall negate the use of conventional on-site sewage management systems in that area. Innovative or alternative systems may be reviewed on an individual basis. Evidence of rock in the borings may negate the use of a conventional on-site sewage management system in that area.
d. Soil or groundwater test holes for an on-site sewage management system shall be required, reviewed, and approved by the Director of the Health Department [Subdivision Regulation 20-808 (d) (5) (ii), p. 35, or as amended]. Soil analysis and other field tests may be required. The number, depth and location shall be determined by the Health Department. If test holes are left unattended, they shall be "benched" for safety reasons (see Figure A).
e. The location of the house must be staked or flagged and the absorption field area must be staked or flagged.

SECTION 7 SEPTIC TANKS

2-7.1 All septic tanks shall be designed and constructed according to the specifications set forth by the Kansas Department of Health and Environment's Bulletin 4-2.

2-7.2 There shall be no permanent structure (patio, building, driveway, etc.) over the tank, lateral or other part of an on-site wastewater system (p. 6, KDHE Bulletin 4-2, or as amended).

2-7.3 All abandoned or unused septic tanks, cesspools, seepage pits, or other holes that have received wastewater shall be emptied and plugged following procedures described in K-State Research and Extension bulletin MF-2246 (p. 6, KDHE Bulletin 4-2, or as amended).

2-7.4 Compacting of the absorption field during placement of the septic tank shall be avoided (p. 9, Bulletin 4-2, or as amended).

2-7.5 Where natural soil is not suitable, tanks shall be placed on a bed of at least four (4) inches of sand, pea gravel, or crushed non-corrosive granular material. Material shall be no larger than two (2) inches in diameter (p. 9, KDHE Bulletin 4-2, or as amended).

2-7.6 Septic tanks shall be watertight (p. 7, KDHE Bulletin 4-2, or as amended).

2-7.7 Special Considerations for Fiberglass, Fiberglass Reinforced Polyester, and Polyethylene Tanks (p. 9, KDHE Bulletin 4-2, or as amended):
a. All tanks shall be sold and delivered by the manufacturer completely assembled.
b. Tanks shall be structurally sound and support external forces as specified above when empty and internal forces when full. Tanks shall not deform or creep resulting in deflection more than 5 percent in shape as a result of loads imposed.

c. Tanks and all below grade fittings and connections shall be water tight.
d. Tanks shall be placed on a bed of at least four (4") inches of sand, pea gravel, or crushed non-corrosive granular material. Material shall be no larger than two (2") in diameter (p. 9, Bulletin 4-2, or as amended).
e. Plastic tanks shall not be used in high or seasonally high water tables (p. 10, KDHE Bulletin 4-2, or as amended).
f. Fiberglass or plastic septic tanks shall be installed according to the manufacturer's specifications to ensure that the installation will not void the manufacturer's warranty.

2-7.8 Location. The septic tank shall be located as set forth in Table 1. No septic tank shall be installed after the effective date of this Sanitary Code within:

a. Ten (10) feet of any house or other building.
b. Twenty-five (25) feet of any public water main, water meter (p. 4, KDHE Bulletin 4-2, or as amended), or in-ground swimming pool.
c. Fifty (50) feet of any private water well, cistern, surface water course, creek bank, stream, pond, river, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
d. One hundred (100) feet of any public water supply well or suction line (p. 4, KDHE Bulletin 4-2, or as amended).
e. Any floodplain, unless the lot, parcel or tract of land was divided prior to January 1, 2007 [Subdivision Regulation 20-811 (d) (2) (iii) p. 57, or as amended].
f. The Health Department, after site inspection, may stipulate greater separation than cited herein, due to adverse on-site conditions including location of a well on-site or nearby, site configuration or structural placement, sub-surface soil characteristics, and/or groundwater interference.

2-7.9 Capacity. The minimum liquid capacity of septic tanks shall be sized as follows (p. 6, Table 7, KDHE Bulletin 4-2, or as amended):

1 to 3 bedrooms:	1,000 gallons
4 bedrooms:	1,200 gallons
5 bedrooms:	1,500 gallons

2-7.10 Foundation and Backfill. Septic tanks shall be constructed or installed level on a foundation that will prevent settling. Where natural soil is not suitable, tanks shall be placed on a bed of at least four (4) inches of sand, pea gravel, or crushed non-corrosive granular material. Material shall be no larger than two (2) inches in diameter (p. 9, KDHE Bulletin 4-2, or as amended). Backfill shall be free of voids, stumps, broken masonry or other such materials. The lid of the tank shall be covered with earth.

2-7.11 Access and Inspection. Septic tanks shall have an access manhole with twenty (20) inches minimum dimension for each compartment that shall extend to the surface of the ground. When any opening larger than eight (8) inches extends to the surface, that opening shall be child and tamper-resistant. Ways to accomplish this include lids weighing at least sixty-five (65) pounds, locks, or anchors that are not removable without special tools (p. 8, KDHE Bulletin 4-2, or as amended).

2-7.12 Inlet Pipe. The inlet invert should be located at least three (3) inches above the liquid level in the tank. A vented inlet tee shall be used to divert the incoming sewage downward. It shall extend at least twelve (12) inches below the liquid level, but the penetration must not be greater than that provided by the outlet device.

2-7.13 Outlet Pipe. The outlet device shall extend eighteen (18) inches below the liquid surface. A vented outlet tee shall be provided.

2-7.14 Sealed. A watertight seal shall be made around the inlet and outlet pipes with a rubber gasket or bonding compound that will adhere both to the concrete septic tank and the

exterior surfaces of the inlet and outlet pipes. The lid shall be sealed to the walls of the tank. Any holes in the tank shall be sealed so that the tank is watertight.

2-7.15 The top of the septic tank shall be a maximum of twelve (12) inches from the finished grade (KDHE Bulletin 4-2, p. 7, or as amended).

2-7.16 Septic tanks are illustrated in Figure B.

SECTION 8 ABSORPTION FIELDS

2-8.1 Area Computation. The following criteria shall be used to determine the amount of absorption field required:

a. Single Family Residential Buildings

1) Alternative systems. Alternative systems which have been approved by the Health Department shall be required if either or both of the following conditions are present:

a) Heavy clay: the soil type in the absorption site is a heavy clay of the Leanna, Wabash, or Woodson series (as determined by the USDA Soil Survey of Douglas County), with or without slope; or

b) Slowly permeable soil with level surface area: the soil type in the absorption site is of any slowly permeable soil series (0.2 inches per hour or less, as determined by the USDA Soil Survey of Douglas County) and the undisturbed absorption site has a level surface area.

2) Conventional Septic Tank-Lateral Field Systems

a) Conventional sequential step-down septic tank-lateral field systems may be utilized in sloping, slowly permeable soils except Leanna, Wabash, or Woodson series (as determined by the USDA Soil Survey of Douglas County). The absorption field in those conditions shall be sized as follows:

Number of bedrooms	1	2	3 or more
Square feet of absorption trench	1,200	2,300	2,500
Linear feet of 3' wide trench	400	767	834

b) Conventional septic tank-lateral field systems may be utilized in sloping or level moderately to rapidly permeable soils (as determined by the USDA Soil Survey of Douglas County). The absorption field in those conditions shall be sized as follows:

Number of bedrooms	1	2	3 or more
Square feet of absorption trench	800	1,500	1,800
Linear feet of 3' wide trench	267	500	600

b. Non-Residential Buildings**.** Requirements for the size of absorption field shall be determined by the Health Department. Professional manuals such as the EPA Design Manual, International Plumbing Code, or the Uniform Plumbing Code may be referred to for guidance to help determine adequate sizing. When expected non-farm water usage exceeds ten thousand (10,000) gallons per month, the owner(s) of the establishment shall construct a dual absorption field system according to Health Department regulations, or construct a commercial lagoon system according to KDHE regulations.

c. Multi-Family Buildings. Requirements for the size of absorption fields which will serve multi-family buildings (i.e., group boarding homes, foster care homes, etc.)

shall follow the same sizing requirements as for a single-family residence. When expected non-farm water usage exceeds ten thousand (10,000) gallons per month, the owner(s) of the establishment shall construct a dual absorption field system according to Health Department regulations, or construct a commercial lagoon system according to KDHE regulations.

d. Existing Buildings. Absorption fields constructed or repaired which serve existing buildings shall follow the same absorption field sizing requirements as newly constructed buildings whenever possible. When site or area constraints will not allow adequate area to accomplish sizing requirements for new construction, then absorption fields shall be sized as large as physically possible to meet the same requirements as that of new construction. All other requirements for septic tank and absorption field construction and installation shall be required as stated within these regulations.

e. Other. The absorption field size shall be determined by the Health Department based on the anticipated loading, water use, and sewage produced. A minimum of two hundred (200) lineal feet of absorption trench shall be required.

2-8.2 Absorption Field Location Restrictions**.** Unless otherwise approved by the Health Department, the absorption field shall be located as set forth in Table 1. Unless otherwise approved by the Health Department, no part of an absorption field installed after the effective date of this Sanitary Code shall be located within:

a. Ten (10) feet of any private water line, septic tank, foundation drain, buried utility line, driveway, property line, or drop-off.
b. Twenty-five (25) feet of any house or other building, water meter (p. 4, KDHE Bulletin 4-2, or as amended), or public water main.
c. Fifty (50) feet of any cistern, in-ground swimming pool, surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
d. One hundred (100) feet of any water well.
e. Absorption fields constructed upon lands divided after January 1, 2007, shall not be installed in the floodplain [Subdivision Regulation 20-811 (d) (2) (iii), p. 57, or as amended], nor where groundwater or adverse geological formations may interfere with the absorption of treated sewage or result in the contamination of groundwater by sewage.
f. The Health Department may require that a licensed surveyor stake or flag the floodplain [Subdivision Regulation 20-811 (d) (2) (iii), p. 57, or as amended] in areas where it is difficult to determine floodplain locations.
g. Absorption fields shall not be installed in areas subject to excessive surface water, ponding, or runoff, including but not limited to storm water and discharge from building gutters.
h. No absorption field, or any portion thereof, shall be placed within any fill material unless such fill material is specifically approved in writing by the Health Department prior to installation of the absorption field. Installation of any absorption field within fill material not approved by the Health Department may be cause for revocation of the on-site sewage management system construction permit.
i. The Health Department, after site inspection, may require variations of these distances due to adverse conditions relative to topography, subsurface soil characteristics, and/or groundwater sources. No part of the absorption field shall be covered by buildings or pavement or be used for vehicular traffic or parking.

2-8.3 Site Preparation

The area in which the on-site sewage management system is proposed to be constructed shall not have any of the original topsoil removed from the area without specific written approval from the Health Department. Removal of topsoil from the area may be cause for revocation of the on-site sewage management system construction permit.

2-8.4 General Requirements for Design and Construction of Absorption Fields

a. An absorption trench shall not exceed one hundred (100) feet in length from where it is fed unless specific approval is given by the Health Department.
b. Absorption trenches shall be between twenty-seven (27) inches and thirty-nine (39) inches in depth.
c. The trench shall be thirty-six (36) inches wide, unless otherwise specifically approved by the Health Department.
d. Installation of absorption trenches must be along contour lines that the level trenches of uniform depth can be constructed unless otherwise specifically approved by the Health Department.
e. There shall be a minimum of twelve (12) inches of earth cover over the lateral rock or chamber system and a maximum of twenty-four (24) inches of earth cover over the lateral rock or chamber system.
f. Excavation for absorption trenches in wet clay soils and smearing of trench walls and bottoms shall be avoided since reduced permeability may result and approvals may be voided thereby.
g. The ground surface of the absorption field area shall be so graded as to prevent the accumulation of surface water and to minimize the flow of surface water over the absorption field. Test holes, diverter ditches or flow control devices will be required under some circumstances. It may be necessary to prepare the ground for the absorption field, such as by removal of rocks, trees, or replacement of soil. The Health Department may require that the preparation work for the absorption field be inspected and approved prior to the installation of the absorption field.
h. There shall be a minimum of four (4) feet between the bottom of the absorption trench and any groundwater table.
i. There shall be a minimum distance of fifteen (15) feet between absorption trench sidewalls, or eighteen (18) feet between trench centers, unless specifically approved by the Health Department.

2-8.5 General Requirements for Field Layout Methods

a. Sequential Step-Down or "Overhead" Conventional System. This method is well suited to terrain with a slope. In this system, effluent is not distributed equally to all the absorption trenches. Instead, the trenches are filled sequentially, and diversion to the next trench does not occur until the fluid level in the preceding trench reaches slightly above the top of the rock fill or chamber system.

    1) The overhead distribution line must be connected toward the center of each absorption trench, unless specifically approved by the Health Department.

    2) The overhead distribution line must be set on a firm foundation of undisturbed earth or compacted earth or sand. Gravel shall not be placed beneath the overhead line.

    3) The sequential system is illustrated in Figure C.

b. Level Field Conventional System. On flat terrain the level field method may be used. When this method is used, all distribution trenches shall be installed level and at the same elevation, shall not exceed one hundred (100) feet in length, and shall be connected at the ends to form a continuous system. A standard tee fitting shall be used to distribute treated sewage. A standard tee fitting shall be used to effect a juncture of the ends of any three distribution lines. The level field method is illustrated in Figure D.

2-8.6 Additional Requirements for Absorption Fields Utilizing Lateral Rock

The following requirements are in addition to all other requirements noted within these regulations.

a. A fifteen (15) inch depth of three-fourths (3/4) to two (2) inch (p. 12, KDHE Bulletin 4-2, or as amended) washed lateral rock (i.e., aggregate) shall be provided in the bottom of the trench (as detailed in "c" below).
b. Perforated pipe shall be laid in the center of the lateral rock. Perforations shall be oriented toward the bottom of the trench.
c. Lateral rock shall be placed under the perforated pipe to a minimum depth of six (6) inches and shall extend the full length of the trench. Five (5) inches of lateral rock shall cover the perforated pipe.
d. A continuous layer of permeable material shall be placed over the lateral rock before backfilling with the earth cover. The permeable material shall be four (4) to six (6) inches of hay or straw, or another material approved by the Health Department.

2-8.7 Additional Requirements for Absorption Fields Utilizing Chamber Systems

The following requirements are in addition to all other requirements noted within these regulations.

a. Inspection ports may be required by the Health Department for monitoring purposes.
b. The end plates of each chamber trench shall be constructed of plastic, made by the manufacturer of the chamber system, and shall be securely fastened to the chambers with screws.
c. All chamber systems shall be required to have washed lateral rock, hay, straw, or filter fabric placed between the excavated trench and the outside sidewalls of the chamber units to prevent infiltration of soil into the chamber units.
d. The overhead distribution pipe shall be fed into the top of the chamber (unless otherwise specifically approved by the Health Department) with a standard PVC tee fitting. The PVC tee shall extend downward midway into the depth of the chamber.

2-8.8 Alternative and Experimental On-Site Sewage Management Systems

a. Consideration of Alternative Systems. Where appropriate, and after thorough assessment of alternatives, the Health Department will consider alternative on-site sewage management systems and/or site modifications for conventional or alternative systems in areas of marginal suitability.
b. Priorities. Priority consideration will be given to those proposals for alternative sewage disposal systems whose implementation may resolve existing sewage management problems.
c. Review and Approval of Alternative On-Site Sewage Management Systems. Those desiring to install an alternative on-site sewage management system may be required to submit the following information to the Health Department:

    1) Plans and specifications including type and location of site modifications, along with any engineering, laboratory, or field data required.

    2) Provisions for a backup system, including reservation of undisturbed space.

    3) Any additional information required for complete understanding and decision formulation by the Health Department.

    If the proposal for the system is approved, those making application will be informed by the Health Department of responsibilities for maintenance and of any monitoring procedures deemed appropriate by the Health Department. Reduction of water usage by installation of water-conserving fixtures and devices may be required.
d. Experimental and Innovative on-site sewage disposal systems. The Health Department may consider proposals for the use of experimental and innovative on-site sewage management systems for testing and observation.

e. The Health Department may require the alternative, experimental and innovative on-site sewage disposal systems to be designed by a professional engineer and may ask for review of the proposal by KDHE.

f. Maintenance Requirements. Any owners and/or operators of any alternative or experimental on-site sewage management systems permitted after the effective date of this Sanitary Code shall maintain a contract for, at a minimum, the annual inspection of the system and pertinent components and prescribed maintenance with a licensed installer, licensed maintenance technician, or representative of the manufacturer of the system. A copy of the inspection report, along with a report of any corrective actions taken as prescribed by the inspection report, shall be filed with the Health Department within sixty (60) calendar days of the date of inspection.

2-8.9 Grease Traps

a. Grease Traps Required. Grease traps are neither necessary nor recommended for on-site sewage management systems serving residences, but shall be required for those serving commercial or industrial establishments where it is determined by the Health Department that introduction of grease into the on-site system might adversely affect it.

b. Grease Trap Design. Grease trap plans and specifications shall be submitted to the Health Department for approval. No human waste shall pass through the grease trap. No grease trap shall have less than one hundred twenty-five (125) gallons capacity and effluent shall be directed to the septic tank.

c. Construction. Grease traps shall be located, installed and constructed so that they will reduce the temperature of kitchen wastes to permit congealing of grease. Easy access for cleaning and grease removal shall be provided.

2-8.10 Sewage Lift Pumps

In the event that the sewage generated from a building or residence cannot be plumbed to an absorption field or sanitary sewer by gravity, then a sewage lift pump with the necessary appurtenances as determined by the Health Department may be required. The pump chamber must be sealed, odor proof and watertight.

Section 9 Aeration Systems (Package Plants)

2-9.1 The use of preassembled aeration systems, usually referred to as “package plants,” may be approved by the Health Department. When used individually in a residential installation, their volume shall be equal to or greater than that required of a septic tank. The effluent shall be discharged to an absorption field as required for septic tanks. Their flow-through ability must not be affected by a power failure. If the effluent from the package plant is not discharged to an on-site sewage management system, then a permit is required from KDHE before the package plant can be installed.

SECTION 10 OTHER

2-10.1 Cesspools and Absorption Pits. Cesspools and absorption pits shall be prohibited for new or permanent installations.

2-10.2 Portable Toilets. Portable toilets equipped with holding or storage tanks, chemical or otherwise, shall be prohibited except on a temporary basis as determined acceptable by the Health Department. Portable holding tanks serving camping, recreation vehicles, and boats are acceptable.

2-10.3 Sewage Holding Tanks.

a. Sewage holding tanks shall not be permitted for any newly constructed building after the effective date of this Sanitary Code. Holding tanks shall be permitted only for existing buildings on a case-by-case basis when a health hazard has been determined by the Health Department, and only when it is not possible or feasible to utilize any other type of on-site sewage management system, or connect to any public sewer. A written permit for the use of any sewage holding tank shall be required by the Health Department. The Health Department retains the right to revoke any said written permit at any time.
b. All sewage holding tanks shall be pumped out by septage waste haulers who have been licensed by the Health Department. The Health Department shall require that the licensed septage waste hauler report in writing to the Health Department each time a sewage holding tank has been pumped out.
c. All sewage holding tanks shall be a minimum of one thousand five hundred (1,500) gallon capacity, and shall be equipped with an alarm system which alerts the owner and/or operator before the sewage holding tank causes overflow of septage onto the surface of the ground, or backup of septage into the building it serves.

2-10.4 Sewage Vaults

Sewage vaults shall be permitted by the Health Department on a case-by-case basis. Sewage vaults may be permitted for camping or recreational areas. All sewage vaults shall be a minimum of one thousand (1,000) gallon capacity and shall be pumped out by septage waste haulers who have been licensed by the Health Department. A permit shall be required for the construction of a sewage vault. No water supply shall be connected to the sewage vault.

2-10.5 Sanitary Privies

No person, company, or corporation or institution shall excavate, drill, construct or use or permit to be constructed or used any well, pit mine shaft or subsurface excavation for the disposal of untreated or inadequately treated domestic sewage.

SECTION 11 REAL ESTATE TRANSFER OF OWNERSHIP

2-11.1 Whenever ownership is transferred of any property connected to or served by an on-site sewage management system, or lagoon, the Health Department shall inspect the condition of the wastewater management system being used, prior to the transfer of ownership. A fee shall be charged to the owner by the Health Department for the inspection.

2-11.2 Any on-site sewage management system, or lagoon, that is found to be discharging sewage, and / or creating a public health hazard, shall be repaired or replaced, as determined by the Health Department, and approved within thirty (30) days of discovery.

2-11.3 Uncovering of the inspection manhole of the septic tank shall be the responsibility of the owner, and the septic tank shall be inspected by the Health Department prior to the transfer of ownership.

2-11.4 The septic tank shall be pumped out by a Licensed Septage Hauler before the transfer of ownership. The owner shall be responsible for this cost.

2-11.5 Septic tanks shall be of water-tight design and in good repair.

2-11.6 If the property being transferred utilizes a water well as a potable water source, the Health Department shall inspect the water well casing and well seal for compliance with

KDHE regulations. A water sample shall be taken by the Health Department and screened for coliform bacteria and nitrate compounds.

2-11.7 Any abandoned water well(s) located upon the property shall be plugged by the owner in accordance with KDHE regulations.

2-11.8 In the event that the owner, or person paying for the inspection, believes that the inspection or the inspection report was conducted negligently or in a manner that failed to disclose deficiencies, and a claim is made against the Health Department for damages, the liability of the Health Department shall be limited to the cost of the inspection only.

Table 1

Location of On-Site Sewage Management System

See 2-8.2 – Absorption Field Location Restrictions

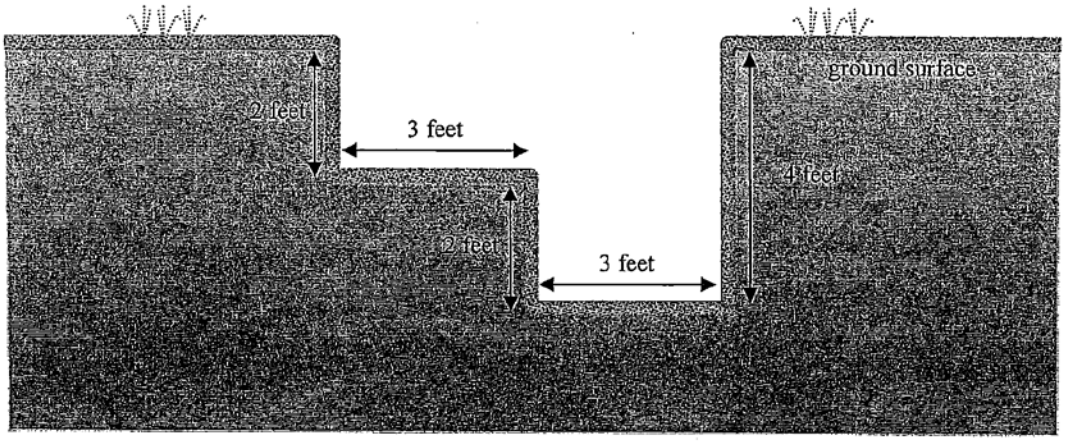
Minimum Horizontal Distance (Feet) Required **from:**	**to Septic Tank**	**to Absorption Field**
House or other building	10	25
Private water line (p. 4, KDHE Bulletin 4-2, or as amended)	10	10
Absorption trench	10	—
Septic tank	—	10
Foundation drain	10	10
Buried utility line	10	10
Driveway	10	10
Property line	10	10
Drop-off	10	10
Public water main	25	25
Water meter (p. 4, KDHE Bulletin 4-2, or as amended)	25	25
Cistern	50	50
In-ground swimming pool	25	50
Private water well	50	100
Surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended)	50	50
Public water supply well or suction line (p. 4, KDHE Bulletin 4-2, or as amended)	100	100

Figure A

"Benched" Test Hole

See 2-6.5.d. Field Data Requirements

4-Foot Deep Test Hole for Rock



7-Foot Deep Test Hole for Groundwater

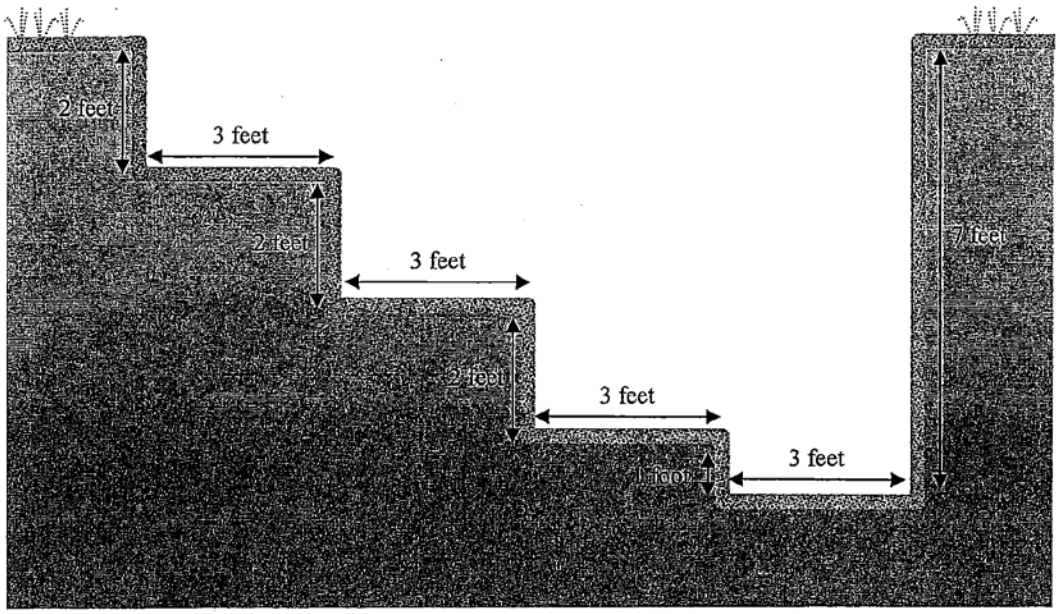


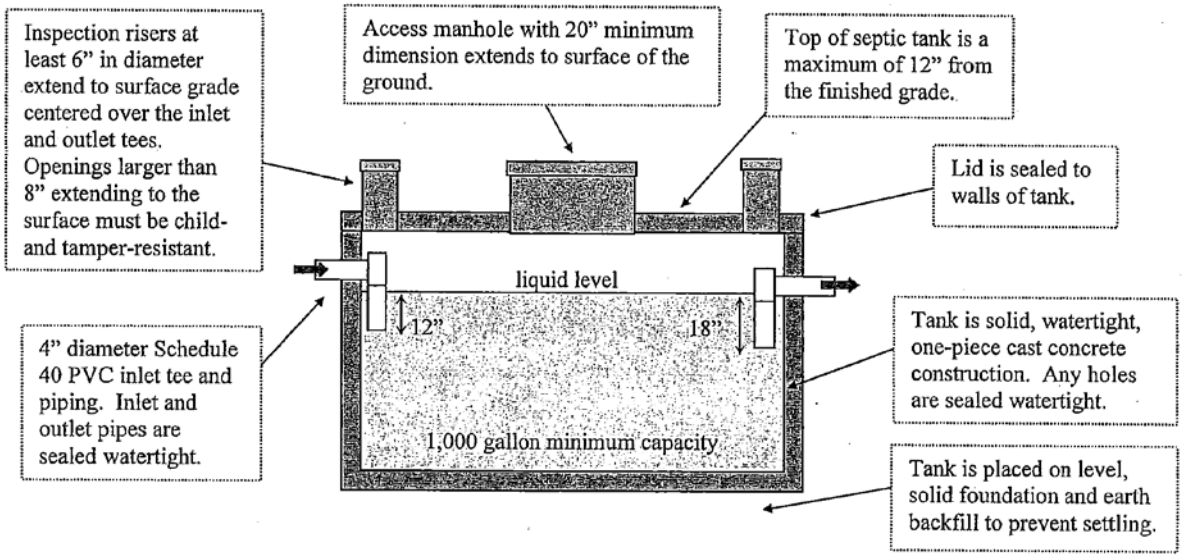
Figure B

Concrete Septic Tanks

See 2-6.6. Septic Tanks

(See also: 2-6.6.g. Special Considerations for Fiberglass, Fiberglass Reinforced Polyester, and Polyethylene Tanks)

Single-Compartment Concrete Septic Tank



Two-Compartment Concrete Septic Tank

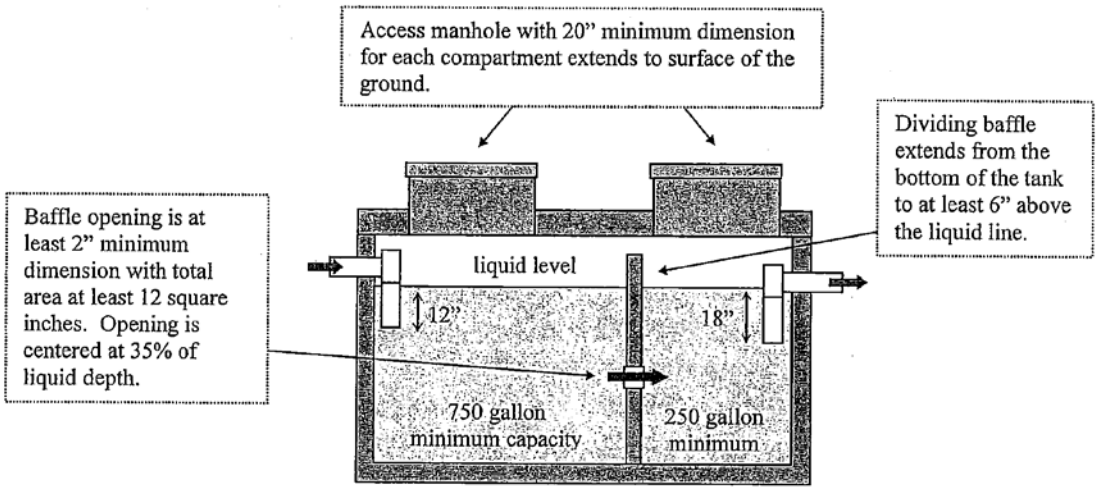
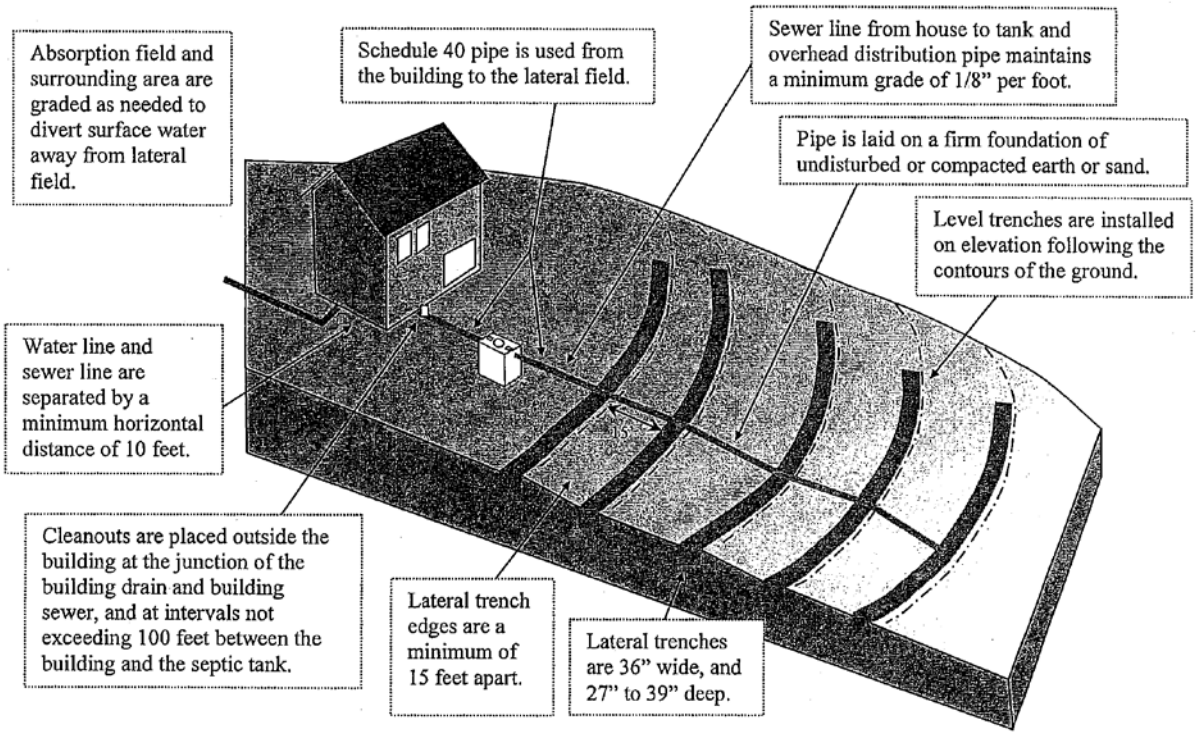


Figure C

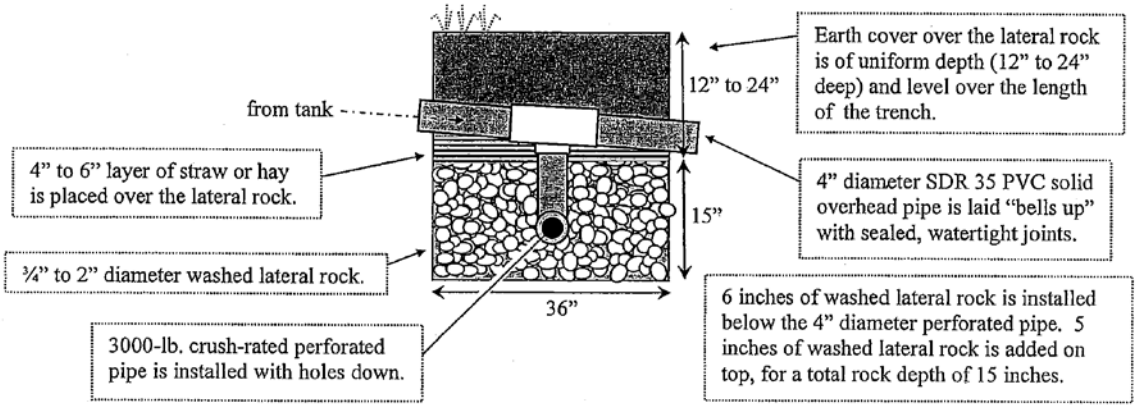
Septic Tank and Lateral Field

Conventional Sequential (Step-Down) Overhead System
for Sloping Terrain in Soils with Slow, Moderate, or Rapid Permeability

Field Layout



Cross Section of Lateral Trench Utilizing Lateral Rock and Pipe



CHAPTER 3 SINGLE-FAMILY WASTE STABILIZATION PONDS (LAGOONS)

SECTION 1 DEFINITIONS

In addition to the definitions provided in Chapter 1 of this code, the words, terms and phrases listed below, for purposes of this Chapter 3, are defined as follows:

3-1.1 Approval or Approved: accepted or acceptable by the Health Department in accordance with applicable specifications stated herein or with additional criteria accepted by the Department.

3-1.2 Floodplain: the 100-Year Floodplain.

3-1.3 Health Department: the Lawrence-Douglas County Health Department.

3-1.4 Lagoon or Sewage Lagoon: an artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer for biological decomposition.

3-1.5 Public or Community Sewerage System: any sewage collection, treatment and disposal system, including sewers, treatment plants, pumping stations, force mains and all other elements owned, operated or managed by a public entity (including agents thereof) and serving more than one residential premises.

SECTION 2 AREA REQUIREMENTS

3-2.1 Residential Parcels, Tracts, or Lots. For the unincorporated areas of Douglas County, Kansas, an individual waste stabilization pond (lagoon) shall not be constructed upon any parcel, tract, or lot of less than ten (10) adjoining acres.

The exceptions to this requirement are when:

a. A division of property, which is less than the above stated minimum, has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997; or
b. A property is exempt under Section 21 - 4.07 of the Douglas County Zoning Regulations.

SECTION 3 USE OF SINGLE-FAMILY WASTE STABILIZATION PONDS (LAGOONS)

3-3.1 The use of an individual waste stabilization pond, usually referred to as a lagoon, will be considered only when located within slowly permeable soils of 0.2 inches per hour or less, as determined by the USDA Soil Survey of Douglas County.

SECTION 4 PERMIT REQUIRED

3-4.1 No person shall be issued a building permit without having first obtained from the Health Department a permit to construct a lagoon. A fee shall be charged by the Health Department for the permit.

3-4.2 No person shall construct, repair or alter a lagoon without obtaining a construction permit for such purpose from the Health Department. No permit for the construction, repair or alteration of a lagoon shall be issued until the Health Department has inspected and approved the site and the proposed location and design of the lagoon. The lagoon may be inspected by the Health Department at any stage of construction.

3-4.3 All applicants will be required to sign an application form to acknowledge the lagoon must be inspected and installed according to the approved plan.

3-4.4 No house or structure shall be occupied or used until a final inspection shows the lagoon has been approved by the Health Department.

SECTION 5 INSTALLER LICENSE REQUIRED

3-5.1 No person shall install, construct, repair, or alter a lagoon without having first obtained an annual Installer License from the Health Department. An annual fee shall be charged by the Health Department for the license.

3-5.2 An Installer License may be issued to a commercial contractor or homeowner. A homeowner shall install, repair, or alter lagoon located on his/her property only.

3-5.3 A licensed installer shall be on site at all times when the lagoon is being installed, constructed, repaired, or altered.

3-5.4 The licensed commercial contractor shall be responsible for informing the property owner regarding recommended maintenance of a lagoon that the contractor installs, constructs, repairs, or alters.

3-5.5 No person shall receive an Installer License from the Health Department without having first passed a written examination. A minimum of 70 percent of the answers on the written examination shall be answered correctly to receive the Installer's License.

3-5.6 Written examinations may be taken at any time during the calendar year. Any person wishing to take a written examination may do so by making an appointment with the Health Department. There will be a test fee for taking the examination.

SECTION 6 DATA REQUIREMENTS

3-6.1 The following shall be submitted to and accepted by the Health Department before issuance of a permit to construct a lagoon.

a. An application form including the following:

1) Name, address and phone number of applicant and owner.

2) Location of building site, including legal description with section, township and range.

3) Number of bedrooms, number of persons to live in the home and a list of all water-using appliances.

b. A drawing of the lot or site, showing:

1) Overall dimensions of the lot;

2) Location of buildings, driveways, public and private easements and geographical features near the proposed lagoon;

3) Location and type of water supply and location of water service lines;

4) Layout of entire lagoon system; lagoon, diversion box, if used, and interconnecting lines;

5) Proposed size and location of lagoon;

6) Foundation, footing or any other non-sewage drain location;

7) Arrow indicating North direction; and

c. Other supportive data or information required by the Health Department.

3-6.2 Field Data. Field data including the following:

a. The permeability class of the soil layers at and below the proposed floor of the lagoon and the interior dikes of the lagoon.
b. The depth to permanent or fluctuating water table.
c. The depth to hardrock, bedrock or other impervious materials.
d. The slope of the proposed lagoon area.
e. The percentage by volume of coarse fragments greater than ten (10) inches in diameter.
f. The percentage of soil surface covered by coarse fragments greater than ten (10) inches in diameter.
g. The unified soil group at and below the bottom and sides of the lagoon based on the unified soil-engineering classification system.

Soil and groundwater test holes shall be made to a minimum depth of four (4) feet below the proposed floor of the lagoon. If test holes are left unattended, they shall be "benched" for safety reasons (see Figure A).

3-6.3 Percolation Tests. Percolation tests may be required by the Health Department.

a. Preparation of Percolation Test Holes. Percolation test holes shall be dug or bored with vertical sides, shall be four (4) inches in width and shall extend to the proposed depth of the Single-family Waste Stabilization Pond. Sides and bottom of test holes shall be scratched with a pointed instrument to remove smeared soil surfaces and to provide a natural soil interface into which water may percolate. Loose material shall be removed and two (2) inches of fine gravel or coarse sand shall be added to the test hole. Test holes shall not be located in or near draws, banks, stump holes or any other location where percolation rates derived would not be representative of typical soil and terrain conditions. Six or more percolation tests shall be made in separate test holes spaced uniformly over the proposed Single-family Waste Stabilization Pond site.

b. Saturation and Swelling of Soil. Percolation test holes shall be filled with water and shall be kept filled until the soil is saturated and clays have had an opportunity to swell. No tests shall be performed until the soil has been soaked at least four (4) hours. The Health Department may require that the test holes be soaked overnight.

c. Percolation Rate Measurement. After soaking, water depths in the percolation test holes shall be adjusted until six (6) inches of water remains over the gravel. From a fixed reference point, established at or near ground surface, repeated measurements shall be made at equal time intervals of the distance in inches from the reference point to the water surface. Water shall be added to restore a six (6) inch depth if the water falls to less than two (2) inches above the gravel.

Measurements shall be continued until a constant percolation rate is evidenced (i.e. the water surface drops the same distance each time interval). The time in minutes

required for the water column to drop one inch at this constant rate shall be recorded as the percolation rate. When percolation rates vary significantly within the proposed area, additional tests may be required and data on all tests performed must be submitted for review.

SECTION 7 EXISTING SINGLE-FAMILY WASTE STABILIZATION PONDS

3-7.1 Any lagoon lawfully installed prior to the effective date of these standards may remain in use if, and so long as, it continues to operate in accordance with the original design and location and does not present any hazard to the public health, safety or welfare. Any replacement, alteration, enlargement, repair, removal, conversion, improvement or demolition shall comply with the requirements of these standards or as amended.

SECTION 8 CONNECTION TO SEWER – SINGLE-FAMILY WASTE STABILIZATION PONDS

3-8.1 If a public or community sewage system becomes available to a premise served by a Single-family Waste Stabilization Pond, the owner, lessee or agent shall be required to connect the properties affected to the public or community sewage system within 90 days.

3-8.2 The waste stabilization pond shall be abandoned by dewatering and pushing in the dikes and returning the area to the contours it had before construction of the waste stabilization pond.

3-8.3 A public or community sewage system shall be considered available if it is within 200 feet of a building connected to the Single-family Waste Stabilization Pond.

SECTION 9 CONNECTION TO SINGLE-FAMILY WASTE STABILIZATION POND

3-9.1 All sinks, flush toilets, lavatories, garbage disposals, dishwashers, clothes washing machines, shower baths, bath-tubs, basins and similar plumbing fixtures or appliances shall be connected to the Single-family Waste Stabilization Pond.

3-9.2 If water from roof drains and/or foundation drains is discharged into the lagoon, then provision shall be made so that this water can be diverted from the pond when the lagoon is at capacity.

SECTION 10 SIZE OF SINGLE-FAMILY WASTE STABILIZATION PONDS

3-10.1 The following criteria shall be used to determine the size of the Single-family Waste Stabilization Pond:

a. If the house has 3 bedrooms or less or if it will serve 5 persons or less, then the smaller lagoon shall be required. The smaller lagoon is illustrated in Figure B.
b. If the house has 4 or 5 bedrooms and will serve 6, 7 or 8 persons, then the larger lagoon shall be required. The larger lagoon is illustrated in Figure C.
c. If there is any question about size, then the larger lagoon, Figure C, shall be required. For instance, if the house has 3 bedrooms and is occupied by 6 persons, the larger size will be used.

SECTION 11 SINGLE-FAMILY WASTE STABILIZATION POND REQUIREMENTS

3-11.1 If percolation tests are required then the percolation rate shall be slower than or equal to 1-inch fall per hour in the area of the Single-family Waste Stabilization Pond.

3-11.2 If undisturbed soil forms the bottom of the lagoon, then the bottom of the lagoon shall not be closer than four (4) feet to bedrock.

3-11.3 When the pond excavation penetrates or terminates in either a rock strata or porous (sand or gravel) strata the excavation shall be extended a distance of one foot on both the bottom and side slopes. The areas of supplemental excavation shall be filled with a non-permeable earthen material to limit seepage from the pond to a maximum value of ¼ inch per day. This may be accomplished by using a clay soil which is free of rocks. If a clay soil is not available, the fill soil shall be mixed with bentonite clay at the manufacturer's recommended rate and then compacted.

3-11.4 The normal ground water elevation shall be at least ten (10) feet below ground surface and four (4) feet below the bottom of the lagoon.

SECTION 12 LOCATION REQUIREMENTS

3-12.1 Unless otherwise approved by the Health Department, the single-family waste stabilization pond shall be located as set forth in Table 1. No single-family waste stabilization pond shall be installed within:

a. Twenty-five (25) feet of any private water line or water meter (p. 4, KDHE Bulletin 4-2, or as amended).
b. Fifty (50) feet of any house or ther building.
c. Fifty (50) feet of any cistern, in-ground swimming pool, surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended).
d. One hundred (100) feet of any property line, including right-of-way.
e. One hundred (100) feet of any water well.

3-12.2 No single-family waste stabilization pond permitted after January 1, 2007, shall be installed within the floodplain nor where groundwater or adverse geological formations may result in the contamination of groundwater by sewage.

3-12.3 All distances shall be measured from inside top of the waste stabilization pond dike.

SECTION 13 MINIMUM DESIGN AND CONSTRUCTION

3-13.1 Sewage Conduits

a. Size of sewage conduits – Sewage conduits connecting component parts of Single-family Waste Stabilization Pond systems shall be a minimum of four (4) inches in diameter.
b. Materials – All pipe and fittings used in sewage conduits shall be constructed of PVC and meet nationally-recognized standards for their designated use-such as Standards published by the American Society for Testing and Materials or the National Sanitation Foundation and shall have been approved by the Health Department for use in on-site management systems. Sewage conduits under driveways or similar areas of load or impact shall be of material capable of withstanding maximum anticipated loads. All sewage pipe shall be marked to indicate it meets or exceeds a Schedule 40 or heavier "crush test" rating.
c. Construction – Sewage conduits shall be installed with sealed, watertight, root-resistant joints and shall be laid on a firm foundation. This shall not be subject to settling, and shall be installed at a grade not less than one-eighth (⅛) inch per foot.

All pipe from the structure to the Single-family Waste Stabilization Pond shall be laid "bells up" if bell and spigot pipe is used.

d. Cleanouts – Cleanouts shall be placed at the junction of the building drain and building sewer at intervals not to exceed 100 feet in straight runs and as required by the Health Department.

A capped cleanout shall be placed near the junction of the sewer and the Single-family Waste Stabilization Pond at the nearest point where the flowline will be above the maximum pond water level. This cleanout shall be located so that water will not flow out of the pipe during the periods when the pond is full. This cleanout shall be accessible during the full pond stage.

3-13.2 Dike Requirements

a. All dike slopes shall be 3½ feet horizontal to 1 foot vertical.
b. The top of the dike shall be smoothed to a width of five feet to facilitate fencing.
c. The dike shall be smooth with no clods, rocks, or ruts that will interfere with a mower.
d. The top of the dike shall be below the point where sewage exits the house.
e. Surface drainage shall not enter the pond. Surface drainage shall be diverted around the pond.

3-13.3 Watering Requirements

a. The lagoon shall be prewatered to a depth of 2½ feet.
b. Operating water depth shall be maintained between 1½ and 5 feet.
c. Roof drains may be discharged to the sewer system provided there is a control arrangement which can divert this water from the sewer system during times of high water in the pond. Water shall be added as needed.
d. The minimum dike freeboard shall be 2½ feet.
e. If the pond appears that it will overflow then the Lawrence-Douglas County Health Department shall be contacted for emergency procedures.

3-13.4 Outflow Pipe

a. The outflow pipe shall terminate about one foot from the center of the bottom of the pond. An extension shall be provided which will allow discharge of sewage at that point.

3-13.5 Fencing Requirements

a. Fencing shall be installed to a minimum height of four feet.
b. Corner posts shall be of substantial construction. Creosote, Osage orange or pipe corner posts are acceptable. They shall be cemented and provided with a "H" or "N" style brace at each corner.
c. A four foot high hung gate with a lock shall be provided. The gate width shall be no less than four feet.
d. The fencing shall be installed no closer than four feet from the top inside edge of the dike.
e. Chain link fence or fencing with openings no greater than 4" x 4" is acceptable. In areas where livestock will have access to the fence, the fence posts shall be tall enough to install two strands of barbed wire or a single strand of electric fencing at the top of the fencepost.
f. Fence posts shall be no further than twelve (12) feet apart. Fencing is illustrated in Figures D-E-F-G at the end of the document.
g. No other fencing can be installed unless specific written approval is granted by the Health Department.
h. All fencing requirements shall be completed and approved by the Health Department prior to occupancy of the residence.

3-13.6 Seeding and Sterilization

a. The pond bottom and interior dikes up to two (2) feet elevation shall be treated with a herbicide at the manufacturer's recommended sterilization rate. Care shall be taken not to apply herbicide above the two (2) feet elevation level where grass will be seeded.
b. All dike area not sterilized shall be seeded with a densely growing, short-rooted grass, such as Blue, Fescue, Brome or Bermuda.

SECTION 14 OPERATION AND MAINTENANCE DIRECTIONS

3-14.1 The dikes shall have a good stand of groundcover established and maintained on it. This grass must be a short-rooted perennial such as Blue, Fescue, Brome or Bermuda. Once this vegetation is established it shall be regularly maintained. Trees and tall weeds shall not be allowed to develop in the dike area. Vegetation shall not be allowed to grow higher than six (6) inches.

3-14.2 Water vegetation shall be controlled at first appearance. All trees and weeds, such as cattails and duckweed, shall be removed as soon as the first ones develop in the water. Trees and weeds shall be removed from the water so that they do not contribute to the organic loading of the pond.

3-14.3 The water depth shall be maintained between 1½ and 5 feet.

3-14.4 Any damage to the dikes shall be repaired by reshaping the area to the original plan and then establishing a good stand of groundcover on the worked areas. Surface water shall be diverted around the pond so it will not contribute to the hydraulic loading of the pond or create an erosion problem.

3-14.5 The waste stabilization pond, fence, gate and pipe, shall be maintained in the condition called for in the original plans and specifications.

3-14.6 Animal and waterfowl shall not be confined within the pond fence.

Table 1
Location of Single-Family Waste Stabilization Pond

See Section 11 – Location Restrictions

Minimum Horizontal Distance (Feet) Required

from:	**to Single-Family Waste Stabilization Pond**
Private water line or water meter (p. 4, KDHE Bulletin 4-2, or as amended)	25
House or other building.	50
Cistern	50
In-ground swimming pool	50
Surface water course, creek bank, stream, river, pond, or lake (p. 4, KDHE Bulletin 4-2, or as amended).	50
Property line, including right-of-way	100
Water well	100

Figure A

"Benched" Test Hole

See 3-5.2. Field Data Requirements

10-Foot Deep Test Hole for Lagoon

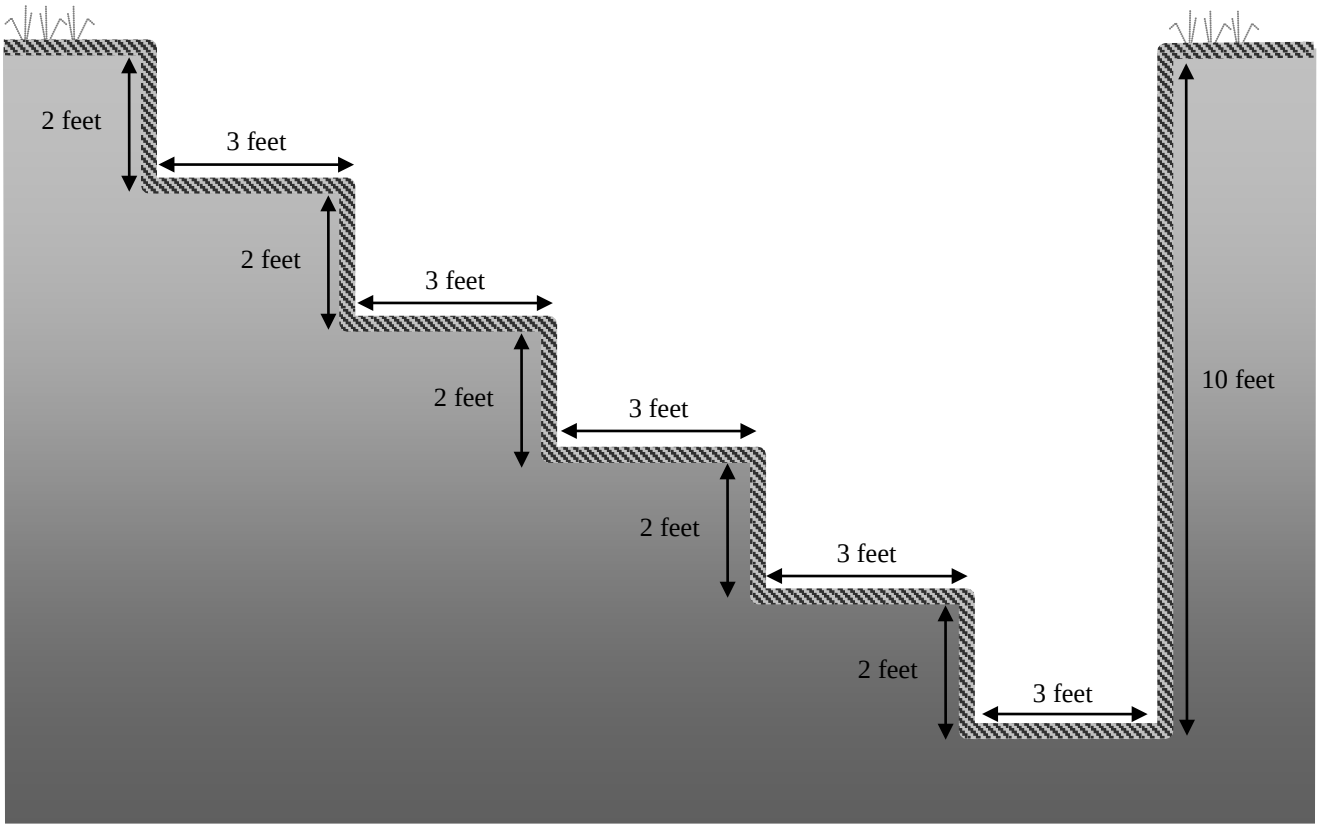


Figure B

The Smaller Single-Family Waste Stabilization Pond

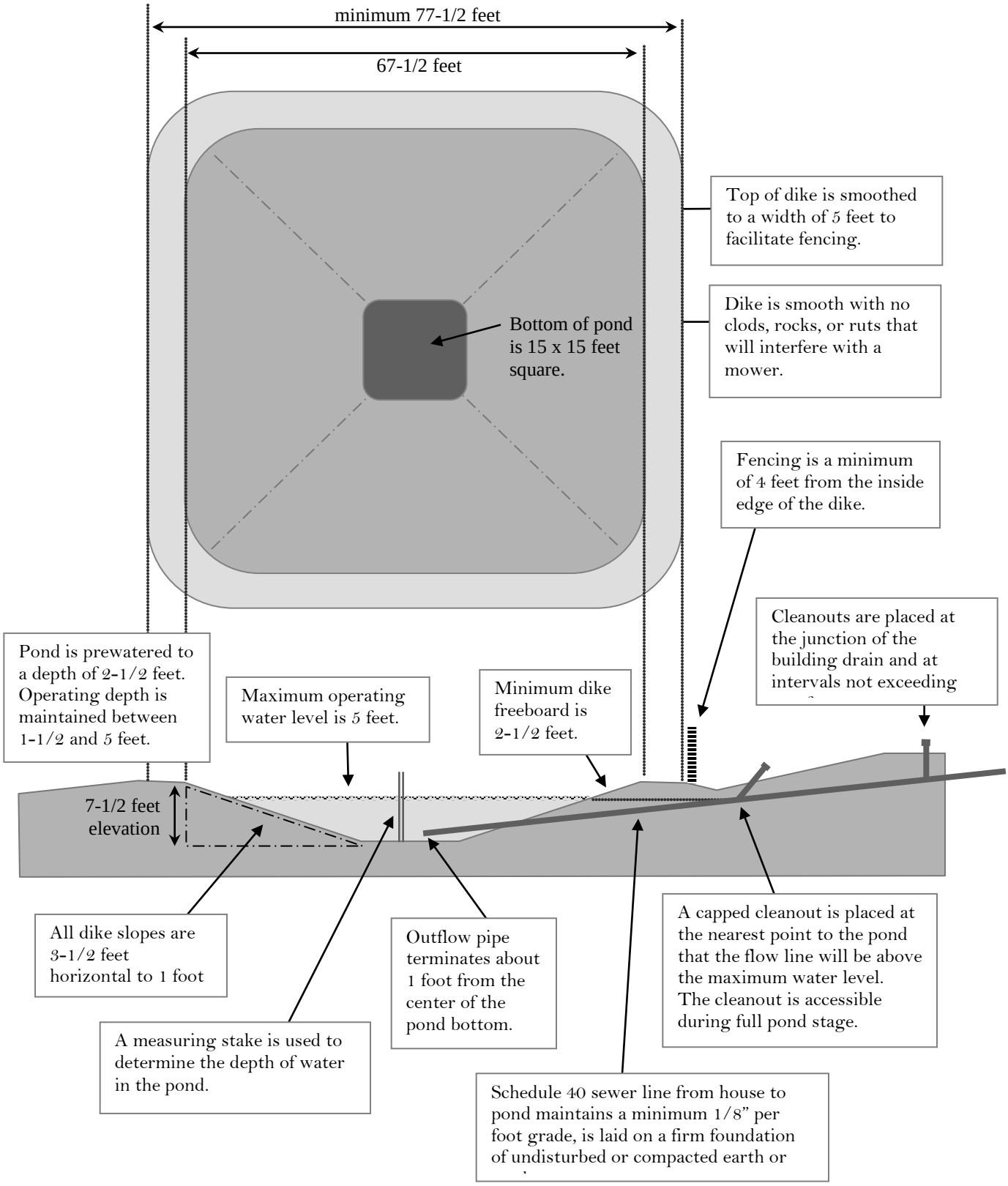


Figure C

The Larger Single-Family Waste Stabilization Pond

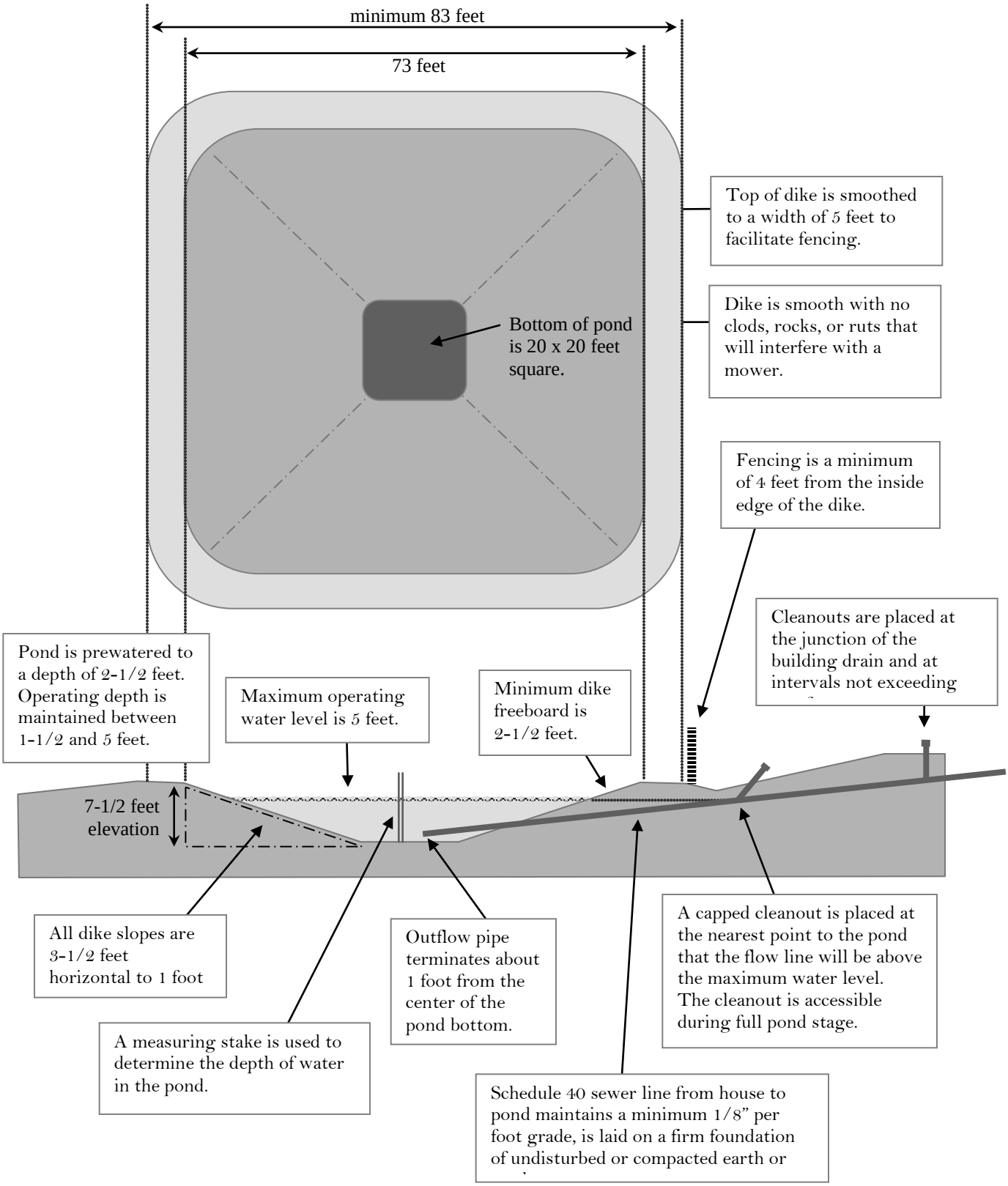
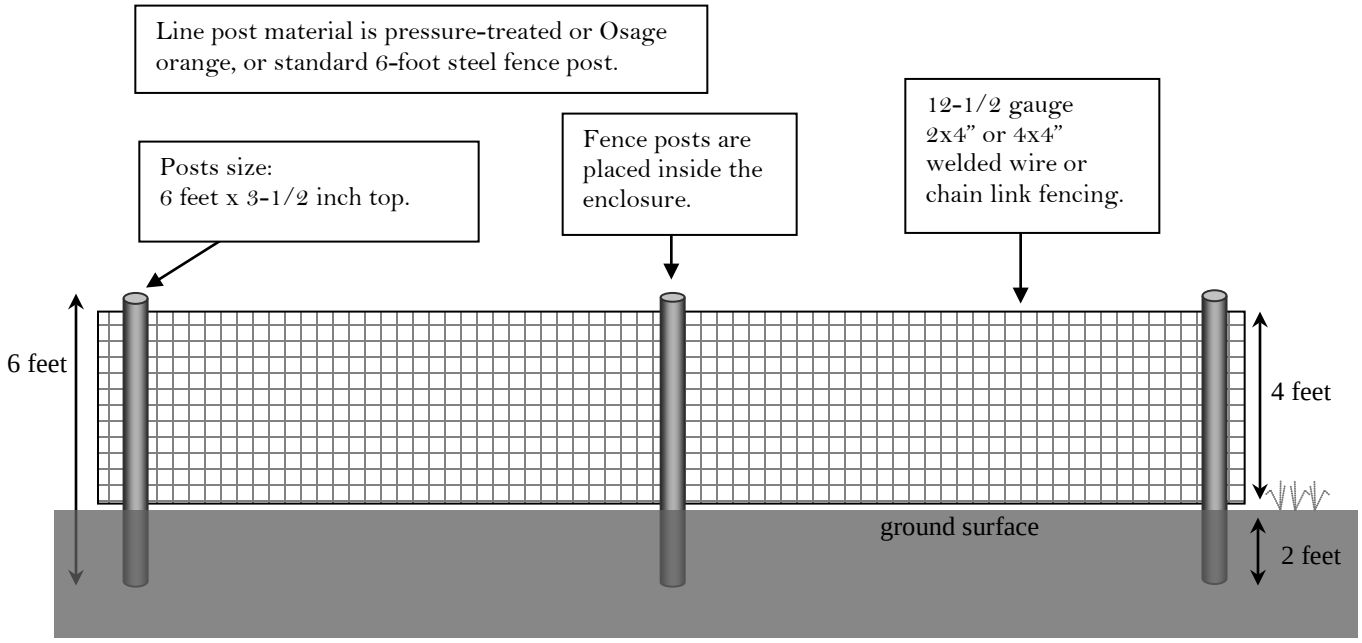


Figure D

Fencing: The Standard Fence

Installation of Line Posts and Fencing



Attaching Fencing to Wooden Fence Post

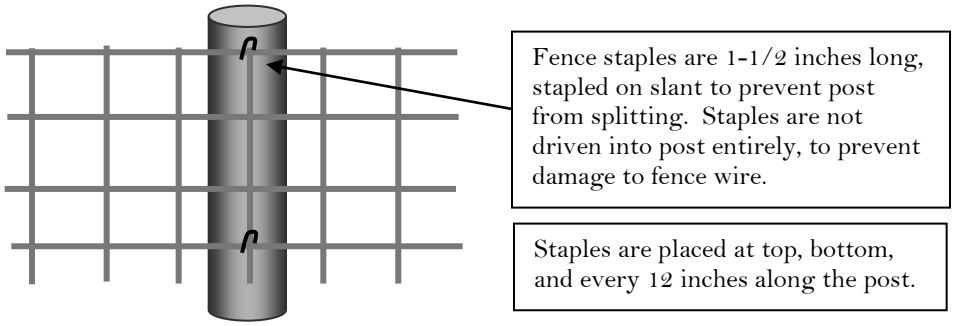


Figure E

Fencing: Standard Bracing for "N" Style Corners

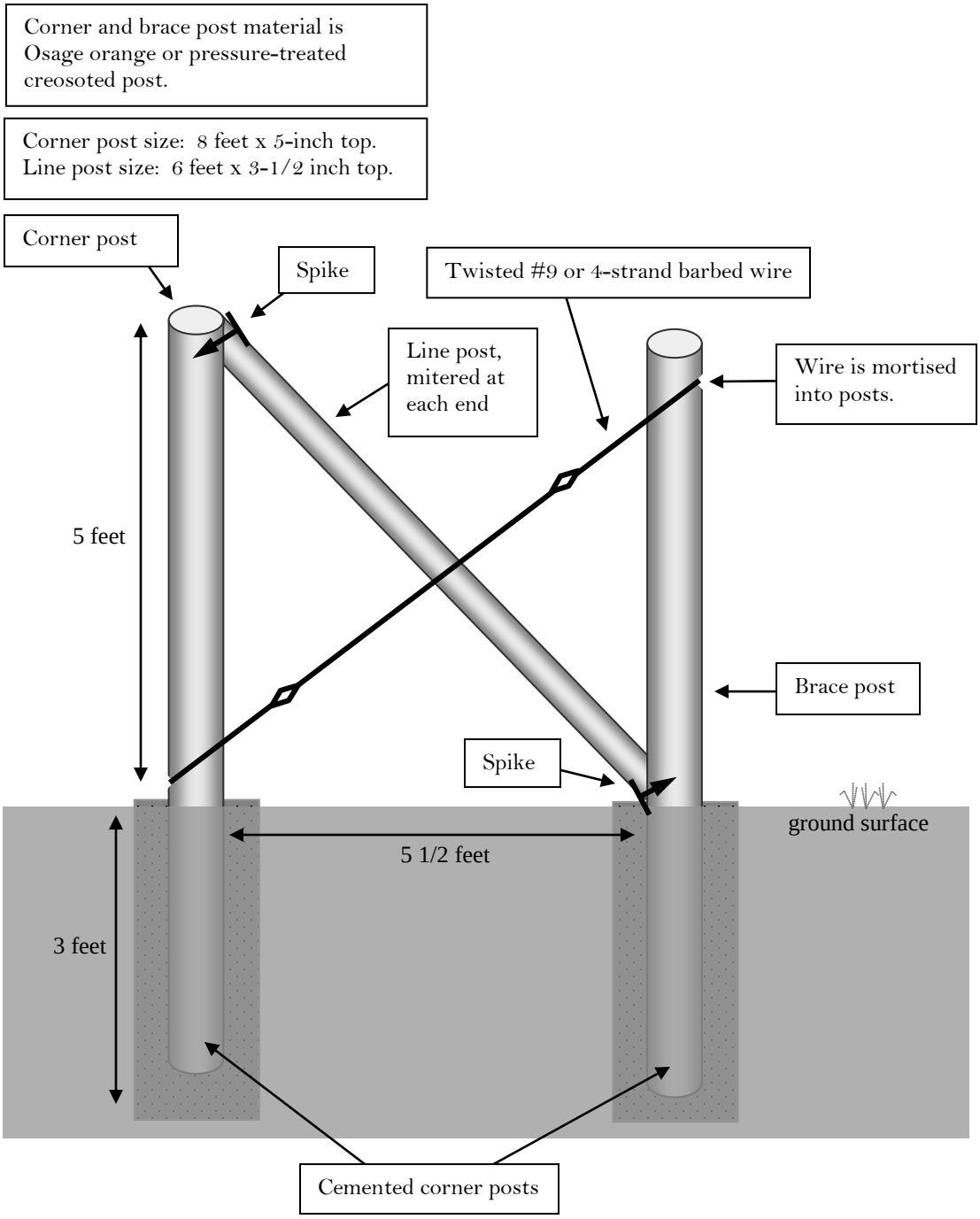


Figure F

Fencing: Standard Bracing for "H" Style Corners

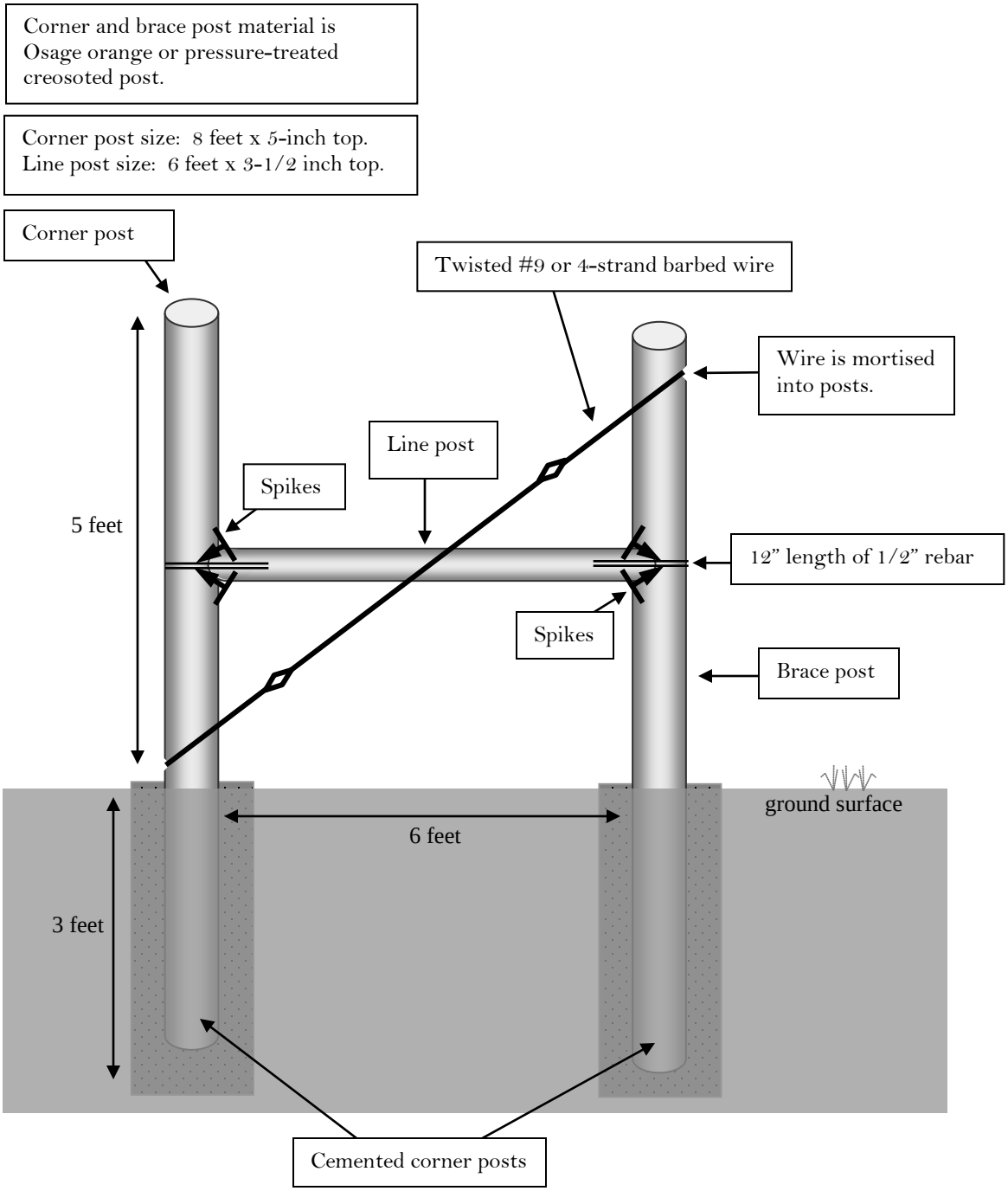
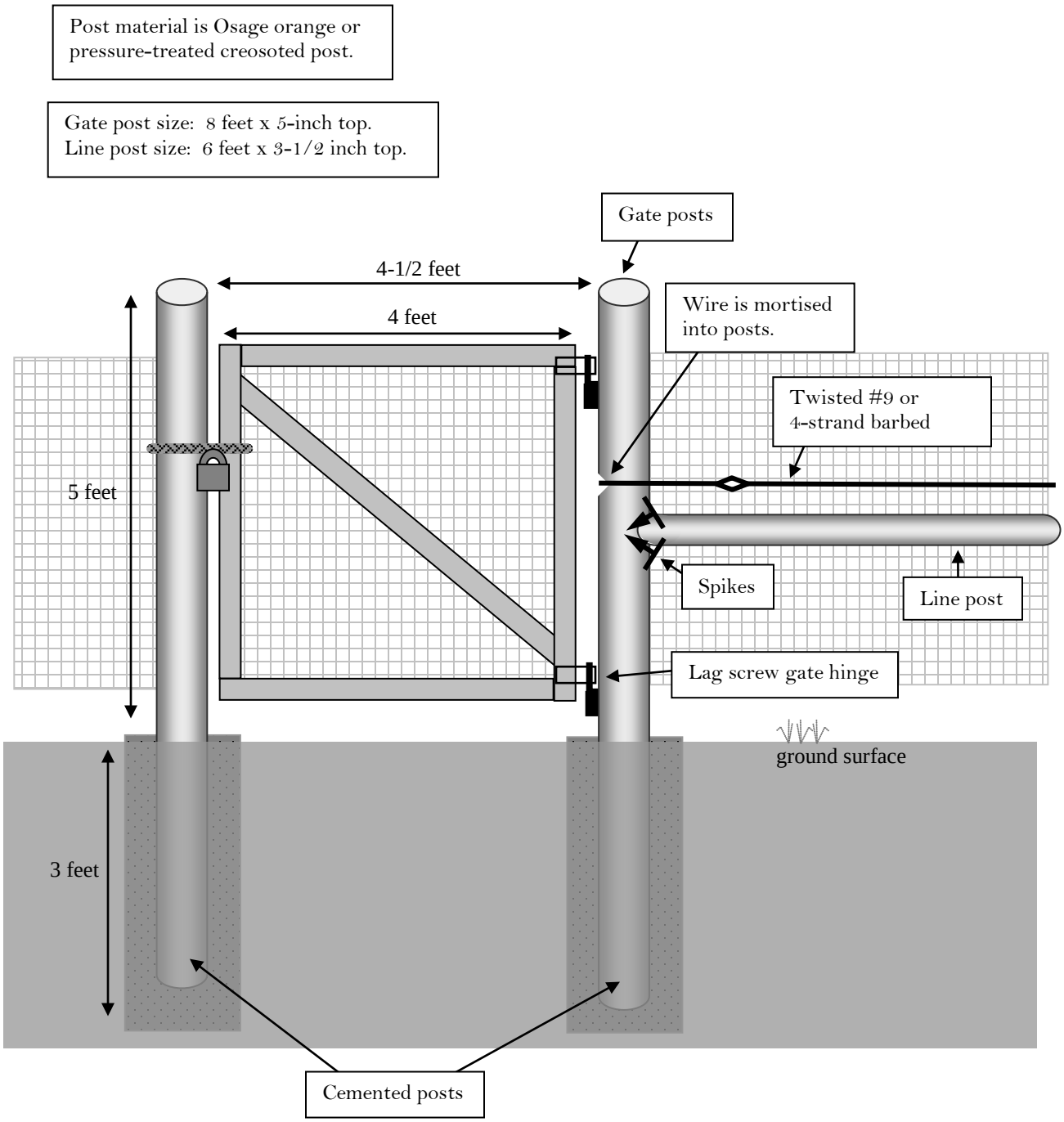


Figure G

Fencing: Standard Hung Gate with "H" Style Bracing



CHAPTER 4 WATER SUPPLIES

SECTION 1 DEFINITIONS

In addition to the definitions provided in Chapter 1 of this code, the words, terms and phrases listed below, for purposes of this Chapter 4, are as follows:

4-1.1 Abandoned Water Well: a water well determined by the Kansas Department of Health and Environment to be a well which meets any of the following criteria:

a. Use has been permanently discontinued.
b. Pumping equipment has been permanently removed.
c. The well is in such a state of disrepair that it cannot be used to supply water, or has the potential for transmitting surface contaminants into the aquifer, or both.
d. The well poses a potential health or safety hazard.
e. The well is in such condition that it cannot be placed in active or inactive status.

4-1.2 Active Well: a water well which is an operating well used to withdraw water, monitor or observe groundwater conditions.

4-1.3 Annular Space: the space between the well casing and the well bore or the space between two or more strings of well casing.

4-1.4 Aquifer: an underground formation that contains and is capable of transmitting groundwater.

4-1.5 Backflow: the undesirable reversal of flow of water or mixtures of water and other liquids, gases or other substances into the distribution pipes of the potable supply of water from any source or sources.

4-1.6 Cistern: a container or receptacle utilized to contain potable water delivered from a public water supply for household domestic uses. The cistern shall be a minimum capacity of 1,000 gallons and the construction material of the cistern shall be approved by the Health Department.

4-1.7 Confined Aquifer: an aquifer overlain and underlain by impermeable layers. Groundwater in a confined aquifer is under pressure greater than atmospheric pressure and will rise in a well above the point at which it is first encountered.

4-1.8 Construction of Water Wells: all acts necessary to obtain groundwater by any method for any use including, without limitation, the location of and excavation for the well.

4-1.9 Cross-Connection: any unprotected actual or potential connection or structural arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable system any used water, industrial fluid, gas, or substance other than the intended potable water with which the system is supplied. By-pass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices through which or because of which temporary or permanent devices through which or because of which "backflow" can or may occur are considered to be cross-connections.

4-1.10 Domestic Uses: the use of water by any person or family unit or household for household purposes, or for the watering of poultry, farm and domestic animals used in operating a farm, or for the watering of less than one thousand (1,000) head of livestock, or for the

irrigating of lands not exceeding a total of two acres in area for the growing of gardens, orchards and lawns.

4-1.11 Floodplain: the 100-year floodplain.

4-1.12 Groundwater: the part of the subsurface water which is in the zone of saturation.

4-1.13 Grout: cement grout, neat cement grout, bentonite clay grout or other material approved by the department used to create a permanent impervious watertight bond between the casing and the undisturbed formation surrounding the casing or between two or more strings of casing.

a. Neat cement grout is a mixture consisting of one ninety-four (94) pound bag of portland cement to five to six gallons of clean water.
b. Cement grout is a mixture consisting of one ninety-four (94) pound bag of portland cement to an equal volume of sand having a diameter no larger than 0.080 inches (2 millimeters) to five to six gallons of clean water.
c. Bentonite clay grout is a mixture consisting of water and commercial grouting or plugging sodium bentonite clay containing high solids such as that manufactured under the trade name of "volclay grout", or an equivalent as approved by the Kansas Department of Health and Environment.

    1) The mixture shall be per the manufacturer's recommendations to achieve a weight of not less than 9.4 pounds per gallon of mix. Weighting agents may be added as per the manufacturer's recommendations.

    2) Sodium bentonite pellets, tablets or granular sodium bentonite may also be used provided they meet the specifications listed in 4-1.13.c. above.

    3) Sodium bentonite products that contain low solids, are designed for drilling purposes or that contain organic polymers shall not be used.

4-1.14 Grout Tremie Pipe or Grout Pipe: a steel or galvanized steel pipe or similar pipe having equivalent structural soundness that is used to conduct pumped grout to a point of selected emplacement during the grouting of a well casing or plugging of an abandoned well or test hole.

4-1.15 Health Department: the Lawrence-Douglas County Health Department.

4-1.16 Heat Pump Hole: a hole drilled to install piping for an earth coupled water source heat pump system, also known as a vertical closed loop system.

4-1.17 Inactive Status: a water well which is not presently operating but is maintained in such a way it can be put back in operation with a minimum of effort.

4-1.18 KDHE: the Kansas Department of Health and Environment.

4-1.19 License: a document issued by the Kansas Department of Health and Environment to qualified persons making application therefore, authorizing such persons to engage in the business of water well contracting.

4-1.20 Non-Public Water Supply: all water supplies for domestic uses which do not meet the definition of public water supply.

4-1.21 Pitless Well Adapter or Unit: an assembly of parts installed below frost line which will permit pumped groundwater to pass through the wall of the casing or extension thereof and prevent entrance of contaminants.

4-1.22 Public Water Supply System: a system for delivery to the public of piped water for human consumption that has at least ten (10) service connections or regularly serves at least twenty-five (25) individuals daily at least sixty (60) days out of the year. This term includes any source, treatment, storage or distribution facilities used in connection with the system.

4-1.23 Pump Pit: a watertight structure constructed at least two feet away from the water well and below ground level to prevent freezing of pumped groundwater and which houses the pump or pressure tank, distribution lines, electrical controls, or other appurtenances.

4-1.24 Reconstructed Water Well: an existing well that has been deepened or has had the casing replaced, repaired, added to or modified in any way for the purpose of obtaining groundwater.

4-1.25 Sanitary Well Seal: a manufactured seal, approved by the Kansas Department of Health and Environment and Lawrence-Douglas County Health Department, installed at the top of the well casing which, when installed, creates an air and watertight seal to prevent contaminated or polluted water from gaining access to the groundwater supply.

4-1.26 Static Water Level: the highest point below or above ground level which the groundwater in the well reaches naturally.

4-1.27 Test Hole or Hole: any excavation constructed for the purpose of determining the geologic, hydrologic and water quality characteristics of underground formations.

4-1.28 Treatment: the stimulation of production of groundwater from a water well, through the use of hydrochloric acid, muriatic acid, sulfuric acid, calcium, or sodium hypochlorite, polyphosphates or other chemicals and mechanical means, for the purpose of reducing or removing iron and manganese hydroxide and oxide deposits, calcium and magnesium carbonate deposits and slime deposits associated with iron or manganese bacterial growths which inhibit the movement of groundwater into the well.

4-1.29 Uncased Test Hole: any test hole in which casing has been removed or in which casing has not been installed.

4-1.30 Unconfined Aquifer: an aquifer containing groundwater at atmospheric pressure. The upper surface of the groundwater in an unconfined aquifer is the water table.

4-1.31 WWC-5 Form: a water well drilling report completed by a well driller licensed by the Kansas Department of Health and Environment (KDHE).

4-1.32 Water Well: any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed when the intended use of such excavation is for the location, diversion, artificial recharge or acquisition of groundwater.

4-1.33 Water Well Contractor: any individual, firm, partnership, association or corporation who shall construct, reconstruct or treat a water well. The term shall not include:

a. An individual constructing, reconstructing or treating a water well located on land owned by the individual, when the well is used by the individual for farming, ranching, or agricultural purposes or for domestic purposes at the individual's place of abode.

b. An individual who performs labor or services for a licensed water well contractor at the contractor's direction and under the contractor's supervision.

SECTION 2 **WATER SUPPLY REQUIRED**

4-2.1 Owners of private homes that are used as a principle residence and all rented or leased homes shall furnish at least one convenient outlet supplying an adequate quantity of potable water. Owners of permanent establishments shall furnish an adequate supply of safe water for the clientele.

4-2.2 For individual lots, tracts, or parcels which contain a minimum lot area of three (3) adjoining acres but less than five (5) adjoining acres, no permit for the construction of a new on-site sewage management system will be issued after the effective date of this Sanitary Code before approval of the water supply by the Health Department. Approval of the water supply shall include one of the following requirements:

a. A letter of approval has been issued by the appropriate public water supply that a water meter has been purchased for the property [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].
b. A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

4-2.3 For individual lots, tracts, or parcels which contain a minimum lot area of five (5) adjoining acres, no permit for the construction of a new on-site sewage management system shall be issued after the effective date of this Sanitary Code before approval of the water supply by the Health Department. Approval of the water supply shall include one of the following requirements:

a. A letter of approval has been issued by the appropriate public water supply that a water meter has been purchased for the property [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].
b. A permit has been issued by the Health Department for a private well to be constructed. Lots, tracts, or parcels divided after January 1, 2007, which are located within the Urban Growth Area shall not use private water wells as the primary potable water source (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p.58, or as amended].
c. A permit has been issued by the Health Department for a private cistern to be constructed. Cisterns shall not be installed on lots, tracts, or parcels divided after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

SECTION 3 **PUBLIC WATER SUPPLIES**

4-3.1 State Permit. No person shall operate a public water supply without obtaining a permit from the Kansas Department of Health and Environment.

4-3.2 State Approved Plans. No person shall construct any public water supply on any property subject to the provisions of this code until the plans and specifications have been submitted and approved by the Kansas Department of Health and Environment. A copy of the plans and specifications shall be made available to the Lawrence-Douglas County Health Department if requested by the Lawrence-Douglas County Health Department.

SECTION 4 **NON-PUBLIC WATER SUPPLIES**

4-4.1 No person shall construct a non-public water supply without approval from the Health Department.

4-4.2 Use of surface water (lakes, ponds, or streams) as a source of water for a non-public water supply shall not be permitted.

SECTION 5 NON-PUBLIC WATER SUPPLIES WITH TWO (2) OR MORE SERVICE CONNECTIONS

4-5.1 Permit Required

a. No permit for constructing a non-public water supply with two (2) or more service connections shall be issued to any person when in the discretion of the Lawrence-Douglas County Health Department the property can be served by a public water supply.
b. No person shall construct, repair or alter a non-public water supply with two (2) or more service connections without obtaining a construction permit for such purpose from the Lawrence-Douglas County Health Department. No permit for the construction, repair or alternation of the water supply shall be issued until the Lawrence-Douglas County Health Department has inspected and approved the site and the proposed location and design of the water supply. A fee shall be charged by the Lawrence-Douglas County Health Department for the service. The water supply may be inspected by the Lawrence-Douglas County Health Department at any stage of construction.
c. The Lawrence-Douglas County Health Department may require the water supply to be designed by a professional engineer and may ask for review of the proposal by the Kansas Department of Health and Environment.

4-5.2 Operation and Maintenance Requirements

a. The owner of the water supply or his/her representative shall immediately notify the Lawrence-Douglas County Health Department of a situation with the water system including a breakdown or loss of water service which presents or may present an imminent and substantial endangerment to health.
b. Newly constructed or repaired water distribution mains and finished water storage facilities shall be flushed and disinfected before use in accordance with methods acceptable to the Lawrence-Douglas County Health Department.
c. The water supply shall be operated and maintained to provide a minimum positive pressure of twenty (20) psi (140kN/m²) throughout the distribution system except under extraordinary conditions such as unusual peak fire flow demand or major distribution system breaks.
d. No person shall operate or maintain a non-public water supply system with two (2) or more service connections that has been:

    1) Constructed or reconstructed after October 10, 1997, until it has been inspected and a permit issued by the Lawrence-Douglas County Health Department.

    2) Temporarily or permanently enjoined as a public health nuisance by a court of competent jurisdiction.

    3) Found by the Lawrence-Douglas County Health Department not to comply with the provisions of these standards and a written notice thereof has been given to the owner or his/her agent.

4-5.3 Water Samples and Use of a Non-Public Water Supply with Two (2) or More Service Connections

In addition to the requirements which pertain to non-public water wells, the following shall be done and reviewed by the Lawrence-Douglas County Health Department prior to the issuance of a permit, to assure water quality for the public:

a. A bacterial analysis is to be done initially and at least annually thereafter.
b. A partial chemical analysis is to be done initially and every three (3) years thereafter.
c. Other tests such as a screen for pesticides, volatile organic chemicals and heavy metals may be required, at the direction of the Lawrence-Douglas County Health Department to protect the public's health.
d. The water samples shall be collected by the Lawrence-Douglas County Health Department and sent to Kansas Department of Health and Environment lab or other state certified labs for analysis. The fee for the analysis is the responsibility of the owner of the water supply or his/her representative.

SECTION 6 CISTERNS

4-6.1 New cisterns shall not be installed on lots, tracts, or parcels divided after January 1, 2007, within the City of Lawrence Urban Growth Area (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

4-6.2 Permit Required. No permit for the construction of a cistern shall be issued until the Health Department has inspected and approved the site and the proposed location and design of the cistern. A fee shall be charged by the Health Department for the construction permit. The cistern and water system may be inspected by the Health Department at any stage of construction.

4-6.3 Minimum Standards. Cisterns constructed after the effective date of this Sanitary Code shall meet the following requirements:

a. Cisterns shall be constructed of monolithic concrete or "food grade" plastic.
b. Cisterns shall have a minimum capacity of one thousand (1,000) gallons.
c. Cisterns shall be filled with potable water delivered from a public water supply.

4-6.4 Location Requirements. No cistern shall be installed after the effective date of this Sanitary Code within:

a. Fifty (50) feet of any septic tank.
b. Fifty (50) feet of any septic absorption field.
c. Any areas where rainwater is likely to enter the cistern.

SECTION 7 NON-PUBLIC WATER WELLS

4-7.1 Permit Required. No person shall construct a non-public water well for domestic uses without obtaining a construction permit for such purpose from the Lawrence-Douglas County Health Department. No permit for the construction shall be issued until the Lawrence-Douglas County Health Department has inspected and approved the site and the proposed location and design of the non-public water well. A fee shall be charged by the Lawrence-Douglas County Health Department. The system and well may be inspected by the Lawrence-Douglas County Health Department at any stage of construction.

SECTION 8 MINIMUM STANDARDS FOR NON-PUBLIC WATER WELLS

Construction regulations for all wells other than public water supply:

4-8.1 Area Requirements

a. No well shall be located upon any parcel, tract, or lot of less than five (5) adjoining acres whereon an on-site sewage management system is utilized.

b. Any land divided after January 1, 2007, which is located within the floodplain shall not be counted in calculating lot area for the purpose of meeting minimum lot area requirements for on-site sewage management systems [Subdivision Regulation 20-811 (d) (2) (i), p.57, or as amended]. Lots, tracts, or parcels divided after January 1, 2007, which are located within the Urban Growth Area shall not use private water wells as the primary potable water source (a public water supply is required for such lots) [Subdivision Regulation 20-811 (e) (1), p. 58, or as amended].

The exemptions to this requirement are when:

1). A division of property, which is less than the above stated minimum, has occurred and has been filed with the Douglas County Register of Deeds prior to October 10, 1997; or

2) A property is exempt under Section 21-4.07 of the Douglas County Zoning Regulations.

3) Any lands divided prior to January 1, 2007, shall not be required to meet the floodplain requirements [Subdivision Regulation 20-801 (d), p. 7, or as amended].

4-8.2 Location Requirements

a. Unless otherwise approved by the Health Department, the well shall be located as set forth in Table 3. After the effective date of this Sanitary Code, no new well shall be installed within:

1) Fifteen (15) feet of any utility line.

2) Twenty-five (25) feet of any property line, allowing public right-of-ways to be counted.

3) Fifty (50) feet of any residential building or any other building which has the potential to be treated for termites.

4) Fifty (50) feet of any septic tank, surface water course, creek bank, stream, pond, river, or lake (p. 4, KDHE Bulletin 4-2, or as amended).

5) Fifty (50) feet of any sewer line or pressure sewer line.

6) One hundred (100) feet of any abandoned cesspool, inactive well, barnyard, feedlot, waste stabilization pond (lagoon), manure storage, pit privy, or septic system absorption field.

7) One hundred fifty (150) feet of any chemical storage, fertilizer storage, fuel storage, pesticide storage or landfill.

8) Any floodplain.

b. Proper drainage in the vicinity of the well shall be provided so as to prevent the accumulation and ponding of surface water within fifty (50) feet of the well. The well shall not be located in a ravine or any other drainage area where surface water may flow into the well.

c. The water well shall be so located as to minimize the potential for contamination of the delivered or obtained groundwater and to protect groundwater aquifers from pollution and contamination.

d. After the effective date of this Sanitary Code, any newly constructed well shall be located within the boundaries of the same legally described lot, tract, or parcel as the building(s) for which the well supplies water.

4-8.3 Grouting For Constructed or Reconstructed Wells

a. Constructed or reconstructed wells shall be sealed by grouting the annular space between the casing and the well bore from ground level to a minimum of twenty (20) feet or to a minimum of five feet into the first clay or shale layer, if present, whichever is greater. If a pitless well adapter or unit is being installed, the grouting shall start below the junction of the pitless well adapter or unit where it attaches to the well casing and shall continue a minimum of twenty (20) feet below this junction or to a minimum of five feet into the first clay or shale layer whichever is greater.
b. To facilitate grouting, the grouted interval of the well bore shall be drilled to a minimum diameter at least three inches greater than the maximum outside diameter of the well casing. If a pitless well adapter or unit is being installed on the well's casing, the well bore shall be a minimum diameter of at least three inches greater than the outside maximum diameter of the well casing through the grouted interval below the junction of the pitless well adapter or unit where it attaches to the well casing.
c. If groundwater is encountered at a depth less than the minimum grouting requirement, the grouting requirement may be modified to meet local conditions if approved by the Kansas Department of Health and Environment.
d. Waters from two or more separate aquifers shall be separated from each other in the bore hole by sealing the bore hole between the aquifers with grout.

4-8.4 Well Casing

a. Asbestos-cement well casing (transite) shall not be used in water wells that produce water for human consumption or food processing.
b. All wells shall have durable watertight casing from at least one foot above finished ground surface to the top of the producing zone of the aquifer. In no event shall the watertight casing extend less than twenty (20) feet below the ground level. Exceptions to either of the above may be granted by the Kansas Department of Health and Environment if warranted by local conditions. The casing shall be clean and serviceable and of a type to guarantee reasonable life so as to insure adequate protection to the aquifer or aquifers supplying the groundwaters. Used, reclaimed, rejected, or contaminated pipe shall not be used for casing any well. All water well casing shall be approved by the Kansas Department of Health and Environment.
c. All groundwater producing zones that are known or suspected to contain natural or man-made pollutants shall be adequately cased and grouted off during construction of the well to prevent the movement of the polluted groundwater to either overlying or underlying fresh groundwater zones.
d. The well casing shall terminate not less than one (1) foot above the finished ground surface. No opening shall be made through the well casing except for installation of a pitless well adapter so designed and fabricated to prevent soil, subsurface and surface water from entering the well.

4-8.5 Well Vents

Well vents shall be used and shall terminate not less than one foot above ground surface and shall be screened with 16-mesh, brass, bronze, copper screen or other screen materials approved by the Kansas Department of Health and Environment and turned down in a full one hundred eighty (180) degree return bend so as to prevent the entrance of contaminating materials.

4-8.6 Temporary Capping

All wells, when unattended during construction, reconstruction, treatment or repair, or during use as cased test holes, observation or monitoring wells, shall have the top of the well casing securely capped in a watertight manner to prevent contaminating or polluting materials from gaining access to the groundwater aquifer.

4-8.7 Sanitary Well Seal

The top of the well casing shall be sealed by installing a sanitary well seal which has been approved by KDHE.

4-8.8 Pump Pit

a. Any pump pit shall be constructed at least two feet away from the water well. The pipe from the pump or pressure tank in the pump pit to the water well shall be sealed in a watertight manner where it passes through the wall of the pump pit.
b. Water wells shall not be constructed or reconstructed in pits, basements, garages or crawl spaces.

4-8.9 Pump Mounting

a. All pumps installed directly over the well casing shall be so installed that an airtight and watertight seal is made between the top of the well casing and the gear or pump head, pump foundation or pump stand.
b. When the pump is not mounted directly over the well casing and the pump column pipe or pump suction pipe emerges from the top of the well casing, a sanitary well seal shall be installed between the pump column pipe or pump suction pipe and the well casing. An airtight and watertight seal shall be provided for the cable conduit when submersible pumps are used.

4-8.10 Cleaning of Well

Prior to completion of a constructed or reconstructed well, the well shall be cleaned of mud, drill cuttings and other foreign matter so as to make it suitable for pump installations.

4-8.11 Toxic Materials

Toxic materials shall not be used in the construction, reconstruction, treatment or plugging of a water well unless those material are thoroughly flushed from the well prior to use.

4-8.12 Natural Organic or Nutrient Producing Material

Natural organic or nutrient producing material shall not be used during the construction, reconstruction or treatment of a well unless it is thoroughly flushed from the well and the groundwater aquifer or aquifers before the well is completed. Natural organic or nutrient producing material shall not be added to a grout mix used to grout the well's annular space.

4-8.13 Disinfection

Water well disinfection for wells constructed or reconstructed for human consumption or food processing.

a. Gravel for gravel-packed wells shall be disinfected by immersing the gravel in chlorine solution containing not less than two hundred (200) milligrams per liter (mg/1) of available chlorine before it is placed in the wells annular space.
b. Constructed or reconstructed wells shall be disinfected by adding sufficient hypochlorite solution to them to produce a concentration of not less than one hundred (100) mg/1 of available chlorine when mixed with water in the well.

c. The pump, casing, screen and pump column shall be washed down with a two hundred (200) mg/1 available chlorine solution.

d. All persons constructing, reconstructing, or treating, a water well and removing the pump or pump column, replacing a pump, or otherwise performing an activity which has potential for contaminating or polluting the groundwater supply shall be responsible for adequate disinfection of the well, well system and appurtenances thereto.
e. All drilling waters used during the construction or reconstruction of any water well shall be initially disinfected by mixing with the water enough sodium hypochlorite to produce at least one hundred (100) milligrams per liter (mg/1) of available chlorine.

SECTION 9 ABANDONED WELLS

4-9.1 All abandoned wells shall be plugged in accordance with Kansas Department of Health and Environment regulation.

SECTION 10 GENERAL OPERATING REQUIREMENTS

4-10.1 Water Well Record

a. A water well contractor who constructs, reconstructs or plugs a water well shall submit a copy of the water well record, form WWC-5, to the Lawrence-Douglas County Health Department and the Kansas Department of Health and Environment within thirty (30) days after the construction, reconstruction or plugging of the water well. The copy sent to the Lawrence-Douglas County Health Department shall be mailed to: 200 Maine Street, Suite B, Lawrence, Kansas 66044.
b. A landowner who constructs, reconstructs or plugs a water well which will be or was used by the landowner for farming, ranching or agricultural purposes or is located at the landowner's place of abode, shall submit a copy of the water well record, form WWC-5, to the Lawrence-Douglas County Health Department and the Kansas Department of Health and Environment within thirty (30) days after the construction, reconstruction or plugging of the water well.

4-10.2 Artificial Recharge and Return. The Construction of artificial recharge wells and freshwater return wells shall comply with all applicable rules and regulations of the Kansas Department of Health and Environment.

4-10.3 Well Tests. When a pumping test is run on a well, results of the test shall be reported on the water well record, form WWC-5, or a copy of the contractor's record of the pumping test shall be attached to the water well record.

4-10.4 Water Samples.

a. Within 30 days after receipt of the water well record, form WWC-5, the Kansas Department of Health and Environment or Lawrence-Douglas County Health Department may request the contractor, or landowner who constructs or reconstructs his or her own water well, to submit a sample of water from the well for chemical analysis.
b. All wells constructed or reconstructed after September 20, 1993, should be sampled for coliform bacteria and parts per million (ppm) of nitrate-nitrogen. A fee may be charged by the Lawrence-Douglas County Health Department for the service.
c. Samples of water from any water supply may be taken and examined by the Lawrence-Douglas County Health Department whenever deemed necessary for the detection of pollution, compliance or unwholesomeness. The Lawrence-Douglas County Health Department may refuse to take or examine samples of water from any water supply which is not adequately protected from surface contamination.

d. The Lawrence-Douglas County Health Department may condemn and prohibit use or require repairs of any water supply which is determined to be a present danger to the public health.

SECTION 11 **CROSS-CONNECTION AND BACK-SIPHONAGE**

4-11.1 No person shall install and maintain a cross-connection between any public water supply and any other water supply.

Table 1

Kansas Department of Health and Environment Approved Water Well Casing
[Authorization K.A.R. 28-30-6(h)]

Water Well Casing for Water Wells other than Public Water Supply and Reservoir Sanitation Zone Water Wells

Steel and Wrought Iron

Minimum Wall Thickness

Depth of Casing	**Nominal Diameter (Gauge or Inches)***									
(Feet)	**4**	**6**	**8**	**10**	**12**	**14**	**16**	**18**	**24**	**30**
0-100	10	10	10	10	10	10	10	10	7	0.219
100-200	10	10	10	10	10	7	7	7	0.219	0.219
200-400	10	10	10	10	7	7	7	0.219	0.250	0.250
400-600	7	7	7	7	7	7	0.219	0.250	0.312	0.312
600 or more	7	0.219	0.219	0.219	0.219	0.219	0.250	0.375	0.375	0.375

* Whole numbers indicate the U.S. standard gauge (10 gauge = 0.141 inches and 7 gauge = 0.179 inches).
* Decimal numbers indicate thickness in inches

Table 2

Kansas Department of Health and Environment Approved Water Well Casing
[Authorization K.A.R. 28-30-6(h)]

Water Well Casing for Water Wells other than Public Water Supply and Reservoir Sanitation Zone Water Wells

Thermalplastic

Polyvinyl Chloride (PVC)
Styrene Rubber (SR) which is the same as Rubber Modified Polystyrene (RMP)
Acrylonitrile-Butadiene-Stryene (ABS)

Minimum Wall Thickness (Inches) and Tolerances (Inches)
made in Standard Dimension Ratios (SDR)

Nominal Pipe Size	SDR 26		SDR 21		SDR 17		SDR 13.5	
	Minimum	Tolerance	Minimum	Tolerance	Minimum	Tolerance	Minimum	Tolerance
2			0.113	0.02	0.14	0.02	0.176	0.021
2.5			0.137	0.02	0.169	0.02	0.213	0.025
3			0.167	0.02	0.206	0.025	0.259	0.031
3.5			0.19	0.023	0.235	0.028	0.296	0.036
4	0.173	0.021	0.214	0.026	0.265	0.032	0.333	0.040
5	0.214	0.027	0.265	0.032	0.327	0.039	0.412	0.049
6	0.255	0.031	0.316	0.038	0.39	0.047	0.491	0.058
8	0.332	0.04	0.41	0.049	0.508	0.061		
10	0.413	0.05	0.511	0.061	0.632	0.076		
12	0.490	0.059	0.606	0.073	0.75	0.09		
14	0.539	0.065						
16	0.616	0.074						

Table 3

Location of Water Well

See 4-9.2 – Location Restrictions

Minimum Horizontal Distance (Feet) Required **from:**	**to Water Well**
Utility line	15
Property line, allowing public right-of-way to be counted	25
Residential building or any other building which has the potential to be treated for termites	50
Septic tank	50
Surface water course, creek bank, stream, pond, river, or lake (p. 4, KDHE bulletin 4-2, or as amended)	50
Abandoned cesspool	100
Inactive well	100
Barnyard or feedlot	100
Waste stabilization pond (lagoon)	100
Manure storage	100
Pit privy	100
Septic system absorption field	100
Chemical storage	150
Fertilizer storage	150
Fuel storage	150
Pesticide storage	150
Landfill	150

CHAPTER 5 SEPTAGE WASTE HAULERS

SECTION 1 SEWAGE REMOVAL PERMIT

5-1.1 No person, firm or corporation may remove, transport, or dispose of the contents of septic tanks, or onsite sewage management systems without having first obtained from the Lawrence-Douglas County Health Department an annual sewage removal permit. The application for the permit shall be submitted in writing on forms provided by the Health Department.

5-1.2 The application shall include:

a. Business name and address.
b. Name and address of the applicant.
c. License tag number and identification number of vehicle.
d. Manner by which such contents are to be removed, transported, and given final disposal.
e. Written documentation that sewage removed and transported will be accepted at disposal sites.

5-1.3 A fee shall be charged by the Health Department for the Sewage Removal Permit.

SECTION 2 DISPOSAL METHODS

5-2.1 Disposal of sewage from onsite sewage management systems shall be by:

a. Discharge to a public or community sewerage system, or
b. By another method and disposal site approved by the Lawrence-Douglas County Health Department. Disposal shall require written permission of the appropriate governmental jurisdiction or land owner and the Health Department.

5-2.2 Septage shall be pumped from the septic tank manhole, and not from the inspection risers.

SECTION 3 ADDITIONAL REQUIREMENTS FOR LAND APPLICATION OF SEPTAGE

5-3.1 The licensee shall comply with all the requirements mandated under Title 40, Part 503, of the Code of Federal Regulations.

5-3.2 All land application sites shall be inspected and approved in writing by the Health Department prior to any land application use.

5-3.3 Application rates shall not exceed 30,000 gallons per acre, per year.

5-3.4 No land application sites activated into service after the effective date of this Sanitary Code shall be permitted within the FEMA-designated 100-year floodplain.

5-3.5 No application onto any surface such as frozen or saturated soil shall be permitted, if any run-off to the waters of the State is likely to occur.

5-3.6 No land application sites shall be permitted within 100 feet of a property line.

5-3.7 No septage application shall be permitted into a private wastewater lagoon or sanitary landfill.

5-3.8 No application shall be permitted within one-half mile of a public water supply well.

SECTION 4 **VEHICLE IDENTIFICATION**

5-4.1 The name of the person or firm engaging in the removal of sewage from onsite sewage management systems shall be lettered on both sides of each vehicle used for sewage removal purposes. Letters and numerals shall not be less than two (2) inches in height.

SECTION 5 **VEHICLE MAINTENANCE**

5-5.1 Every vehicle used for removal of sewage from onsite sewage management systems shall be equipped with a watertight tank or body. All pumps, hose lines, valves and fittings shall be maintained so as to prevent leakage. The operator shall demonstrate that the equipment is in good operating condition and will perform its function without leakage or spillage.

SECTION 6 **REVOCATION OF SANITARY SERVICES LICENSE**

6-1.1 A permit may be revoked for failure to comply with these regulations.`-

ARTICLE 6. FAIR HOUSING

3-601. KANSAS ACT AGAINST DISCRIMINATION; ENDORSEMENT. The Board of County Commissioners hereby endorses and affirmatively supports the provisions of the Kansas Act Against Discrimination which prohibits discrimination in housing practices. The statutory provisions found in K.S.A. 44-1015 et seq. prohibit discrimination in the sale or rental of real property, or in the provision of services or facilities in connection therewith because of race, religion, color, sex, national origin or ancestry. The board affirms its commitment to the principles contained in K.S.A. 44-1015 et seq., and urges any person who believes he or she is the victim of a discriminatory housing practice in violation of such law to file a complaint with the Kansas Commission on Civil Rights. (Res. 89-26, Sec. 1)

3-602. SAME; COPIES. In furtherance of the anti-discrimination provisions of the Kansas Act Against Discrimination, the Board of County Commissioners shall keep on file in its office and in the office of the Douglas County Clerk copies of the Kansas Act Against Discrimination and the complaint procedures handbook of the Kansas Commission on Civil Rights. Any individual who is interested in reviewing such information will be afforded that opportunity upon request. (Res. 89-26, Sec. 2)

CHAPTER 4. CABLE TELEVISION

Article 1. Cable Television

ARTICLE 1. CABLE TELEVISION

4-101. DEFINITIONS. (a) Person means any individual, partnership, association, corporation, legal entity or organization of any kind.

(b) Cable Television System means a system composed of, without limitations, antenna, cables, wires, lines, towers, wave guides, or any other conductors, converters, equipment or facilities for the purpose of the distribution on a community antenna television system of television programs by means of high antenna or microwave transmission amplified and distributed by coaxial cable to the premises of its subscribers.

(c) Franchise means a nonexclusive authorization to use the roads, public ways and dedicated easements of the county to construct, operate, maintain or lease a cable television system and provide cable television service within the unincorporated areas of the county.
(HR 85-7-1, Sec. 7)

4-102. REGULATORY PURPOSE. The county shall supervise and regulate all cable telephone service business operating within the unincorporated areas of the county so far as may be necessary to prevent such operation and service from having detrimental consequences to the public interest. For this purpose the county may promulgate and enforce such reasonable rules and regulations as it may deem necessary with reference to commencement of operation, territory of operation, the extension of service equitably to all parts of the franchise area, abandonment of facilities, elimination of unjust discrimination among subscribers, financial responsibility, insurance covering personal injury and property damage, safety of equipment, use of streets, alleys, dedicated easements and other public places, and reasonable grounds for forfeiture of franchise rights. (HR 85-7-1, Sec. 1)

4-103. FRANCHISE REQUIRED. It shall be unlawful for any person, firm or corporation acting in its own behalf or under a lease with or pole contract from any public utility to construct, install, operate or maintain a cable television service in, on, over, under, upon, across, from and along the streets, alleys, sidewalks, public property and public ways within the unincorporated areas of the county without first obtaining from the county a franchise authorizing the same under such reasonable conditions as the circumstances may require. The county hereby is authorized to grant or extend one or more such franchises for a term not to exceed 20 years from the date of such grant or extension. No person, firm or corporation shall

CHAPTER 5. EMERGENCY MEDICAL SERVICES AND EMERGENCY PREPAREDNESS

Article 1. Department and Divisions
Article 2. Emergency Medical Service Rates
Article 3. Recovery of Expenses for Release of Hazardous Material
Article 4. Local Emergency Planning
Article 5. Ambulance License Requirements

ARTICLE 1. DEPARTMENT AND DIVISIONS

5-101. DEPARTMENT OF EMERGENCY MEDICAL SERVICES AND EMERGENCY MANAGEMENT ESTABLISHED. In order to consolidate and coordinate the administration, planning and execution of emergency medical services and emergency preparedness activities in Douglas County, there is hereby established a Department of Emergency Medical Services and Emergency Management, consisting of an ambulance service division and an emergency management division. The department shall be under the administrative supervision of a director who shall be appointed by the county commission upon the recommendation of the county administrator. (Res. 86-15, Sec. 1) (Res. 95-53, §1,2)

5-102. AMBULANCE SERVICE DIVISION.

(a) The ambulance service division shall be responsible for the operation of the Douglas County ambulance service under the authority of K.S.A. 65-4301, et seq., and amendments thereto, other applicable state and local laws, and such policies as shall be adopted by the county commission. The division also shall be responsible for such other duties as shall be assigned by the director of the department of emergency medical services and emergency management. Responsibility for administration of additional or new programs shall be approved by the county commission.

(b) All of the powers, duties, functions and budget authority of the existing Douglas County ambulance service are hereby transferred to and conferred upon the department of emergency medical services and emergency management and the ambulance service division thereof. Such powers shall be exercised under the direction and supervision of the director of the department of emergency medical services and emergency management.

(c) Whenever the Ambulance Service Operations Director, or words of like effect, are referred to or designated by statute, resolution, contract or other document, such references or designations shall be deemed to apply to the Director of the Department of Emergency Medical Services and Emergency Management.

(Res. 86-15, Sec. 2) (Res. 95-53, §1,2)

5-103. EMERGENCY MANAGEMENT DIVISION.

(a) The emergency management division shall be administered by the emergency management coordinator, who shall be appointed by the director of the department of emergency medical services and emergency management, with the approval of the county administrator. The emergency management coordinator shall be in the classified-exempt service under the Douglas County personnel policy, and shall be subject to removal only with the approval of the county administrator.

(b) The Division of Emergency Management shall be granted the authority necessary to carry out the functions enumerated in Section 5-103(c) of this Code.

(c) The Division of Emergency Management shall be the Douglas County Disaster Agency required by K.S.A. 48-929(a). The emergency management division shall be responsible for the administration of all state and county laws concerning emergency preparedness. The division also shall be responsible for such other duties as shall be assigned by the director of the department of emergency medical services and emergency management. Responsibility for administration of additional or new programs shall be approved by the county commission. The division shall coordinate its activities with all local, state and federal agencies as required to effectuate the laws of Douglas County and the State of Kansas. The duties and responsibilities of the Division of Emergency Management as carried out under the direction of the Coordinator shall include the following:

1. Coordination of response and recovery activities during and following disaster emergency;

2. Development and maintenance of a county hazard analysis;

3. Development of a local emergency planning program and maintenance of an all-hazard emergency operations plan for the county;

4. Implementation of a local technological hazards program which includes participation on the local emergency planning committee as provided for in K.S.A. 65-5703 and the development and coordination of a radiological protection system for the county;

5. Development and maintenance of an active public education program, both through direct public presentations and contacts with the local news media;

6. Development of an emergency exercise program to test the capability of the county to implement the emergency operations plan;

7. Development and coordination of a county emergency management training program;

8. Development and coordination of county hazard warning and notification systems;

9. Coordination of all requests by the county for assistance from other jurisdictions and the state and federal governments during a disaster emergency;

10. Identification of mitigation actions necessary within the county to prevent hazards or to lessen their impact; and

11. Provide advice and assistance to the County Commission in preparation of emergency declarations under K.S.A. 48-932.

(d) All of the powers, duties, functions and budget authority of the existing department of emergency preparedness are hereby transferred to and conferred upon the department of emergency medical services and emergency management and the emergency management division thereof. Such powers shall be exercised by the emergency preparedness coordinator of such division, under the direction and supervision of the director of the department of emergency medical services and emergency management.

(e) Douglas County will provide support to the Division of Emergency Management including:

1. Office space and clerical support sufficient to perform the required emergency preparedness functions;

2. Transportation or reimbursement for private transportation used of official duties;

3. Communication arrangements that allows for 24-hour a day notification to the Division of Emergency Management;

4. The identification of at least one person to serve as an alternate coordinator when the Coordinator is not available.

(f) Whenever the emergency management director and the department of emergency management, or words of like effect, are referred to or designated by statute, resolution, contract or other document, such references or designations shall be deemed to apply to the department of emergency medical services and emergency management and the director thereof, respectively, and the emergency management division and, where applicable, the coordinator thereof, established by this article.

(g) All agencies and employees of Douglas County will cooperate with the Division of Emergency Management in all matters pertaining to emergency preparedness.

(Res. 86-15, Sec. 3) (Res. 95-53, Sec. 1,2)

ARTICLE 2. EMERGENCY MEDICAL SERVICE RATES

5-201. EMERGENCY MEDICAL SERVICE RATES. The rates for ambulance service in Douglas County shall be as follows:

(a) ALS 2: All inclusive advanced life support emergency and routine service provided where at least three medications are administered by intravenous push/bolus or by continuous infusion excluding crystalloid, hypotonic, isotonic, and hypertonic solutions (Dextrose, Normal Saline, Ringer's Lactate) or one ALS procedure (e.g. Manual defibrillation/cardioversion, endotracheal intubation, central venous line, cardiac pacing, chest decompression, surgical airway, intraossesous line) is provided:

1. January 1, 2016 to December 31, 2016: base rate $712.00 plus $8.49 per loaded mile.
2. January 1, 2017 to December 31, 2017: base rate $743.00 Plus $8.86 per loaded mile.
3. January 1, 2018 to December 31, 2018: base rate $774.00 plus $9.23 per loaded mile.

(b) Emergency ALS: All inclusive advanced life support emergency and routine service where specialized services are provided:

1. January 1, 2016 to December 31, 2016: base rate $643.00 plus $8.49 per loaded mile.
2. January 1, 2017 to December 31, 2017: base rate $671.00 plus $8.86 per loaded mile.
3. January 1, 2018 to December 31, 2018: base rate $699.00 plus $9.23 per loaded mile

(c) Emergency: All inclusive advanced life support emergency and routine service where no specialized services are provided

1. January 1, 2016 to December 31, 2016: base rate $547.00 plus $8.49 per loaded mile.
2. January 1, 2017 to December 31, 2017: base rate $571.00 plus $8.86 per loaded mile.
3. January 1, 2018 to December 31, 2018: base rate $595.00 plus $9.23 per loaded mile.

(d) Non-Emergency ALS – Level 1: All inclusive advanced life support routine scheduled service with specialized services provided:

1. January 1, 2016 to December 31, 2016: base rate $643.00 plus $8.49 per loaded mile.
2. January 1, 2017 to December 31, 2017: base rate $671.00 plus $8.86 per loaded mile.
3. January 1, 2018 to December 31, 2018: base rate $699.00 plus $9.23 per loaded mile.

(e) Non-Emergency BLS: All inclusive advanced life support routine scheduled service with no specialized services provided

1. January 1, 2016 to December 31, 2016: base rate $547.00 plus $8.49 per loaded mile.
2. January 1, 2017 to December 31, 2017: base rate $571.00 plus $8.86 per loaded mile.
3. January 1, 2018 to December 31, 2018: base rate $595.00 plus $9.23 per loaded mile.

(f) Standby Time:

High School Events, per quarter hour: $13.00

All other events exclusive of High School Events shall be determined by an agreement that has been properly executed for actual employee costs plus a 15% administrative fee.

[(g) omitted]

(h) Medical Equipment:
Medical equipment will be part of the all inclusive advanced life support base rate.

(i) Additional Service Policies:

(1) Specialized services for purposes of this section shall be defined as services, which include either electrocardiogram monitoring, intravenous solutions administration or advanced airway establishment.

(2) The all-inclusive base rates will consist of all disposable supplies including pharmaceuticals and solutions.

(3) When a helicopter is used instead of an ambulance to transport the patient from the scene, the patient will be charged the applicable base rate.

(4) When a patient receives specialized services and is not transported, the patient will be charge the applicable base rate.

(5) When service is rendered and either the City of Lawrence or Douglas County would be responsible for the fee, the all fees will be waived.

(6) When service is provided for emergency service personnel while performing their official duties the fee(s) will be waived.

(7) Lawrence-Douglas County Fire Medical shall accept assignment on all Medicare or Medicaid claims or when Medicare/Medicaid benefits have been waived by a beneficiary in conjunction with a managed care plan. In addition, Lawrence-Douglas County Fire and Medical shall accept allowable amounts from the State Crime Victims Fund, the Veterans Administration, Tricare/Champus and Worker Compensation claims.

(8) Lawrence-Douglas County Fire Medical shall be a contracting provider of ambulance services for Blue Shield of Kansas.

(9) All ambulance services must be provided by a Kansas licensed advanced life support capable ambulance.

(Res. 16-01, Sec. 1)

ARTICLE 3. RECOVERY OF EXPENSES FOR RELEASE OF HAZARDOUS MATERIAL

5-301 DEFINITIONS.

(a) Emergency action shall mean all of the concerted activities conducted in order to prevent or mitigate injury to human health or the environment from a release or threatened release of an hazardous material into or upon the environment.

(b) Governmental entities shall mean the University of Kansas; the Cities of Baldwin City, Eudora, Lawrence, and Lecompton; Douglas County; rural fire districts; townships; and any entity responding under a mutual aid agreement with any of these entities.

(c) Person shall mean any individual, corporation, association, partnership, firm, trustee, or legal representative.

(d) Recoverable expenses are all those expenses that are reasonable and necessary for the emergency action. Recoverable expenses include, but are not limited to:

(1) Disposable materials and supplies acquired, consumed, and expended specifically for the purpose of the emergency action.
(2) Any additional compensation payment to employees, consultants and contracts for the time and efforts devoted to the emergency action beyond the usual compensation of those employees normally on duty. There must be an explicit request for mutual or outside aid form the agency with jurisdiction for these additional expenses to be recoverable. (The usual compensation of employees normally on duty is not intended to be a recoverable expense.)
(3) Rental or leasing of equipment used specifically for the emergency action (e.g., protective equipment or clothing, scientific and technical equipment.)
(4) Replacement costs for equipment that is contaminated beyond reuse or repair that is owned by the governmental entity.
(5) Decontamination of equipment contaminated during the emergency action.
(6) Other special services specifically required for the emergency action.
(7) Laboratory costs of analyzing samples taken during the emergency action.
(8) Any costs of clean-up, storage, or disposal of the release material.
(9) Costs associated with the services, supplies and equipment procured for a specific evacuation.
(10) Medical expenses incurred as a result of emergency action.
(11) Legal expenses that may be incurred as a result of the emergency action, including efforts to recover expenses pursuant to this resolution.

(e) Release shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injection, escaping, leaching, dumping, or disposing into or upon the environment.

(f) Threatened Release shall mean a condition which exists when a release is likely to occur unless preventive measures are immediately taken to prevent such release.
(Res. 94-5, Sec. 2)

5-302 LIABILITY. Any and all persons responsible for a release or threatened release which results in an emergency action shall be liable to the governmental entities for the recoverable expenses resulting from the emergency action. (Res. 94-5, Sec. 3)

5-303 RECOVERY OF EXPENSES. (a) The staffs of the governmental entities involved in the emergency action shall keep a detailed record of its recoverable expenses resulting from the emergency action. Promptly after completion of the emergency action, the staffs shall certify these expenses to the Director of Emergency Medical Services and Emergency Management. The Director of Emergency Medical Services and Emergency Management, or his or her designee, shall give any and all persons responsible for the emergency action a written itemized claim for the total certified expenses incurred by the governmental entity as part of the emergency action. The claim shall specify that if not paid in full within thirty (30) days, the County may initiate a civil action for the collection of the claim. Moneys recovered under this resolution shall be credited to the appropriate funs of the governmental entity from which moneys were expended in performing the emergency action.

(b) The Douglas County Administrator is hereby authorized to have a legal action brought on behalf of the County to recover any such claim which has not been paid within the specified thirty (30) days.

(c) This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution or penalty. (Res. 94-5, Sec. 4)

5-303 This remedy shall be in addition to any other remedies the governmental entities have at law. This remedy shall not preclude the Ambulance Service Division from either participating in this claim or assessing fees for service in accordance with the adopted fee schedule. (Res. 94-5, Sec. 5)

ARTICLE 4. LOCAL EMERGENCY MANAGEMENT PLANNING

5-401 PURPOSES.

(a) To provide for the preparation and execution of the disaster management plans for the protection of persons and property within Douglas County in accordance with the provisions and requirements of Kansas Statutes Annotated 48-904 through 48-939, and K.A.R. 56-2-1 et seq. specifying the standards for local disaster agencies.

(b) To provide for carrying out the requirements of both Kansas and Federal laws as they relate to the responsibilities of the local emergency planning committee, and as specified in K.S.A. 65-5701 through 65-5710 as amended by the 1991 Kansas Session Laws and the Federal Emergency Planning and Community Right-to-Know Act of 1986.

(c) To create a single body that will serve the function of both an advisory body to the Douglas County Commission and to the governing bodies of the Cities on emergency management concerns and as the Local Emergency Planning Committee for Douglas County.

(Res. 06-38)

5-402 DEFINITIONS.

(a) "Emergency Management" means the preparation for and the carrying out of all emergency functions, other than functions for which military forces or other Federal agencies are primarily responsible, to mitigate or prevent, to prepare for, to respond to and to recover from disasters.

(b) "Director" means the chief operational officer of the Department of Emergency Management.

(c) "Board" means the Emergency Management Board of Douglas County.

(Res. 06-38)

5-403 ORGANIZATION OF THE BOARD.

(a) There is hereby created a Douglas County Emergency Management Board, hereinafter referred to as the "Board", which shall consist of members to be selected as follows:

Appointed by the Board of Commissioners of Douglas County:

1. A member of the Board of Commissioners of Douglas County or their designee for a term of one (1) year.

Appointed by the Douglas County Emergency Management Board:

2. An appointee of an individual to represent an emergency management organization or emergency support function to serve a term of 3 years.
3. An appointee to represent the disaster mass care function to serve for a term of 3 years.
4. An appointee to represent the public information function to serve for a term of 3 years.
5. An appointee to represent a community group or social service agency with an interest in emergency preparedness for a term of 3 years.

6. An appointee to represent a transportation organization to serve for a term of 3 years.
7. An appointee to represent owners and operators of facilities subject to the provisions of the Emergency Planning and Community Right-to- Know Act of 1986. Such appointment to last for a term of 3 years.
8. An appointee of an individual with a background in chemistry and an interest in chemical emergency preparedness for a term of 3 years.

Appointed by other entities:

9. A member from each of the governing bodies of Baldwin, Eudora, Lawrence and Lecompton or a designee from each for a term of one (1) year.
10. A fire chief from one of the County township fire departments or the fire departments of Baldwin or Eudora selected by the Douglas County Fire Chief's Association for a term of 3 years.
11. The chief administrative officer of Lawrence Memorial Hospital or his/her designee.
12. The Director of the Douglas County Health Department or his/her designee.
13. An appointee by the Provost of the Lawrence Campus of the University of Kansas of a university official with an interest in emergency preparedness. Such appointment to last for a term of 3 years.
14. An appointee by the Superintendent from the Lawrence, Baldwin and Eudora public school districts in Douglas County. Such appointments to last for a term of 3 years.
15. An appointee by the President of Haskell Indian Nations University with an interest in emergency preparedness. Such appointment to last for a term of 3 years.
16. An appointee of the Douglas County Veterinary Medical Association for a term of 3 years.
17. An appointee of a private, local utility provider for a term of 3 years.

Permanent Members:

18. The Douglas County Sheriff.
19. The Lawrence Police Chief or his/her designee.
20. The Baldwin Police Chief during even numbered years and the Eudora Police Chief during odd numbered years.
21. The University of Kansas Police Chief or his/her designee.
22. The Director of Lawrence-Douglas County Fire Medical Department or his/her designee.
23. The Director of the Douglas County Emergency Communications Center.
24. The Douglas County Public Works Director during even numbered years and the Lawrence Public Works Director during odd numbered years.

(b) By July 31 each year the County Commission shall submit the current membership of the Board to the state emergency response commission as the County Commission nominees to the Douglas County Local Emergency Planning Committee. In addition, when the membership changes for whatever reason, the change will be forwarded to the state emergency response commission by the County Commission as nominations to the Local Emergency Planning Committee.

(c) When appointed by the state emergency response commission as members of the Douglas County Emergency Management Board the members will serve on the Board and as the Local Emergency Planning Committee. If the state emergency response commission refuses to appoint a County Commission nominee the original appointing body will appoint an alternate person to the Board for nomination to the local emergency planning committee.

(d) In the event of resignation, death, or incapacity to serve of any member of the Board, the original appointing body will fill the position.

(e) The Board shall organize annually on or before June 30th of each year and elect officers including a Chairman, Vice Chairman and 3 Executive Committee Members. The Executive Committee shall consist of these 5 officers.

(f) The members of the Board shall serve without compensation.

(g) The Board shall be provided with appropriate office space, supplies and equipment in the Emergency Operations Center, but it shall incur no expense until the same has been authorized by the County Commission, and such funds from which such expenses shall be payable have been designated. Nothing herein shall be construed as requiring such authorization or designation where work is done for the benefit of the Board by a regular officer, office, department, board, or other agency of the County.

(Res. 06-38)

5-404 POWERS AND DUTIES OF THE BOARD.

(a) To adopt, amend and repeal rules and regulations and bylaws governing its procedure and activities.

(b) To serve as an advisory board to the Douglas County Commission, the Cities of Baldwin, Eudora, Lawrence and Lecompton in Douglas County, the Director and to cooperate with any Federal and State agencies created and existing from time to time for the purposes of effectuating emergency management.

(c) To act jointly and cooperate with other emergency management organizations and local emergency planning committees and the state emergency response commission.

(d) To create committees, either within or without its membership, and to enroll volunteer organizations to aid in the discharge of its power and duties.

(e) To serve as an advisory board in investigations and report to the Governing Body of Cities and/or County Commission with recommendations for ordinances, resolutions or other appropriate actions as it may deem necessary with respect to the type of activity of matters of public concern of welfare, in so far as the same shall or may be related to defense and relief from the effects of manmade or natural disasters. Such investigations, reports, and recommendations shall be made available to the Adjutant General when and as required by law.

(f) To request the cooperation and assistance of the agencies and officials of the Cities of Baldwin, Eudora, Lawrence and Lecompton, the County of Douglas and the State of Kansas for the purposes of effectuating emergency management.

(g) To advise the County Commission and the Director concerning the annual budget of the Department of Emergency Management, purchase of new equipment, hiring of personnel and adoption of the Douglas County, Kansas Disaster Management Plan.

(h) To Approve and recommend to the Douglas County Commission an all-hazards Disaster Management Plan including a chemical emergency plan in accordance with the requirements of the federal Emergency Planning and Community Right-to-Know Act of 1986.

(i) After being appointed by the state emergency response commission, to serve as the Local Emergency Planning Committee for Douglas County.
(Res. 06-38)

5-405 AUTHORITY AND DUTIES OF THE EXECUTIVE COMMITTEE.

(a) The Executive Committee shall serve in an administrative capacity for the Board.

(b) The Committee shall review the annual budget and recommend action to the Board.

(c) The Committee shall participate in the hiring of and consult with the County Administrator on the performance evaluation of the Director.

(d) The Committee shall have the power to request an appointing body to replace a Board member who fails to attend a reasonable number of Board meetings.

(e) The Executive Committee shall have such duties and authority as specified and delegated by the Board.

(Res. 06-38)

5-406 AUTHORITY AND DUTIES OF THE DIRECTOR OF DOUGLAS COUNTY EMERGENCY MANAGEMENT.

The Department of Emergency Management shall be granted the authority necessary to carry out the functions of K.A.R. 56-2-2, and as enumerated in this resolution. The Director is hereby empowered:

(a) To request the Chairman of the County Commission, the Mayors of each of the cities, or the Governing Bodies of the Cities or the County Commission to proclaim a state of disaster emergency when a disaster has occurred or the threat of a disaster is imminent or to request the termination of a state of disaster emergency.

(b) To serve as the lead staff position to assist the Board in carrying out its duties and responsibilities.

(c) To provide the vision, direction and emergency management subject matter expertise to heighten a state of emergency readiness in Douglas County.

(d) To coordinate the mitigation, preparedness, response and recovery efforts of emergency management in the Cities and County for the accomplishment of the purpose of this resolution.

(e) To enhance emergency resources and capabilities through facilitating the coordination and the cooperation among governmental agencies, volunteers, citizens, private sector agencies, businesses and community organizations, services and staff in the emergency management efforts of the Cities and County.

(f) To exercise the emergency management responsibilities of the Department pursuant to programs and methods approved by the Board and the County Commission.

(g) To supervise the operational functions of the Douglas County Department of Emergency Management.

(h) To represent the Douglas County Department of Emergency Management in dealings with the public, private business and industry, and government agencies pertaining to emergency management functions.

(i) To coordinate the mitigation, preparedness, response and recovery activities before, during and following a disaster emergency.

(j) To develop and maintain a county hazard analysis, a mitigation plan, and a continuity of government plan.

(k) To develop a local emergency planning program and maintain an all-hazard emergency management plan that addresses natural hazards, chemical, biological, explosive, or nuclear events.

(l) To implement a local technological hazards program that includes participation on the local emergency planning committee as provided for in K.S.A. 65-5703, and the development and coordination of a radiological protection program.

(m) To develop and maintain an active public education program, both through direct public presentations and contacts with the local news media.

(n) To develop an exercise program to test the capability of the county, the cities, the public safety and support organizations and the citizens to implement the emergency management plan.

(o) To develop and coordinate an emergency management training program to enhance the readiness capability of governmental agencies, volunteers, citizens, private sector agencies, businesses, and first responders.

(p) To develop and coordinate a county emergency warning and notification system to notify the public of impending threats or other emergency information.

(q) To secure disaster assistance in support of local disaster emergency efforts through coordination with other jurisdictions, the state, and the federal government.

(r) To coordinate the recruitment, training, registration and identification of volunteer emergency workers necessary to support emergency response and recovery efforts.

(Res. 06-38)

5-407 SUPPORT PROVIDED TO THE DEPARTMENT OF EMERGENCY MANAGEMENT.

Douglas County will provide, at a minimum, the support specified in K.A.R. 562-2 to the Department of Emergency Management including:

(a) Office space and clerical support sufficient to perform the required emergency management functions.

(b) Transportation or reimbursement for private transportation used for official duties.

(c) Communications arrangement that allows for 24-hour a day notification to the Department of Emergency Management staff.

(d) The identification of at least one person to serve as an alternate director when the Director is not available.

(e) The cooperation of all agencies and employees of Douglas County in all matters pertaining to emergency management.

(Res. 06-38)

5-408 SUCCESSION.

In normal operational circumstances when the Director is unavailable one of the appointed Assistant Directors shall assume the duties and responsibilities of the Coordinator. In a disaster or extreme emergency situation where the Director is unavailable, the Assistant Director or his/her designee shall assume the duties of the Director. If the Assistant Director is unavailable, the Douglas County Sheriff will assume the duties and responsibilities of the Director.

(Res. 06-38)

5-409 ORGANIZATION OF EMERGENCY MANAGEMENT.

All officials and employees of the Cities and Counties, together with those volunteer forces enrolled to provide aid during a disaster, and all groups, organizations and persons who may by agreement or operation of law be charged with duties incidental to the protection of life and property in the Cities and County during such disaster shall constitute the Emergency Management organization of the Cities of Baldwin, Eudora, Lawrence, Lecompton and the County of Douglas, State of Kansas.

(Res. 06-38)

5-410 BUDGET AND EXPENDITURES.

The Department of Emergency Management shall prepare a proposed annual budget estimating the amount of funds necessary to carry out the programs of Emergency Management. After review and approval by the Board the annual budget shall be submitted to the County Commission. Special projects in the Cities of Douglas County may be funded by the individual city after approval of the City's Governing Body.

(Res. 06-38)

5-411 HAZARDOUS MATERIALS.

The Lawrence/Douglas County Fire and Medical Department is hereby designated the hazardous materials incident command agency for Douglas County and all cities therein.

(Res. 06-38)

5-412 TERMINATION OF THE BOARD.

The Douglas County Emergency Management Board shall terminate or cease activities whenever the Board is dissolved or suspended by action of the Governing Body of the Cities and/or the County Commission. If such dissolution or suspension takes place, the members of the Board shall continue to constitute the membership of the Local Emergency Planning committee, and the Committee shall function in that capacity unless dissolved by the state authority.

(Res. 06-38)

5-413 DECLARATION OF NECESSITY.

This resolution is hereby declared necessary for the preservation of the public peace, health and safety and shall become effective when adopted by the governing bodies of Douglas County and the Cities of Baldwin, Eudora, Lawrence and Lecompton, in the State of Kansas, and the Local Planning Committee of Douglas County, Kansas.

(Res. 06-38)

ARTICLE 5. AMBULANCE SERVICE LICENSE REQUIREMENTS AND REGULATIONS

5-501 DEFINITIONS. As used in this Article, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) “Ambulance” means a vehicle or vehicles for hire, equipped or used for the transportation of wounded, injured, sick, invalid, or deceased persons. The term "ambulance" shall not include the vehicle or vehicles used for the purpose of transporting deceased persons for funeral or burial purposes. The term “ambulance" shall not include helicopters or airplanes.

(b) “Ambulance Service” means the operation, provision, or the holding out to the public of such operation or provision, of an Ambulance or Ambulances.

(c) “Attendant” means an emergency medical technician or a mobile intensive care technician, as said terms are defined in K.S.A. 65-4301, whose primary function is ministering to the needs of persons requiring emergency medical services.

(d) “Driver/Attendant” means an individual who satisfies the criteria for an attendant and who also drives ambulance vehicles for an operator with a license issued pursuant to this Article.

(e) “City” means the City of Lawrence, Douglas County, Kansas, having geographical limits as now existing or hereinafter altered.

(f) “County” means Douglas County, Kansas.

(g) “EMS Board” means the State of Kansas Emergency Medical Services Board.

(h) “Health Officer” means the Director of the Lawrence-Douglas County Health Department.

(i) “Person” means any individual, firm, partnership, corporation, municipal corporation or other association of persons.

(j) “Type I, II, and III” means that class of ambulance services and ambulances as defined by law and the regulations of the EMS Board.

(k) “Rules and Regulations promulgated by the EMS Board” means duly adopted regulations of the Emergency Medical Services Board as now existing or hereinafter adopted or amended.

(l) “Operator” means any person who has a license granted pursuant to this Article to operate an ambulance service within the County and the City.

(m) “Regularly offers and provides” means initiating ambulance service within either Lawrence or Douglas County.

(n) “Shall” is always mandatory and not merely directory.

(o) “Termination” means the involuntary withdrawal of the rights and duties conferred by the license for the unexpired term of such license by action of the City and the County, pursuant to the authority of this Article.

(p) “Surrender” means the voluntary relinquishment of the rights and duties conferred by a license for the unexpired term of such license by action of the operator.

5-502 LICENSE REQUIRED FOR OPERATION OF AMBULANCE SERVICE; PROHIBITION AND PENALTY. On and after March 15, 2000 no person except those awarded a joint City County license pursuant to this Article shall use the streets or other public ways of the City or the County to operate an ambulance service which regularly offers and provides such transportation to

residents of the City or the County. No person shall regularly offer and provide an ambulance or ambulance service within Douglas County or Lawrence which is in violation of the provisions of this Article or which is not a Type I ambulance service. Either the City or the County shall have the authority to seek and obtain legal remedies to enforce the provisions of this Article, including the authority to seek and obtain an injunction to prohibit persons from providing an ambulance service in violation of the provisions of this Article. In addition to such legal remedies, it shall be a violation of the laws of the City of Lawrence to regularly offer and provide an ambulance service within the City of Lawrence, and upon conviction of a violation of this Article such person shall be fined a minimum of $1000.00 per day for each and every violation. Each day of a violation shall be a separate offense. (Res. 00-2)

5-503 TYPE OF SERVICE REQUIRED FOR LICENSED OPERATION. Any ambulance service granted a license by the City and County shall provide Type I service as defined by rules and regulations of the EMS Board. All ambulances shall be Type I ambulances. All equipment, personnel, and services offered and provided by the operator shall conform to such regulations.

5-503 FINDING PREREQUISITE TO ISSUANCE OF AMBULANCE LICENSE. After February 1, 2000, no person shall engage in the operation of any ambulance service nor shall any license be granted to operate an ambulance service pursuant to this Article until (a) The Board of County Commissioners of Douglas County, Kansas approve the granting of license and (b) the governing body of the City of Lawrence, Kansas approve the granting of the license. For purposes of this Article, the license awarded shall be considered a joint non-exclusive license from both the City and the County, requiring the approval of the City and the County prior to issuance, suspension, removal, or conditioning. Both the City and the County shall first find that public convenience will be promoted and public necessity requires such ambulance service under the terms and provisions of this Article.

5-505 APPLICATION FOR LICENSE. Any person may apply for a license to operate an ambulance service by filing with the City Clerk an application for such license on such forms and containing such information as the Health Officer, City, and County, shall require, including, but without limitation, the following:

(a) The name and address of the applicant, or, if a firm, partnership, association, corporation, municipal corporation, company, or organization of any kind, the names and addresses of persons owning a financial interest therein.

(b) The number and type of ambulances proposed to be operated by the applicant, together with a current state license for each vehicle.

(c) The location, description, and zoning of the place or places from which such ambulances are intended to operate. In the event a special permit exists for any such location, the date special permit for such location was issued by the City or the County.

(d) A copy of the proposed liability insurance policy which complies with this Article.

(e) A verified financial statement of the operator at the time the application is submitted.

(f) A list of the proposed charges to be made by the applicant for services rendered to the public in the event a license is awarded under the provisions of this Article.

(g) A request for inspection of equipment as required by this Article.

5-506 RECOMMENDATION OF HEALTH OFFICER, DETERMINATION BY CITY AND COUNTY. After filing of an application for a license the Health Officer shall review the application to determine its sufficiency and compliance with the provisions of this Article. The Health Officer shall forward the application for review and approval or disapproval to both the City and the County. The City and the County shall determine whether the public convenience would be promoted and the public necessity would require such ambulance service. The City and the County shall after notice hold public hearings at a regularly scheduled or specially scheduled meetings of such governing bodies, but in no event shall more than forty-five (45) days elapse between the filing of an application and the holding of such hearing. The final decision of the City and the County shall be announced within a reasonable time thereafter, unless the applicant consents to an extension of the time for the announcement of the decision.

In the consideration of whether the public convenience would be promoted and the public necessity *w*ould require such ambulance service, the City and the County shall consider, but shall not be limited to the following criteria:

1. Whether the applicant's proposed ambulance service would be an unnecessary duplication of existing ambulance services, including whether existing services adequately serve public needs; and

2. Whether the applicant's proposed ambulance service would harm

the financial or operational integrity of existing ambulance services; including whether the proposed ambulance service would cause existing ambulance services to need public financial assistance, or additional public financial assistance, to continue operations which are viable, efficient and effective.

5-507 ISSUANCE; DENIAL. If the City and the County shall find that the application complies with the requirements of this Article, a joint non-exclusive license shall be granted by the City and the County, and kept on file in offices of the City and the County. In the event the City or the County, or either entity acting separately finds that the application does not meet the requirements of this Article such license shall not be issued.

5-508 TERMS OF LICENSE. The term of each license shall be for five (5) years. Renewal of the license shall be through the same procedure used to obtain an initial license.

5-509 SERVICE REQUIREMENTS. The operator shall at all times during the term of license provide ambulance service to all residents of the City and the County without discrimination on the basis of insurability or economic status of the person or persons to receive ambulance service . The operator shall at all times during the term of the license provide ambulance service to all geographical areas of the City and the County.

5-510 COMPLIANCE WITH APPLICABLE LAWS; REGULATIONS. The operator shall comply with all applicable city, state, county, and federal laws and regulations.

5-511 RATES. (a) The operator shall at all times comply with the maximum rates and fee schedules filed with the City Clerk and approved by the City and the County.

(b) Any proposed change in maximum rates or the rate schedule shall be filed with the City Clerk at least thirty (30) days preceding the proposed effective date of such rates accompanied by financial statements and documents from which the reasonableness of such rates can be determined.

(c) Any proposed change in maximum rates or the rate schedule shall be submitted to the County and the City for approval. The County and the City shall approve any proposed change if such proposal is found to be reasonable as defined in subsection "e."

(d) The County and the City shall at no time take any action regarding approval of maximum rates or the rate schedule which shall prohibit the operator from earning a reasonable rate of return upon the value of the property used and useful in providing such ambulance service. A reasonable rate of return means receipt of revenues from patient charges and public

funds, if any, equal to the sum of operating costs, depreciation reserves, and growth and development costs of the operator.

(e) “Reasonable rates” means maximum rates and a rate schedule which when used as the basis to project future revenues yields a projected reasonable rate of return as defined in subsection "d". If approved rates do not provide such a reasonable rate of return, subsequently proposed rates shall be approved so as to cure the deficit incurred, as well as provide a reasonable rate of return.

(f) The City and the County shall consider the proposed maximum rates and fee schedules within fifteen (15) days after the filing thereof, provided, however, that the County and the City shall make written approval or disapproval, in whole or in part, of said proposal within twenty (20) days after the filing thereof, unless the operator consents to a reasonable time for such action more than twenty (20) days after the filing of the proposed rate schedule.

(g) If the County and the City take no final action within forty-five (45) days after the filing of such proposal or within the reasonable time agreed to by the operator, the proposal shall be deemed approved and the operator may institute such rate change.

5-512 INSPECTIONS. Every ambulance service operator shall be subject to inspection at any time, at any place within the County, by either the Health Officer or his/her designated representative, in order to determine whether said service is complying with all applicable laws and regulations of the City, the County, and the State.

5-513 INSPECTION OF BOOKS AND RECORDS. Upon request of the City or County, the operator shall make the books and records of the operator available for inspection by the City or County or a certified public accountant designated by the City or County at the office of the operator during regular business hours.

5-514 LIABILITY INSURANCE STANDARDS. (a) During the term of such license and during such time as the operator is providing service pursuant to such license, there shall be on file with the City Clerk an insurance policy, approved as to form and endorsed by the City providing liability coverage for each and every ambulance owned, operated, or leased by the operator.

(b) Minimum coverage of said insurance policy shall be in the amounts of three hundred thousand dollars ($300,000.00) for any one person killed or injured in any one accident or occurrence and five hundred thousand dollars ($500,000.00) for more than one person injured or killed in any one accident or occurrence with passenger or patient hazard included in the policy. Such

policy shall also provide one hundred thousand dollars ($100,000.00) minimum coverage for all damage arising out of injury to or destruction of property.

5-515 INSPECTION PREREQUISITE TO ISSUANCE. Before the issuance of any license, the Health Officer or his or her designee shall inspect or cause to be inspected the ambulances, equipment, and premises designated in such application. No ambulance service license shall be issued until the Health Officer certifies to the City and the County that the applicant has complied with all state laws and regulations, local ordinances, and county resolutions relating to health, safety, sanitation, and emergency medical service. The licensee shall submit a copy of the annual State license update to the Health Officer.

5-516 RENEWAL OF LICENSE. At any time within ninety (90) days prior to the expiration of a license issued pursuant to this Article and at any time after such expiration, revocation, or surrender of a license issued pursuant to this Article, the operator may apply for a license for an additional term not to exceed five (5) years, subject to all the provisions of this Article.

5-517 REVOCATION OF LICENSE; PROCEDURE. Any ambulance service may have its license revoked or suspended for violation of the provisions of this Article. A suspension or revocation must be a joint action of the governing bodies of the City and the County. Before any license is suspended or revoked, the licensee shall be given written notice, to the address stated in the application for a license, of the public hearing to be conducted on the proposed license revocation or suspension Such written notice shall be mailed, postage pre-paid, at least ten (10) days prior to the public hearing and shall contain the proposed grounds for the revocation or suspension The licensee may appear and present such relevant evidence as appropriate at the public hearing. The City and the County shall issue a written order on the proposed suspension or revocation within thirty (30) days of the public hearing. The licensee shall have the authority to continue to operate pursuant to the license pending the determination of the proposed revocation or suspension, unless the Health Officer determines that the continued operation would endanger public health and safety in which case the licensee shall cease and desist from operation pending the determination of the City and County governing bodies on the proposed suspension or revocation.

5-518 VEHICLE SPECIFICATIONS. Each ambulance of the operator shall meet the ambulance specifications promulgated by the EMS Board. No ambulance service shall acquire an ambulance for use in the County unless the ambulance complies with the required ambulance specifications for conforming ambulances.

5-519 VEHICLE EQUIPMENT. Every Type I ambulance of the operator shall be equipped at all times with that medical equipment required by the current EMS Board regulations to be carried in the ambulance except as may be specifically waived by the EMS Board. The Health Officer shall be notified of the application for any waiver presented, in advance of any presentment. The Health Officer shall recognize such waivers.

5-520 NUMBER OF OPERATION VEHICLES REQUIRED. No ambulance service shall operate within the City or County with less than four (4) fully staffed and operational ambulances, all of which shall contain all required equipment and meet all of the requirements of this Article and the regulations promulgated by the EMS Board applicable to Type I ambulances.

(Res. 99-49)

CHAPTER 6. FIRE SAFETY

Article 1. Outdoor Burning
Article 2. Use and Sales of Fireworks
Article 3. Fireworks Displays

ARTICLE 1. OUTDOOR BURNING

6-100. OUTDOOR BURNING

(a) Persons conducting any outdoor open burning regulations, shall notify the Douglas County Emergency Communication Center or Jurisdictional Fire Department of such intention to burn prior to the burn and provide the following information and agree to the stated conditions:

1. Location of the intended burn and the name, address, and telephone number of the person responsible for the open burning.

2. Duration and schedule of the burning.

3. Description of the proposed open burning.

(b) All outdoor burning shall be conducted in accordance with the Kansas Department of Health and Environment rules and regulations for Open Burning (K.A.R. 28-19-645 thru K.A.R. 28-19-648). For the purpose of these regulations “Agricultural Open Burning” of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management shall be exempt from the prohibition on the open burning of any materials imposed by K.A.R. 28-19-645, provided they follow all other conditions.

(c) Nothing in this resolution shall relieve any property owner or other responsible parties from the obligations of obtaining the proper permit from the Kansas Department of Health and Environment.

(d) The Officer in Charge or his/her designee of any fire service agency shall have the authority to deny any person permission to conduct open burning within their fire protection jurisdiction based upon the current or expected weather conditions, the availability of fire suppression and support resources, or other conditions which may create an unreasonable risk to the public’s safety.

(HR Resolution 17-3-1, Sec. 1)

6-101. OPEN BURNING ONLY ALLOWED IN LIMITED SITUATIONS**.** No person shall conduct any open burning in the unincorporated areas of Douglas County except as allowed by the regulations, conditions, and limitations set forth in this Article. Allowed open burning is limited to the following:

(a) Agricultural open burning. The open burning of vegetation such as grass, woody species, crop residue, and other dry plant growth for the purpose of crop, range, pasture, wildlife or watershed management (this includes the burning of routine brush piles accumulated from the property); provided, however, brush, limbs, and other materials brought from offsite shall not be burned.

(b) Residential open burning. Open burning at a residential premise containing five or less dwelling units and incidental to the normal habitation of the units.

(c) Ceremonial and cooking open burning. Open burning for cooking or ceremonial purposes on public or private land regularly used for recreational purposes. A ceremonial and cooking open burning fire shall not exceed five feet in diameter at its base. Ceremonial and cooking open burning fires that exceed this limitation require a permit granted pursuant to Section 6-107.

(d) Construction open burning. Open burning of clean wood from construction projects carried on at the construction site; provided, however, materials other than wood or materials brought from offsite shall not be burned.

(e) Specifically approved open burning. Open burning in accordance with a permit granted pursuant to Section 6-107.

(HR Res. 17-3-1, Sec. 1)

6-102. OPEN BURNING REGULATIONS**.** Persons conducting open burning, as allowed in Section 6-101, shall comply with the following regulations:

(a) A person shall not conduct an open burn that creates a traffic safety hazard. If conditions exist that may result in smoke blowing toward a public roadway, the person conducting the burn shall give adequate notification to the Highway Patrol, Sheriff's Office, or other appropriate state or local traffic control authorities before burning.

(b) A person shall not conduct an open burn that creates an airport safety hazard. If smoke may affect visibility at an airport, the person conducting the burn shall give adequate notification t**o the appropriate airport authorities before burning**.

(c) The person conducting the burn shall ensure that the burning is supervised until the fire is extinguished.

(d) The person conducting the burn shall notify Douglas County Communications Center or the local fire control authority with jurisdiction over the area before the burning begins.

(HR Res. 17-3-1, Sec. 1)

6-103. OPEN BURNING PROHIBITED.

(a) Notwithstanding any other provision in this Article, open burning is only allowed during a Low, Moderate, or High Rangeland Fire Index.

(b) Open burning is prohibited during Very High, Extreme or Red Flag categories of the Rangeland Fire Index.

(c) Open burning may be prohibited when a local determination is made by the County Administrator or his/her designee that a threat to the area exists or due to any other variables that could affect fire burning. These variables include, but are not limited to:

1. Local jurisdictional authority
2. Rangeland Fire Index is High, but the forecast is for sustained winds of greater than 15mph.
3. Rangeland Fire Index is Low or Moderate, but the forecast is for sustained winds greater than 20mph.
4. Resource limitations
5. Local conditions of dryness

(d) Open burning is prohibited on those days when a local or state governmental entity has imposed a county-wide or state-wide burning ban that includes the proposed burn location as set forth in 6-104 or other applicable law.

(HR Res. 17-3-1, sec. 1)

6-104 DECLARATION OF EMERGENCY.

(a) As provided in K.S.A. 48-932, the Chair of the Board may declare that, due to low moisture conditions, or other relevant conditions, an emergency exists and that the outdoor burning ban provided for in Section 6-103 shall take effect and be in force for periods not in excess of seven days at a time. Such restrictions shall take effect and be in force 24 hours after the filing thereof with the Douglas County Clerk.

(b) As an alternative to the procedure contained in paragraph (a) of this Section, a majority of the Board may declare by ordinary motion that, due

to low moisture conditions, or other relevant conditions, an emergency exists and that the outdoor burning ban provided for in Section 6-103 shall be in force for such time period as determined appropriate by the Board. Such restrictions shall take effect and be in force 24 hours after the filing thereof with the Douglas County Clerk.

(HR Res. 17-3-1, Sec. 1)

6-105 OUTDOOR BURNING PROHIBITIONS DURING BURN BANS. Except as provided in Section 6-106, during periods of an outdoor burning ban in accordance with Section 6-103 and an emergency declared in accordance with Section 6-104, the outdoor burning ban includes, but is not limited to the following

(a) The careless use and disposal of smoking materials, including, but not limited to, cigarettes, cigars and pipes. All smoldering remains shall be discarded in inflammable containers and in a manner to reduce the potential for fires.

(b) Building, maintaining, attending or using any open fire or campfire, except in permanent stoves or fireplaces or in barbecue grills in developed recreational sites or on residential home sites.

(c) Burning of all fence rows, fields, wild lands, ravines, trash, debris or other areas or materials. Such burning may be exempted from these restrictions when it is necessary for crop survival and has been specifically approved in writing by both the Douglas County Sheriff's Office and the fire chief of the jurisdiction in which the burning is to take place. Crop survival means the burning of stubble in preparation for the planting of a crop.

(HR Res. 17-3-1, Sec. 1)

6-106. BURN PERMITS.

(a) A permit allowing an owner or operator to burn despite a burning ban under Section 6-104 or a burning ban under Section 6-105 may be granted by the Board of County Commissioners upon the filing of an application therefore by the owner or operator of any business or governmental authority in Douglas County, if the Board of County Commissioners finds the following conditions are satisfied:

1. The burning of trash, debris, or waste that is a byproduct of the operation of the business or governmental operations is a business or governmental necessity.

2. Such burning will be carried out at a location, at such a time, and in a manner that does not pose an unreasonable risk to neighboring property and the public health, safety and welfare.

3. The business or governmental authority presents evidence of insurance determined by the Board to be adequate to insure against loss of life, other personal injury, or damage to any property occurring on or off the business premises that results either directly or indirectly from such burning operation.

4. The business or governmental authority is in compliance with all other laws, rules or regulations of Douglas County at the time the permit is granted.

5. The proposed burn complies with all other applicable laws, rules or regulations, including but not limited to permit and other requirements of Kansas agencies.

(b) Any permit granted by the Board of County Commissioners in accordance with this Section shall be subject to revocation at any time by a majority vote of the Board of County Commissioners if the Board of County Commissioners determines that the owner or operator is not conducting the burn in accordance with the conditions of the permit or if one or more of the findings made in accordance with Subsection (a) of this Section are no longer applicable.

(c) The Board of County Commissioners may impose such conditions upon the approval of a permit as it deems appropriate under the circumstances.

(d) Any burn pursuant to a permit must be conducted in compliance with all conditions that the Board of County Commissioners may place upon the burn.

(e) The person conducting the burn pursuant to a permit must to be in possession of the permit issued under the authority of the Board of County Commissioners pursuant to this Section, and shall present the permit to any law enforcement officer, representative of the jurisdictional fire department, or any Douglas County employee upon request.

6- 107 PRESUMPTION. In levying a criminal penalty or civil fine for any violation or failure to comply with any provision of this Article, it shall be considered *prima facie* evidence that the person owning, occupying, or controlling any property upon which open burning is conducted voluntarily caused or permitted such burning to occur.

(HR Res. 17-3-1, Sec. 1)

6-108 INTERPRETATION AND SEVERABILITY. This Article is supplementary to other provisions or remedies authorized or prescribed by any other applicable law or rule or regulation enacted thereunder. The invalidity of any particular provisions of this Article shall not affect the validity of any other provision. This Article shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which it is intended.

(HR Res. 17-3-1, Sec. 1)

6-109 ENFORCEMENT AND PENALTIES.

(a) Illegal Open Burning. Except as specifically permitted and in compliance with the terms and conditions in this Article, it shall be unlawful for any person to cause or permit any open burning of any wastes, structures, vegetation, or any other materials in the unincorporated areas of Douglas County.

(b) General Violation. Any person who violates or fails to comply with any provisions of this Article or engages in conduct in violation of this Article shall be guilty of a Class C misdemeanor.

(c) Violation of a Burn Ban. A person conducting or responsible for a knowing and willful open burn in violation of a county or state-wide burn ban shall be guilty of a Class A misdemeanor in accordance with K.S.A. 48-939.

(d) Initiation of Criminal Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer or fire official of a governmental entity may initiate a criminal proceeding under this Article by making an offense report and forwarding a copy to the district attorney for prosecution or by serving a citation and notice to appear in court upon the alleged violator.

(HR Res. 17-3-1, Sec. 1)

ARTICLE 2. USE AND SALES OF FIREWORKS

6-201 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

(a) Fireworks mean any combustible or deflagrating composition, article, or device suitable for the use of the public for the purpose of producing a visible or audible effect by combustion, deflagration, or detonation and previously approved for transportation by the chemical laboratory of the United States Department of Transportation.

(b) Fireworks Stand means any permanent or temporary building, trailer, tent, display, awning, canopy, temporary membrane structure, or location from which a Person sells or otherwise distributes Fireworks in the unincorporated areas of Douglas County, Kansas.

(c) Operator means any Person who sells or otherwise distributes Fireworks or owns, manages or operates a Fireworks Stand.

(d) Person means an individual, organizational entity of any type, partnership, church, corporation, limited liability company, trust, association of any type, or any agent, officer, employer, committee, or group of any of the foregoing.

(HR 07-6-4, Sec. 1)

6-202 USE OF FIREWORKS PROHIBITED. It shall be unlawful to ignite, explode, discharge, or use any Fireworks in the unincorporated area of the County, except as follows:

(a) Date and Time Limitations. The use of Fireworks shall be allowed only during the following dates and times:

July 1	7:00 A.M. to 10:00 P.M.
July 2	7:00 A.M. to 10:00 P.M.
July 3	7:00 A.M. to Midnight.
July 4	7:00 A.M. to Midnight.

(b) Special Permit. The use of Fireworks may be allowed at dates and times other than those contained in Section 6-202(a) pursuant and strictly in compliance with a permit issued pursuant to Section 6-304 of the Douglas County Code.

(c) Prohibited Locations. Notwithstanding the provisions of Section 6-202(a), it shall be unlawful to ignite, explode, discharge, or use any Fireworks:

(1) within 1,000 feet of any hospital, sanitarium or infirmary; or
(2) within 100 feet of any Fireworks Stand; or
(3) into, under, from, or on a car or vehicle, whether moving or standing still; or
(4) on any public roadway or the right-of-way adjoining a public roadway; or
(5) on any public or private property without the express permission and, with respect to private property, direct supervision of the owner, occupier, or other Person having control of such property.

(d) Prohibited Fireworks. Notwithstanding the provisions of Section 6-202(a), it shall be unlawful to ignite, explode, discharge, or use Fireworks prohibited under the laws of the State of Kansas, with the exception it shall be unlawful to ignite, explode, discharge, or use Fireworks commonly referred to as “bottle rockets” even if otherwise permitted under the laws of the State of Kansas.

(HR 12-7-1, Sec. 1)

6-203 SALE OF FIREWORKS. It shall be unlawful to sell or otherwise distribute Fireworks at a Fireworks Stand, except as follows:

(a) Date Limitations. The sale or distribution of Fireworks shall be allowed only on the following dates within the unincorporated areas of Douglas County, Kansas: July 1, July 2, July 3, and July 4.

(b) Prohibited Fireworks. Sale or other distribution of Fireworks shall be limited to Class "C" Fireworks authorized under the laws of the State of Kansas, with the exception that the sale or other distribution of Fireworks commonly referred to as "bottle rockets" is prohibited.

(c) Permit Required. The sale or other distribution of Fireworks at a Fireworks Stand shall not be done without obtaining and holding a valid Fireworks Stand permit, issued by Douglas County Department of Zoning & Codes in accordance with this Article.

(d) Appropriate Zoning. Fireworks Stands may only be located on, and permits may only be issued for, property as allowed by the Douglas County Zoning Regulations as they exist on the date the permit is granted. As of May 1, 2007, Fireworks Stands are allowed only in A, B-1, B-2, B-3, I-1, I-2 and I-3 Districts.

(HR 07-6-4, Sec. 1)

6-204 PERMIT APPLICATION FOR FIREWORKS STAND. Applications for a Fireworks Stand permit shall be on forms and according to procedures prepared by the Douglas County Department of Zoning & Codes and shall be accompanied by a $125.00 application fee. Applications will not be made available or accepted before June 1st of each year and must be received by the Douglas County Department of Zoning & Codes on or before the close of business on June 25th of that same year. If June 25th is a day on which the office of the Department of Zoning & Codes is closed, the application must be received on or before the close of business on the next succeeding business day before June 25th. Submitted applications shall, at a minimum, contain the following information:

(1) The name, address, legal description, and phone number of the owner of the real estate upon which the Fireworks Stand is to be operated;
(2) The name, address, and phone number of the Operator of the Fireworks Stand;
(3) A diagram of the grounds on which the Fireworks Stand is to be located, showing the location of the Fireworks Stand; the location of

all buildings, highways and any lines of communication; and the location of the off-street parking area designated for the Fireworks Stand;

(4) If a sign will be used to advertise the Fireworks Stand, the diagram must show the location and size of the sign; and

(5) The application shall contain a copy of the Operator's current Kansas Retailers' Sales Tax Registration Certificate.

No permit shall be issued if the Fireworks Stand does not or will not comply with the provisions of this Article. In addition, the Department of Zoning & Codes is authorized to deny a permit to an Operator who has previously failed to comply with Douglas County regulations governing the sale of Fireworks and the operation of a Fireworks Stand.

(HR 07-6-4, Sec. 1)

6-205 FIREWORKS STAND REQUIREMENTS. All Fireworks Stands shall be subject to and operate in compliance with the following minimum requirements:

(a) Compliance with the Law. The tract of real estate on which the Fireworks Stand is located, and any and all buildings thereon (whether or not the buildings are actually used in connection with the Fireworks Stand), shall not have been found to be in violation of any of the County's zoning, site-planning, building, plumbing, mechanical or electrical codes on or before the application for the permit is submitted. No permit shall be issued for a Fireworks Stand to be located on any real estate if any such violations have been determined on or before the application for the permit is submitted. In addition, any temporary or permanent structure used in connection with the Fireworks Stand shall comply with all applicable building codes relevant to the sale and storage of Fireworks, whether or not found to be in violation on or before the application for the permit is submitted. In addition, each Operator shall comply with all applicable local, state and federal laws and regulations, regardless of whether those legal requirements are specifically referenced herein. Without limiting the foregoing, all electrical systems and equipment, including temporary electrical connections, used in conjunction with the Fireworks Stand shall be installed and used in compliance with the National Electric Code or other applicable electric code, as then adopted and in force in the unincorporated areas of Douglas County, Kansas.

(b) Distance from Road. All Fireworks Stands shall be located at least 25 feet from any road rights-of-way or highway rights-of-way.

(c) Distance from Flammable Materials. No Fireworks shall be stored or sold within 50 feet of any source of flame, sparks, or more than one gallon of any explosive, flammable, combustible, or volatile material; provided, however, that the foregoing shall not apply to operable motor vehicles

located more than 20 feet away from stored Fireworks or the Fireworks Stand.

(d) Fireworks, Open Flames and Hot Objects. Fireworks, open flames and devices capable of igniting combustible materials shall not be used, discharged or exploded in or adjacent to any Fireworks Stand.

(e) No Smoking/Alcoholic Beverages. Smoking and alcoholic beverages shall not be permitted within 100 feet of any Fireworks Stand or any adjacent areas where Fireworks are stored, sold or displayed. "FIREWORKS FOR SALE—NO SMOKING" signs shall be conspicuously posted inside and outside of the storage and/or sales location. The Operator shall enforce this provision with respect to all Persons at the Fireworks Stand. Both the Operator and the Person violating this provision may be subject to prosecution pursuant to Section 6-207.

(f) Use of Awnings, Canopies, Temporary Membrane Structures and Tents. The use of awnings, canopies, temporary membrane structures or tents shall, in addition to all other requirements, comply with the following requirements:

(1) Location. No temporary membrane structure, canopy or tent shall be located within twenty 20 feet of property lines, buildings, parked vehicles, internal combustion engines, other temporary membrane structures, tents, awnings, and/or canopies.

(2) Flame-retardant Treatments. The sidewalls, drops, and tops of awnings, canopies, temporary membrane structures and tents shall be composed of flame-resistant material or shall be treated with a flame-retardant material.

(g) Means of Egress.

(1) Location of Exits. Exits shall be spaced at approximately equal intervals around the perimeter of the Fireworks Stand and shall be located such that all points are no more than 100 feet from an exit.

(2) Number of Exits. Every Fireworks Stand shall have at least 2 exits.

(3) Maintenance of Exits. The required width of exits, aisles and passageways to a public way shall not be less than 36 inches. Guide wires and other support members shall not cross a means of egress.

(4) Exit Signs. Exit signs shall be installed at required exit doorways and where otherwise necessary to clearly indicate the direction of egress.

(h) Fire Extinguisher/Telephone. Each Fireworks Stand shall have at least 2 approved and operable fire extinguishers (2A10BC minimum) and

telephone on site for emergencies at all times. The telephone requirement may be satisfied by maintaining an operable wireless phone on site.

(i) Posting of Rules. Each Fireworks Stand shall display a 3 foot by 3 foot sign visible to the public advising of the following rules:

(1) Fireworks shall only be discharged on private property in the unincorporated areas of Douglas County, Kansas if an adult owner, occupier, or person having control of the property consents to and provides direct supervision of the discharge of fireworks.

(2) Fireworks shall not be discharged on any public street or roadway.

(3) Fireworks may be discharged in the unincorporated areas of Douglas County, Kansas only during the following dates and times:

July 1	7:00 A.M. to 10:00 P.M.
July 2	7:00 A.M. to 10:00 P.M.
July 3	7:00 A.M. to Midnight.
July 4	7:00 A.M. to Midnight

(4) No smoking or alcoholic beverages are allowed at the Fireworks Stand.

(5) Violations are punishable by fines and/or confiscation of Fireworks.

(j) Parking. Off street parking must be provided for all employees and customers, which shall be a minimum of 20 feet away from the Fireworks Stand and any Fireworks storage areas.

(k) Site Preparation. Weeds and grass must be cut back a minimum of 100 feet from the Fireworks Stand.

(m) Temporary Stand Removal. The temporary stand and signs shall be removed on or before July 8th.

(n) Damage Deposit/Bond. Any Fireworks Stand which gains its principle means of ingress/egress by crossing either a public hike or bike path shall post a $1,000 refundable bond or pay a $1,000 deposit to ensure that the path is not damaged by the operation. The bond shall be made payable to Douglas County.

(n) Advertising Sign. Only one advertising sign can be erected to advertise each Fireworks Stand, which may be illuminated but shall not be flashing. The sign cannot be larger than 32 sq. ft. and must be located in the front of the Fireworks Stand but not on the road or highway rights-of-way, and shall not represent a safety hazard.

(o) Sales Tax Registration Certificate. The Operator shall conspicuously display its current Kansas Retailers' Sales Tax Registration Certificate at the Fireworks Stand.

(p) Only Fireworks May be Sold. Unless applicable zoning regulations and approved site-plans allow the sale of other items at retail, only Fireworks-related items may be sold at Fireworks Stands and sale of other items is strictly prohibited.

(q) Fireworks Stand Permit. The Operator shall conspicuously display its Fireworks Stand permit at the Fireworks Stand.

(r) Original Packaging. All Fireworks shall remain in original packaging, unless otherwise permitted pursuant to regulations of the Kansas Fire Marshall.

(HR 07-6-4, Sec. 1)

6-206 INSPECTIONS OF FIREWORKS STANDS; REVOCATION OF PERMIT. One or more inspections of the proposed site for the Fireworks Stand may be required to ensure compliance with this Article prior to or after issuing the permit. Inspections may be made by any Douglas County law enforcement officer, code enforcement officer, or personnel of any applicable fire department. By submitting any application for a Fireworks Stand permit, the applicant shall be deemed to have consented to all such inspections. If the applicant does not own the subject property, the filing of an application shall be deemed to be a representation by the applicant that the applicant has permission of the owner of the land that that the applicant is authorized to consent to such inspection. Any permit previously issued may be revoked or suspended upon notice to the Operator if the Fireworks Stand is not operating in compliance with the provisions of this Article. Upon revocation or suspension of the permit, the Operator of the Fireworks Stand shall immediately cease sale of all Fireworks until the Fireworks Stand is brought into compliance and the permit is reinstated.

(HR 05-3-1, HR 07-6-4, Sec. 1)

6-207 VIOLATIONS, ENFORCEMENT AND PENALTIES.

(a) Criminal Penalties. Any Person who violates the provisions of this Article shall be guilty of a misdemeanor, punishable by a fine in an amount not to exceed $500, confinement in the county jail for a period not to exceed one month, or both.

(b) Initiation of Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, criminal proceeding may be initiated for violation of any provision of this Article by making an offense report and serving a uniform complaint and notice to appear upon the

accused. The offense report may be forwarded to the district attorney for prosecution.

(c) Continuing Violation. Each day that any violation occurs shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to cause the violation to be abated.

(d) Confiscation of Fireworks. In addition to the other provisions of this Section, whenever a Douglas County law enforcement officer, code enforcement officer, or personnel of any applicable fire department has probable cause to believe that a person possesses Fireworks with intent to violate the provisions of this Article or has violated the provisions of this Article, the law enforcement officer, code enforcement officer or personnel of the applicable fire department may confiscate Fireworks from such person.

(HR 07-6-4, Sec. 1)

6-208 BURNING BAN. In the event that the Douglas County Board of County Commissioners has declared a burning ban during the 1st, 2nd, 3rd, and 4th days of July in any year, no Fireworks shall be sold or discharged and no Fireworks Stands may be operated on such days. All permit fees for Firework Stands shall be refunded to the permit applicants.

(HR 07-6-4, Sec. 1)

6-209 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

(HR 07-6-4, Sec. 1)

6-210 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas of Douglas County, Kansas.

(HR 07-6-4, Sec. 1)

ARTICLE 3. FIREWORKS DISPLAYS

6-301 DEFINITIONS. As used in this Article, unless the context clearly indicates otherwise, the following words and terms have the following meanings:

(a) Fireworks Display means a presentation of fireworks for a public or private gathering on any day of the year; provided, however, that public or private displays of consumer fireworks (class C fireworks), as classified by the U.S. Department of Transportation, during the dates and times permitted in Article 2 shall not be deemed a "Fireworks Display" and shall not be regulated by this Article.

(b) Operator means the Person possessing a valid Fireworks Operators license issued by the Kansas Fire Marshal Department and identified as having primary responsibility for the conduct of the Fireworks Display. Operate means an Operator's conducting of a Fireworks Display.

(c) Person means an individual, organizational entity of any type, partnership, church, corporation, limited liability company, trust, association of any type, or any agent, officer, employer, committee, or group of any of the foregoing.

(d) Sponsor means the Person sponsoring the Fireworks Display.

(HR 04-7-2, Sec. 1)

6-302 UNLAWFUL ACTS CONCERNING PUBLIC FIREWORKS DISPLAYS. It shall be unlawful for any Person to Sponsor a Fireworks Display or participate in igniting the fireworks in a Fireworks Display unless the Board of County Commissioners has previously issued a permit for the Fireworks Display pursuant to Section 6-304. If a permit has been issued, it shall be unlawful for any Person to Sponsor a Fireworks Display or participate in igniting the fireworks in the Fireworks Display unless done in strict compliance with such permit. (HR 04-7-2, Sec. 1)

6-303 REQUIREMENTS FOR FIREWORKS DISPLAYS. To insure that qualified individuals are present to operate the Fireworks Display and to provide adequate safety to the spectators and fire protection for surrounding property, each Fireworks Display shall comply with the following requirements:

(a) The Operator and assistants shall provide positive picture identification upon request and the Operator shall provide proof of having received a Fireworks Operators license issued by the Kansas Fire Marshal.

(b) The Operator or the Sponsor shall obtain a permit from the Chief or the Chief's designee of the fire department having jurisdiction prior to performing the Fireworks Display, as required by National Fire Protection Association Pamphlet No. 1123, *Code for Fireworks Display,* incorporated by reference in K.A.R. 22-1-3.

(c) The Operator or Sponsor shall demonstrate financial responsibility by providing proof of insurance or by other appropriate means.

(d) The Operator or the Sponsor shall consult with the Chief or the Chief's designee of the fire department having jurisdiction to determine the level of fire protection required and shall provide adequate fire protection for the display.

(e) Public access to the discharge site shall not be allowed.

(f) The Operator shall have the primary responsibility for safety. The Operator shall ensure that all assistants are fully trained in the proper performance of their assigned tasks and that they are knowledgeable of safety hazards. While the Operator is allowed to actively participate in the firing of fireworks, safety shall be the primary concern.

(g) If high winds, dry vegetation, lack of precipitation, or other adverse weather conditions prevail, such that in the opinion on of the Chief or the Chief's designee of the fire department having jurisdiction or the Operator, a significant safety danger exists, the Fireworks Display shall be postponed until weather conditions improve to an acceptable level.

(h) Operator and assistants shall only use flashlights or electrical lighting for artificial illumination.

(i) No smoking shall be allowed within 50 feet of any area where fireworks or other pyrotechnic materials are present.

(j) No individual shall be allowed in the discharge area while under the influence of alcohol, narcotics, or other drugs that could adversely affect judgment, movement, or stability.

(k) The fallout area shall be a large open area. Spectators, vehicles, or readily combustible materials shall not be located within the fallout area during the display. The area selected for the discharge site, spectator-viewing area, parking area, and the fallout area shall be inspected and approved by the Chief or the Chief's designee of the fire department having jurisdiction.

(l) All Fireworks Displays shall comply with then current regulations and guidelines of the Kansas Fire Marshal, including K.A.R. 22-1-3, which incorporates by reference National Fire Protection Association Pamphlet No. 1123, *Code for Fireworks Display.*
(HR 04-7-2, Sec. 1)

(m) The Operator or the Sponsor shall obtain a permit from the Douglas County Department of Zoning & Codes and comply with any additional requirements imposed in connection with issuance of the permit. Any Person aggrieved by the decision of the Douglas County Department of Zoning & Codes with respect to the denial of any such permit or additional requirements placed upon granting the permit or operation of the Fireworks Display may appeal to the Board of County Commissioners. (HR 07-6-5, Sec. 1)

6-304 PERMIT FROM DEPARTMENT OF ZONING & CODES. Notwithstanding the provisions of Section 6-202 of the Douglas County Code (currently prohibiting all fireworks on all days other than July 2, 3, and 4 of each year) as amended, the Douglas County Department of Zoning and Codes may issue permits for a Fireworks Display on any day of the year. Any Person who obtains a permit from the Douglas County Department of Zoning & Codes in accordance with this Section may lawfully Sponsor, Operate, conduct, and assist in the operation of a Fireworks Display in accordance the requirements of Section 6-303 and the provisions of such permit. (HR 07-6-5, Sec. 2)

6-305 PERMIT APPLICATION. Applications for a Fireworks Display permit shall be on forms and according to procedures prepared by the Douglas County Department of Zoning & Codes and shall be submitted with a filing fee in an amount set by the Board of County Commissioners from time to time. Applications shall, at a minimum, provide the following information:

(1) The name, address, and phone number of the Sponsor of the Fireworks Display;
(2) The name, address, and phone number of the Operator of the Fireworks Display;
(3) The name, address, and phone number of the supplier of the fireworks to the Operator, if different from the Operator;
(4) Evidence of financial responsibility by the Sponsor or Operator of the Fireworks Display in the form of an insurance certificate or other appropriate documentation;
(5) The date and time of day at which the Fireworks Display is to be held and, if desired, an alternative date and time in the event the Fireworks Display is postponed;
(6) The exact location planned for the Fireworks Display;
(7) Evidence that the Kansas Fire Marshal has issued a Fireworks Operator's license to the Operator;
(8) The approximate number and kinds of fireworks to be discharged;
(9) A diagram of the grounds on which the Fireworks Display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and any lines of communication, the lines behind which the audience is to be

restrained, and the location of other possible overhead obstructions;

(10) Evidence that the permit from the Chief or the Chief's designee of the fire department having jurisdiction has issued a permit for the proposed Fireworks Display or an acknowledgement that it is illegal to conduct the proposed Fireworks Display without first obtaining such a permit.

If the Fireworks Display only includes consumer fireworks (class C fireworks), as classified by the U.S. Department of Transportation, the Fireworks Display need not have an Operator and the Board of County Commissioners may waive other requirements that it determines unnecessary to adequately protect health, welfare, and property. Unless the Fireworks Display permit states otherwise, the permit shall be deemed to incorporate a requirement that the Fireworks Display be conducted strictly in accordance with the permit application. (HR 04-7-2, Sec. 1)

6-306 AUTHORITY HAVING JURISDICTION. For purposes of National Fire Protection Association Pamphlet No. 1123, *Code for Fireworks Display,* which the Kansas Fire Marshal has incorporated by reference at K.A.R. 22-1-3, the "authority having jurisdiction" shall be the Fire Chief or the Fire Chief's designee of the fire department having jurisdiction of the area within which the Fireworks Display is held. (HR 04-7-2, Sec. 1)

6-307 CRIMINAL PENALTIES. Any Person who violates the provisions of Section 6-302 or engages in conduct in violation of the requirements of Section 6-303 shall be guilty of a misdemeanor, punishable by a fine in an amount not to exceed $500, confinement in the county jail for not to exceed one month, or both. (HR 04-7-2, Sec. 1)

6-308 PARTIAL INVALIDITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable. (HR 04-7-2, Sec. 1)

6-309 JURISDICTION. The provisions of this Article shall apply to the unincorporated areas within Douglas County, Kansas and, in addition, shall apply within the city boundaries of any incorporated city located within Douglas County, Kansas that adopts an ordinance or resolution or takes other formal action consenting to have this Article apply within such city's boundaries. (HR 04-7-2, Sec. 1)

6-310 ADVERSE WEATHER CONDITIONS. If high winds, dry vegetation, lack of precipitation, or other adverse weather conditions prevail, such that in the opinion on of the Chief or the Chief's designee of the fire department having jurisdiction or the Operator, a significant safety danger exists, the Fireworks Display shall be postponed until weather conditions improve to an acceptable level. In addition,

notwithstanding the issuance of a Fireworks Display permit in accordance with this Article, the Board of County Commissioners may order the postponement of the Fireworks Display for the same reasons. (HR 04-7-2, Sec. 1)

CHAPTER 7. NUISANCES

Article 1. Prohibiting Nuisances within the County
Article 2 Noise Control

ARTICLE 1. PROHIBITING THE MAINTENANCE, COMMISSION AND CAUSING OF NUISANCES WITHIN THE COUNTY

7-101. NUISANCES DEFINED AND PROHIBITED. It shall be unlawful for any person to permit, cause, keep or maintain any nuisance, or cause to be committed, caused, kept or maintained any nuisance within Douglas County. Anything which is dangerous to or violates the health, peace, or welfare of any citizen of Douglas County, Kansas, is hereby deemed and declared to be a nuisance. (HR 93-6-5, Sec. 1)

7-102. EXEMPTIONS. The following activities shall not be deemed a nuisance as defined herein:

(a) Any activity normally associated with the operation of an agricultural, farming or ranching business; and

(b) The normal operation of any industrial business which is being carried on in an area zoned for such use or for which a conditional use permit has been issued by the Board. (HR 93-6-5, Sec. 2)

7-103. ABATEMENT; NOTICE. Whenever the Board determines that any nuisance, as herein defined, exists on any premises within the County, it shall be the duty of the Board (or its designated representative) to notify in writing the owner or occupant thereof of the existence of such a nuisance, specifying the measures necessary to abate such nuisance and requiring its abatement. The notice to abate such nuisance must be served on the occupant of the premises personally, or if there is no such occupant, then the notice must be sent to the owner or agent of the owner of such premises by United States mail, postage prepaid, to the address of such owner or agent. (HR 93-6-5, Sec. 3)

7-104. ABATEMENT; DUTY OF OWNER; FAILURE TO COMPLY. Upon receipt of the notice specified by 7-103, above, it shall be the duty of the owner or occupant receiving notice to abate the nuisance within the time specified in the notice and it shall be unlawful for any such occupant or owner to fail to take remedial action. In the event such occupant, owner or agent shall fail, neglect or refuse to comply with the terms of the notice, or in case the Board or its designated representative after having used due diligence, is unable to locate any occupant, owner or agent, the Board shall have the authority to take remedial action. (HR 93-6-5, Sec. 4)

7-105. ENFORCEMENT. (a) Injunction. The Board may bring an action in the District Court of Douglas County to enjoin the nuisance and upon a finding that a nuisance exists the Court shall make an order enjoining the nuisance and granting such further relief as is necessary to protect the interest of the citizens of Douglas County, Kansas.

(b) Temporary Abatement. In the event that the Sheriff of Douglas County, Kansas, determines that an emergency exists wherein a nuisance, as defined herein, presents an immediate risk to the health, peace, or welfare of any citizen of Douglas County, Kansas, and irreparable harm may occur if the nuisance is not immediately abated, he may enter upon the premises and temporarily abate the nuisance in such manner as he believes will best protect the citizens of the County. Before any permanent abatement takes place the notice procedures set forth herein shall be followed. (HR 93-6-5, Sec. 5)

ARTICLE 2. NOISE CONTROL

7-201. NOISE DISTURBANCEPROHIBITED. No person or group of persons, regardless of number, shall make, continue, or cause to be made, or assist in making or continuing to make, any Noise Disturbance in the unincorporated areas of Douglas County. Any person creating any such Noise Disturbance and/or permitting such Noise Disturbance to be created in, or emanate from, any property under his or her care, custody or control shall be presumed responsible for any such noise. (HR 11-7-3, Sec 1)

7-202. NOISE DISTURBANCE DEFINED. For the purposes of this Article, a “Noise Disturbance” shall mean any sound, including but not limited sounds emitted from any mechanical or electronic device under the control of a person, which, because of its volume level, duration or character, (i) annoys, disturbs, injures, or endangers the comfort, health, peace or safety of reasonable persons of ordinary sensibilities, and (ii) interferes seriously with neighboring residents’ reasonable use and enjoyment of their properties. (HR 10-6-3, Sec 1)

7-203. EXEMPTIONS. The prohibitions of Section 7-201 shall not apply to any of the following:

(a) Any activity normally associated with the operation of an agricultural, farming or ranching business; and

(b) The normal operations of any industrial business being carried on in an area zoned for such use or for which a conditional use permit has been issued by the Board of County Commissioners; (HR 10-6-3, Sec 1)and

(c) Governmental operations, safety signals, warning devices, emergency signaling devices, or operation of emergency vehicles; and

(d) Emergency work necessary to restore property to a safe condition, including but not limited to work necessary to repair or restore services provided by public service or utility companies such as water, gas,

telephone, and electricity, or to protect a person and property from eminent danger; and

(e) Railroads or lawfully operated aircraft; and

(f) The lawful discharge of firearms between the hours of 7:00 a.m. and 10:00 p.m. or in connection with lawful hunting activities (HR 11-7-3, Sec 2); and

(g) Otherwise lawful discharge of fireworks; and

(h) Engine noise from normal and otherwise lawful operation of motor vehicles on public roads, or on private roads and private drives while traveling directly to and from a public road (the operation or permitting the use or operation of any motor vehicle, including but not limited to a motorcycle, sports utility vehicle, three wheeler, four wheeler, or other all terrain vehicle on private property for entertainment purposes is not exempt); and

(i) Activities of a temporary duration, including but not limited to musical or theatrical productions, sporting events, fireworks displays and temporary business uses, that are specifically approved by a permit or authorization approved by the Board of County Commissioners or by an authorized officer or employee of Douglas County; provided, however, that a Noise Disturbance from construction, excavation or demolition activities shall not be exempt under this Section simply by the issuance of a building, excavation or demolition permit. (HR 10-6-3, Sec 1)

7-204. INTERPRETATION AND SEVERABILITY: This Article is supplementary to other provisions or remedies authorized or prescribed by any other applicable law or rule or regulation enacted thereunder. The invalidity of any particular provision of this Article shall not affect the validity of any other provision. This Article shall be liberally construed to the fullest extent permitted by law to effectuate the broad remedial purposes for which it is intended. (HR 10-6-3, Sec 1)

7-205. ENFORCEMENT AND PENALTIES: The violation of Section 7-201 shall cause such person to be subject to one or more of the following enforcement provisions:

(a) Criminal Proceedings. Any person who violates any provision of this Article shall be guilty of a misdemeanor, punishable as follows:

1. First offense in a twelve-month period, a fine of $100.
2. Second offense in a twelve-month period, a fine of not less than $100 or more than $250, or up to 30 days confinement in the county jail, or both.
3. Third and subsequent offense in a twelve-month period, a fine of not less than $250 or more than $500, or up to 90 days confinement in the county jail, or both.

(b) Commencement of Prosecution. The prosecution for the violation of this Article shall be commenced by the filing of a complaint with the district court or the service of the complaint and a notice to appear upon the accused person.

(c) Continuing Violation. Each day that any violation occurs shall constitute and shall be punishable as a separate offense. If any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is recurring or continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to enjoin or otherwise cause the violation to be abated.

(d) Other remedies. No provision of this Article shall be construed to impair any common law or statutory cause of action or other legal remedy of any person for injury or damage arising from the commission of any act that would constitute a violation of this Article. (HR 10-6-3, Sec 1)

CHAPTER 8. PARKS, FAIRGROUNDS AND OTHER COUNTY FACILITIES

Article 1. Douglas County 4-H Fairgrounds
Article 2. Lone Star Park and Lake
Article 3. Wells Overlook Park
Article 4. Prohibition of Nudity on Public Property
Article 5. Prohibition of Motorized Vehicles and Animals on Paths

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ARTICLE 1. DOUGLAS COUNTY 4-H FAIRGROUNDS

8-101. RESERVATIONS. (a) Priorities. The Douglas County Fair shall be entered on the reservations schedule first and have priority over other events during Fair Week. This priority shall be followed by 4-H, other Extension and County or other government agency sponsored activities in order of requests and building availability. If *the director determines it* necessary, the *director* is authorized to move previously scheduled regular (i.e. weekly, biweekly, monthly, etc.) meetings or activities to a different facility in order to accommodate specific meeting needs of the County Extension Service, Douglas County or other government agency, or the needs of other groups requiring the use of a particular facility for a major event.

(b) Administration. The Director of Buildings and Grounds shall be responsible for Building and Grounds, and for all requests for reservation of facilities at the Fairgrounds. Except for major events, which are defined in section 8-103, all reservations shall be made with the Director at least two weeks prior to the date of the activity. The Director or the person delegated that duty by the Director shall give copies of the completed reservation forms to the Director, the Commissioners' Secretary, the Extension Office, and the person requesting the reservation.

(c) Limitations on Reservations; Multiple Reservations. Except for major events, which are defined in section 8-103, no facility may be reserved for more than two (2) consecutive days without the approval of the *Director.* Except for “major events”, no reservation shall be accepted more than 12 months in advance of the event or activity. Any individual may reserve a facility up to 12 months in advance for purposes of regular meetings or activities. Such advance reservations for monthly use may be renewed on a year-to-year basis. The failure for two consecutive months to use a facility which has been reserved for regular monthly meetings may result in the forfeiture of any additional reservations that have been made by the same group or individual for that purpose.

(d) Holidays; Fairgrounds Unavailable. The fairgrounds shall be closed and unavailable for use on all holidays designated by the Board of County Commissioners.
(HR 97-11, Sec. 1)

(e) Exceptions. Except for "major events" and functions of the County Extension Service, Douglas County 4-H Clubs, Douglas County or any other governmental agency, any individual or group reserving the fairgrounds or any fairgrounds facility shall post a cash deposit with the fairgrounds caretaker within 14 calendar days of the date the reservation is made, to guarantee the reservation and that all facilities and grounds are cleaned and returned to their original condition immediately after the use or event. The failure to do so may result in the cancellation of the reservation or the forfeiture of the deposit, as the case may be. All deposits so forfeited shall be deposited by the director in the county treasury to the credit of the fair fund. The amount of the deposit shall be determined by the County Administrator and set forth in the Schedule of Fees identified in Section 8-105. (HR-06-3-2, Sec. 1)

8-102. ELIGIBLE USES OF FAIRGROUNDS. (a) General Policy. Unless otherwise prohibited herein, the Fairgrounds facilities may be used by any individual, family, or organization that agrees to abide by the policies, rules and regulations contained in this Code.

(b) Student Functions. Fairgrounds facilities shall be available for activities sponsored by students or student groups, including parties and dances, if the Director receives adequate assurances in writing that the activity will be supervised by a sufficient number of parents or other individuals 21 years of age or older who agree to be responsible for the student activity. If such supervision is not provided, the Director may cancel the reservation for the scheduled event.

(c) Restrictions on Animals and Vehicles. With the exception of seeing eye dogs or other working dogs that are actually assisting a disabled person, no animals are allowed in Buildings 1 and 2. No animals or vehicles are allowed in the park area in the southwest corner of the Fairgrounds without prior Commission approval.

(d) Camping.

(i) Except during the Douglas County Fair, Boy Scouts, Girl Scouts, and other youth groups, including those sponsored by religious organizations, may camp on the east side of the park area if adequate adult supervision is provided. Camping also is allowed in the same area in conjunction with other scheduled, approved events. Unless otherwise authorized, all campers shall use the judging arena rest rooms.

(ii) During the Douglas County Fair overnight camping at the fairgrounds may occur as authorized by the Douglas County Fair Board. Each individual authorized by the Fair Board to be present on the fairgrounds for overnight camping shall be required to possess and display upon request of the Fair Board's representatives an identification card or

pass issued by the Fair Board. The Fair Board may adopt rules and regulations governing the issuance of such identification cards or passes overnight camping and governing conduct during such camping. Such rules and regulations shall be approved by the Board of County Commissioners. A failure to abide by the requirements of such rules and regulations shall constitute grounds for immediate ejection from the fairgrounds by authorized representatives of the Fair Board. Furthermore, such failure also shall constitute a violation of this article and shall be punishable by a fine as provided in section 8-108.

(e) Sales of Goods or Services. Organizations using the fairgrounds facilities may authorize the sale of goods, products or services that bear some reasonable relationship to the scheduled activity. A list of such vendors shall be provided to the Director, and the County Administrator one week prior to the scheduled event.

(HR 78-7-3, Sec. 2; HR 88-4-3, Sec. 2, 97-11)

8-103. INSURANCE AND PERFORMANCE DEPOSITS FOR MAJOR EVENTS.

(a) Major Events. Major events, as used in this article, shall include, but not be limited to: circuses; demolition derbies; carnivals; livestock, pet or animal shows; antique car shows and swap meets, baseball, softball and soccer games; and extended trailer or tent camping. The Director shall determine which activities not listed herein also shall constitute major events subject to the requirements of this section. (HR 88-4-3, Sec. 3, 97-11, Sec. 3)

(b) Liability Insurance Required. General liability insurance shall be required for all activities of organizations which constitute major events. A certificate of insurance for such major events shall be filed by the sponsors with the fairgrounds caretaker no less than 30 calendar days in advance of the event. The certificate of insurance shall provide evidence of a general liability insurance policy covering the sponsoring group for the scheduled activity in the minimum bodily injury coverage. The certificate of insurance shall be forwarded to the Assistant County Administrator for review and approval. No major event may be publicized by the sponsor thereof until such approval has been granted. (HR-06-3-2, Sec. 2)

(c) Performance Deposit. Within 14 calendar days of the date the reservation is made for each “major event”, the sponsors of major events thereof also shall post with the fairgrounds caretaker cash, a money order or a cashier check as a deposit to guarantee the reservation and that all facilities are cleaned and returned to their original condition within 24 hours of the last activity or performance. The amount of the deposit shall be determined by the County Administrator and set forth in the Schedule of Fees identified in Section 8-105. (HR-06-3-2, Sec. 2)

(d) Exceptions. No activities of Douglas County or its officers, the Douglas County 4-H Clubs or the Douglas County Extension Service shall be considered major events and subject to the requirements of this section.

(HR 88-4-3, Sec. 3, 97-11, Sec. 3)

8-104 RESPONSIBILITY FOR DAMAGE TO FACILITIES.

(a)(1) Entity Responsible. The organization or individual reserving facilities at the Fairgrounds shall be responsible for informing all participants about the policies, rules and regulations governing the use of the Fairgrounds.

(2) The organization or individual using the facility shall be responsible for all damages to facilities as set forth in this Code. The rules and regulations shall be posted for public inspection in Buildings 1, 2 and 21.

(3) These Code Sections and any subsequently adopted rules and regulations shall be posted for public inspection in Buildings 1, 2, and 21.
(HR 97-11, Sec. 4)

(b) Additional Deposit; When Required. In the event a Fairgrounds facility is not cleaned and restored by a user group to its original condition as provided in the Fairgrounds rules and regulations, the Director shall request the responsible group or individual to return to complete the cleanup. If the cleanup is not completed within the time specified by the Director, the group shall be billed by the Director for the actual cost thereof and fined an additional $100.00. Furthermore, the group shall be prohibited from further use of any facility without the approval of the County Commission. If such approval is granted, the group shall deposit cash, a money order or cashier's check with the Commission in the amount of $200.00 prior to the use of any building or $500.00 prior to the use of the livestock barns. This deposit shall be in addition to any deposit determined by the County Administrator and set forth in the Schedule of Fees identified in Section 8-105. (HR-06-3-2, Sec. 3)

(c) Application and use refusal due to prior failure to comply with rules, misuse of facilities, or failure to care for property. If any group, individual or entity requesting use of the fairgrounds has on prior occasion previously used the grounds and (1) failed to comply with use regulations and rules adopted by the County, (2) failed to properly care for or clean up the property or facilities, or (3) allowed or caused significant damage to the property or facilities, the County Administrator may thenceforth discretionarily decline to approve an application for use and deny future use by the same group, individuals or entity in question. (HR 97a-11)

8-105. USAGE FEES.

(a) Schedule of Fees. Usage fees for facilities at the Fairgrounds shall be set at such amount as the County Administrator shall, from time to time, set. The County Administrator shall set and amend the schedule of fees for usage of the facilities at the Fairgrounds (the “Schedule of Fees”) in accordance with policy directives given by the Board, based upon the percentage of operating costs of the Fairgrounds that the Board desires to recover from usage fees. The Schedule of Fees may also contain

requirements for deposits for the usage of specified facilities. The Board may, at any time, overrule or amend the Schedule of Fees set by the County Administrator. The Schedule of Fees in effect as of the effective date of this Section shall continue until the County Administrator adopts a new Schedule of Fees.

(b) Waiver of Event Fees. No fees shall be charged to Douglas County or its offices, the Douglas County 4-H Clubs, or the Douglas County Extension Service for usage of the Fairgrounds. In addition, with the consent of the County Administrator, fees may be waived for charity events that benefit citizens of Douglas County and youth organizations that contribute to and benefit the youth of Douglas County. Examples of such groups and events include the Salvation Army's Share the Warmth coat give-away and Round-Up for Hunger, Boy Scouts, Girl Scouts, youth sports, Campfire Girls and Boys, and the United Way.

(c) Damage. All groups and individuals using these facilities shall be held responsible for and shall pay for any and all damages done to the ground, building or contents which may occur during or as a result of such use.

(d) Changes In Fees. Groups or individuals making and receiving conformations of reservations prior to the effective date of any change in the Schedule of Fees, for a reservation to take place less than 6 months from the effective date of the change, shall be charged the usage fees based upon the Schedule of Fees in effect as of the confirmation of the reservation.
(HR-06-3-2, Sec. 4)

8-106. RULES AND REGULATIONS.

(a) Alcohol. Pursuant to K.S.A. 41-719 (e), the Board exempts the Douglas County Fairgrounds from K.S.A. 41-719 (c). Alcoholic liquor, wine, beer or cereal malt beverages may be served, consumed, possessed or carried on the Fairgrounds premises, but only in accordance with policies, procedures, and permits of Douglas County. The Board will adopt policies and procedures, authorizing the County Administrator, or his or her designee, to issue event permits for the serving, consumption, possession, and carrying or alcoholic liquor, wine, beer, and cereal melt beverages on the Fairgrounds premises. Violators shall be subject to fine under Section 8-107. (Res. 15-026, Sec. 1)

(b) Equipment. All equipment shall be cleaned and returned to its original place. All tables, chairs and coat racks shall be put away. Floors and restrooms shall be cleaned. Any decorations, garbage and trash shall be deposited in outside trash barrels. Any excess trash shall be disposed of by the sponsoring group or individual.

(c) Electrical. Upon leaving a facility, all lights and electrical equipment and appliances shall be turned off, during the heating season, the thermostat shall be turned to 60 degrees, and all air conditioning equipment that is in use shall be turned off.

(d) Closing. All activities shall be completed by 12:30 a.m. Buildings and windows shall be locked upon leaving. Buildings 1 and 2 may be locked by pressing in on the lock in the end of the door handle on the inside of the door, then stepping outside and closing the door. Building 21 will be locked by the Director or the person delegated that duty by the Director. (HR 88-4-3, Sec. 6) (Res. 97-11, Res. 97-11a)

8-107 PENALTIES.

(a) In addition to all other penalties provided by law, a violation of the provisions of this Article shall be punishable by a fine of up to $250.00. (R 01-43, Sec. 1)

8-108 GUN SALES.

(a) It shall be unlawful for any person to offer, display for sale, or sell firearms at the Douglas County Fairgrounds, or any part thereof, unless such person is a licensed importer, a licensed manufacturer, a licensed dealer, or an agent of any of the foregoing. All such licensed importers, licensed manufacturers, and licensed dealers must have proof of licensure readily available for inspection and shall provide such proof to any representative of Douglas County or any law enforcement officer upon demand. The group, organization, or individual reserving the Douglas County Fairgrounds, or any part thereof for a gun show or other event at which firearms are offered, displayed for sale, or sold (including swap meets, flea markets and auctions) shall be responsible to ensure that all persons offering, displaying for sale, or selling firearms are licensed importers, licensed manufacturers, and licensed dealers and to further ensure that all such licensees have proof of such license available for inspection as required herein. The failure to comply with the foregoing provisions shall, in addition to other penalties provided by law, subject the violator to the penalties imposed in Section 8-107(a).

(b) The group, organization, or individual using the Fairgrounds or any part thereof for a gun show or other event at which firearms will be offered, displayed for sale, or sold shall, prior to such event, sign an agreement by which it acknowledges reading and understanding this Section 8-108, agreeing to comply with its provisions, and agreeing to pay a fine up to the amount set forth in Section 8-107(a) for each violation of this Section.

(c) If a group, organization, or individual reserving the Fairgrounds for a gun show or other event at which firearms will be offered, displayed for

sale, or sold fails to ensure compliance with this Section, the County Administrator may discretionarily decline to approve an application for use and deny future use by the same group, organization, individual, or any affiliate of such group, organization, or individual.

(d) Any gun show or other event held at the Fairgrounds at which firearms will be offered, displayed for sale, or sold shall be considered a "major event" as defined in Section 8-103(a).

(e) For purposes of this Section, the following terms have the following definitions:

The term "firearm" shall have the meaning set forth at 18 U.S.C. 921(a)(3), as amended.

The term "gun show" shall mean any show or similar event at which firearms are offered for sale, displayed for viewing, or actually sold.

The term "licensed dealer" shall have the meaning set forth at 18 U.S.C. 921(a)(11), as amended.

The term "licensed importer" shall have the meaning set forth at 18 U.S.C. 921(a)(9), as amended.

The term "licensed manufacturer" shall have the meaning set forth at 18 U.S.C. 921(a)(10), as amended.

(R 01-43, Sec. 2)

8-109 DANGEROUS EXOTIC ANIMALS.

(a) It is unlawful to Own or Possess a Dangerous Exotic Animal at the Douglas County Fairgrounds without the explicit approval of the Board of County Commissioners of Douglas County, Kansas. The approval of any employee or other official of Douglas County shall not constitute the approval of the Board of County Commissioners.

(b) For purposes of this Section, the following terms have the following definitions:

The term "Own or Possess" shall have the meaning set forth in Section 2-101of the Douglas County Code, as amended.

The term "Dangerous Exotic Animal" shall have the meaning set forth in Section 2-101of the Douglas County Code, as amended.

(HR 05-7-6, Sec. 3)

ARTICLE 2. LONE STAR PARK AND LAKE

8-201 The Rules and Regulations governing Lone Star Lake Park (hereinafter the "Park") are as follows:

GENERAL RULES AND REGULATIONS

8-201.1 GENERAL RULES AND REGULATIONS. The following use rules and regulations for the Park are hereby adopted:

a. Except as provided herein, the Park is open to the public. Visitors are welcome to use it for the various activities permitted during the times permitted. Fees are charged for certain activities as described herein.

b. All Park rules and regulations shall be enforced 24 hours a day by the Douglas County Sheriff. The Camp Host and County employees shall report observed violations to the Douglas County Sheriff.

c. The Park shall be open only during the hours of 6:00 a.m. to 10:00 p.m. with the exception of those in the Park area for the express and demonstrated purpose of fishing or camping. Quiet hours shall be observed from 10:00 p.m. until 6:00 a.m. in all areas of the Park.

d. The destruction of any sign, guidepost, or property of any kind is unlawful. This includes the peeling of bark, carving and chopping trees, cutting branches, driving nails, digging ground from roots, and the removal of trees, shrubs and plants, picking wild flowers, and other destruction of public property.

e. The discharge or use of any firearm, air gun, spring gun, blank gun, paintball gun, slingshot, blow gun or any other device in which force is used to propel projectiles is prohibited. This prohibition shall not apply to any law enforcement officer who is engaged in the discharge of official duties.

f. Fireworks are allowed in designated areas on the dates and times allowed by the Board of County Commissioners.

g. Throwing of cans, bottles, paper, junk or refuse of any kind on the ground or in the Lake is prohibited. The alteration, destruction or removal of seats, tables, park buildings, and other park equipment is prohibited.

h. Washing or throwing of waste of any kind around water faucets or fountains or the use of woods as toilets, or the use of toilets as bathhouses is prohibited.

i. Building or starting fires in the open or in any place except in county provided fire rings and grills, or personal grills used for cooking purposes only is prohibited.

j. No cats, dogs or other pets shall be allowed (a) in the swimming area, (b) on the swimming beach, or (c) on any dock. Unless in a designated Off-Leash area, dogs shall not be allowed in other areas of the Park unless restrained by a chain or controlled by a leash of no longer than 6 feet. This paragraph shall not apply to dogs present to assist the blind, the visually impaired and persons who are otherwise disabled, pursuant to the legislative

declaration of public policy set forth at K.S.A. 39-1101 *et seq*. and amendments thereto.

k. The speed limit on Park roads is 20 miles per hour except where otherwise posted.

l. Horseback riding in the Park is prohibited. Driving automobiles, all-terrain vehicles (ATV's), motorcycles or other motorized vehicles anywhere other than on developed roads and in developed parking lots is prohibited.

m. Camping in the Park is prohibited except by permit in the designated camping area. Persons using the campground must comply with the Park Rules and Regulations Pertaining to Camping (see Section 8-201.5).

n. It is prohibited to engage in disorderly conduct at the Park. Disorderly conduct shall include:

(a) Those acts prohibited by K.S.A. 21-4101, and amendments thereto, which is hereby incorporated herein by this reference; or

(b) Intoxication due to the consumption of alcohol, drugs, or controlled substances or a combination thereof.

o. There is no lifeguard is on duty. All persons swim at their own risk. Bathing, swimming, and wading is prohibited, except in the designated swimming area from May 1 through September 15 from dawn (30 minutes before sunrise) to dusk (30 minutes after sunset) or as otherwise permitted by the Director of Public Works or the Board of County Commissioners. Bathing, swimming and wading in the cabin arm of Lone Star Lake (hereinafter the "Lake") by lake front property owners or their guests is permitted only within 50 feet of each lake front property owner's shoreline. Swimming beneath docks or dock catwalks is prohibited anywhere in the Lake including the designated swimming area and in the cabin arm of the Lake.

p. The use of rubber rafts, air mattresses, tubes and other flotation devices which are not U.S. Coast Guard approved is prohibited (i) outside of public swimming areas and (ii) more than 50 feet from the shoreline in public swimming areas. This prohibition does not include inflatable float tubes, inflatable pontoon boats, inflatable canoes, inflatable kayaks, or other inflatable personal watercraft manufactured and designed primarily for fishing while such watercraft is used for fishing activities.

q. Ice skating, ice boating, ice sledding, and ice fishing on the Lake are prohibited.

r. The Park is a game sanctuary. Hunting, shooting, killing, trapping, injuring, pursuing, harassing or molesting in any way any bird or animal on or within the Park is prohibited.

s. The use of unmanned aerial vehicles, i.e., drones is prohibited in the campground and the swimming arm areas.

t. The use of water craft on the Lake is subject to State of Kansas laws and regulations, and amendments thereto, which are incorporated herein by this reference, and rules and regulations set forth in Section 8-201.3 and Section 8-201.4.

u. The possession, use or consumption on Park property of any controlled substance in violation of K.S.A. 65-4101 *et seq*., and amendments

thereto, is prohibited. The possession, use or consumption of alcohol, alcoholic liquor or beer, as such terms are defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverage, as such term is defined in K.S.A. 41-2701, and amendments thereto, is prohibited in or on the designated beach area(s), any floating dock, the established swimming area, and where otherwise prohibited by State of Kansas law. No alcohol, alcoholic liquor, or cereal malt beverage may be possessed, used or consumed in or from containers with a capacity in excess of one U.S. gallon.

v. The Board may adopt special rules to govern special events.

w. Parking is prohibited on Park roads at such locations as the Board or the Director of Public Works determines necessary or advisable to facilitate traffic flow or enhance the safety or enjoyment of the patrons of the Park; provided that the Director of Public Works shall post appropriate "No Parking" signage prior to enforcement. Without limiting No Parking areas on other Park roads, each of the following locations are designated and shall be appropriately signed to prohibit parking:

i. <u>The road across the Lake Dam and the Spillway</u>, more particularly described as follows: Commencing at the east end of the Lake Dam Flood Wall, which is 230 feet east of the intersection of Douglas County Route No. 1-W, also known as E. 582 Road, and Douglas County Route No. 1-E, also known as E. 715 Road, thence westerly across the Lone Star Lake Dam a distance of approximately 1,880 feet, thence southerly on a curve to the left across the Lone Star Lake Spillway a distance of 380 feet to the intersection with a side road leading toward the lake and terminating at said intersection.

ii. <u>The road past the Marina and Swimming Beach area</u>, more particularly described as follows: Beginning at a point approximately 277.47 feet North and 218.60 feet East of the Southeast corner of the North half of the Northeast Quarter (N. ½, N.E. ¼) of Section 14, Township 14 South, Range 18 East of the Sixth Principal Meridian, said point being on the centerline of Route 1-E, thence Westerly on the centerline of said Route 1-E to a point approximately 460.82 feet North and 724.28 feet West of the Southeast corner of the North half of said Northeast Quarter (N. ½, N.E. ¼) and terminating at said point. Also, from a
point on said centerline of Route 1-E, approximately 650 feet westerly from said point of beginning, thence southerly along the centerline of a side road 400 feet and terminating at that point.

(Res. No. 17-10, Section 1)

RULES AND REGULATIONS PERTAINING TO FISHING

8-201.2 RULES AND REGULATIONS PERTAINING TO FISHING. The following rules and regulations pertaining to fishing are hereby adopted:

a. Fishing in the Lake is subject to State of Kansas laws and regulations. All laws of the State of Kansas, as amended, pertaining to fishing in state lakes are hereby adopted and incorporated herein by reference.

b. It shall be unlawful for any person to fish in the swimming arm from May 1st through September 15th, or to fish in any part of the Lake where "No Fishing" signs have been posted. Fishing with a seine, throwline, trotline, spear, bow, hand fishing or any other method than with a pole and line is illegal.

(Res. No. 17-10, Sec. 1)

RULES AND REGULATIONS PERTAINING TO BOATS, MOTORS AND BOATING

8-201.3 RULES AND REGULATIONS PERTAINING TO BOATS, MOTORS AND BOATING. The following rules and regulations pertaining to boats, boating and motors are hereby adopted:

a. The boating and watercraft regulations of the State of Kansas as set forth in K.S.A. 32-1101 *et seq.,* and amendments thereto, and the regulations adopted pursuant thereto, are hereby adopted and incorporated herein by reference.

b. All persons keeping, maintaining, operating or riding in boats on the Lake do so entirely at their own risk.

c. The use of inboard motor boats, jet skis, wave runners, and similar personal watercraft is prohibited on the Lake. Inboard-outboard and outboard motor boats shall be permitted.

d. All power boat activity is prohibited in the swimming arm from May 1st to September 15th. Canoes, kayaks and stand up paddle boards (SUP's) are permissible in the swimming arm during this period. All minors involved in such activity shall be supervised by persons 21 years of age or older and there shall be no interference with swimming activities of Lake Patrons.

e. No boats shall be left unattended on the Lake overnight. Cabin owners may use their own private docks. All boats shall be launched at boat ramps.

f. Except when fishing or going to or from the shore, no motor boats shall be operated within 100 feet of shoreline. Operators of motor boats shall be extremely careful and prudent at all times so as not to endanger life or safety,

unnecessarily discomfort others, or interfere with any person who may be fishing from the shore.

(Res. No. 17-10, Sec. 1)

RULES AND REGULATIONS PERTAINING TO WATER SKIING AND BOAT SPEED

8-201.4 RULES AND REGULATIONS PERTAINING TO WATER SKIING AND BOAT SPEED. The following ski and speed regulations are hereby adopted:

a. The minimum crew of any skiing boat shall be not less than one pilot and one observer.

b. No owner or person in possession of a ski boat shall permit a person under 14 years of age to operate the ski boat. Persons 14 through 17 years of age shall not operate a ski boat unless accompanied and under the direct and audible supervision of a parent or other person 21 years of age or older.

c. All skiers shall wear U.S. Coast Guard approved life preservers while skiing, and all other State of Kansas safety regulations shall apply to both skier and boat. Those waiting to ski shall not wade or swim.

d. All areas of the Lake are **"No Wake"** areas, except for the designated ski area. The speed limit in the designated ski area on non-ski days is 8 mph. Skiing outside of the ski buoy markers is prohibited.

e. Skiing is allowed on Lone Star Lake only on and between May 20 and September 15 each year on Wednesday through Sunday of each week, on Memorial Day, the Fourth of July, and Labor Day, and on such other days as the Board of County Commissioners of Douglas County, Kansas approve. Skiing is only allowed on such days between 12:00 noon and 8:00 p.m., and at such other times as the Board approves. Skiing is prohibited on all other days and at all other times.

f. Speed limits in "Fishing Only" water shall be trolling speed which shall not create a wake.

(Res. No. 17-10, Sec. 1)

RULES AND REGULATIONS PERTAINING TO CAMPING

8-201.5 RULES AND REGULATIONS PERTAINING TO CAMPING. The following rules and regulations pertaining to camping are hereby adopted:

a. The Park camping season shall be from April 1st to October 15th. The Park shall be closed for camping from October 16th through March 31st. A

Park Permit for camping is required. No reservations are accepted. Check out time is 4:00 PM.

b. Quiet hours shall be observed from 10:00 p.m. to 6:00 a.m. No noise or activity shall be discernible outside each campsite during such quiet hours.

c. You must be 18 years of age or older to rent a campsite.

d. Camping facilities are for recreational camping only. No camping term at the Park shall exceed fourteen continuous calendar days. Any camping term in excess of fourteen continuous calendar days shall be followed by an absence of at least five continuous calendar days.

e. Camping shall be allowed only at developed sites designated for camping.

f. A maximum of two camping shelters shall be allowed per camping site with a maximum of 8 persons per site. A suitable camping shelter is required. A suitable camping shelter is one whose primary purpose is for camping and is appropriate for
anticipated weather during the camping visit. Suitable shelter may include camping gear intended to protect the camper from the elements. Other than recreational vehicles, vans converted for camping, or truck beds equipped with a camper unit or camping shell cover, a suitable camping shelter does not include motor vehicles. .

g. Violation of any camping regulation shall result in immediate revocation of the camping permit and expulsion from the Park. In addition, penalties as described in Section 8-201.8 may be enforced.

h. The Director of Public Works may allow non-profit groups special permission to exceed the number of camping shelters and campers allowed on any specific camp site.

(Res. No. 17-10, Sec. 1)

RULES AND REGULATIONS PERTAINING TO THE SPILLWAY

8-201.6 RULES AND REGULATIONS PERTAINING TO THE SPILLWAY. Douglas County Home Rule Resolution No. HR-01-8-2, codified at Section 8-202 of the Douglas County Code, relating to the Lake Spillway located at the west end of the earthen dam forming the north shore of the Lake, stipulates that unauthorized access to the spillway is restricted in the following areas:

> All areas within 25 feet on either side of the concrete portion of the spillway from the northern edge of County Route No. 1-West where it crosses the spillway to the northern edge of the spillway stilling basin where the spillway becomes Washington Creek.

As set forth in Section 8-202 (c) of the Douglas County Code, any person who violates those restrictions shall be guilty of a misdemeanor, punishable by a fine in the amount of $250.00. See Section 8-202 of the Douglas County Code for further information concerning regulating access to and use of the spillway.

(Res. No. 17-10, Sec. 1)

FEES FOR PERMITS
ISSUED FOR THE LONE STAR LAKE PARK.

8-201.7 FEES FOR PERMITS ISSUED FOR THE LONE STAR LAKE PARK. The following permit fees for camping are hereby adopted:

a.	Camp Site	No Electricity	$11.00 (per day)
b.	Camp Site	w/Electricity	$16.00 (per day)

(Res. No. 17-10, Sec. 1)

PENALTIES FOR FAILURE TO COMPLY

8-201.8 PENALTIES FOR FAILURE TO COMPLY. The following are hereby adopted:

a. Any violation of any of the rules and regulations set forth in Section 8-201.1 through this Section 8-201.8, inclusive, shall be deemed a misdemeanor punishable upon conviction thereof by a fine not exceeding $100.00, or a term of confinement not exceeding thirty days in the county jail, or both such fine and imprisonment.

b. In addition to any other method of initiating a criminal proceeding under applicable law, criminal proceeding may be initiated for violation of any provision of Section 8-201.1 through this Section 8-201.8 by making an offense report and serving a uniform complaint and notice to appear upon the accused. The offense report shall be forwarded to the district attorney for prosecution.

c. Each day that any violation occurs shall constitute a separate offense and shall be punishable as a separate violation. Provided, however, that if any person is found guilty of a violation hereunder and it shall appear to the court that the violation complained of is continuing, then in addition to the penalty set forth, the court shall enter such order as it deems appropriate to cause the violation to be abated.

d. Compliance with the rules and regulations set forth in Section 8-201.1 through 8-201.7, inclusive, is mandatory and is a prerequisite to the use and enjoyment of the Park. Therefore, in addition to the penalties set forth in Section 8-201.8.a, the privilege of any person to use and enjoy the Park may be temporarily suspended or revoked by the Douglas County Sheriff, the Director of Public Works, or their designees for violation of any of the rules and regulations

contained herein. Such suspension or revocation may apply to the use or enjoyment of all Park facilities or may be limited to specific items, such as operation of a boat on the Lake. Any such suspension or revocation shall, but only at the request of the alleged violator, be reviewed within two (2) working days by the County Administrator or his/her designee who shall either affirm or reverse the action. A decision to affirm may be appealed to the Board of County Commissioners but such appeal shall be filed within three working days. Revocation of the privilege of a person to operate a boat on the Lake may only be restored by making application to the Board of County Commissioners. The Douglas County Sheriff shall enforce any temporary suspension or revocation. Violation of a temporary suspension or revocation shall be unlawful and shall give rise to a separate offense hereunder.

(Res. No. 17-10, Sec 1)

DESIGNATION OF AREAS AND MAPS

8-201.9 DESIGNATION OF AREAS AND MAPS. Whenever these regulations reference designated areas, such as designated swimming area, designated skiing area, or designated camping areas, the reference shall mean those areas designated by the Director of Public Works for such use. The Director of Public Works shall appropriately mark all designated areas and may cause maps of the Park to be prepared and distributed providing information as to the location of each designated area.

(Res. No. 17-10, Sec 1)

8-202 PROHIBITING SPILLWAY ACCESS. The purpose of this provision is to prevent the unauthorized use of, and access to Restricted Areas of the Lone Star Lake Spillway.

(a) Definitions:

(1) The Lone Star Lake Spillway**.** The Lone Star Lake Spillway and the Spillway refer to the artificially created outlet to Lone Star Lake located at the west end of the earthen dam that forms the north shore of Lone Star Lake in Marion Township, Douglas County, Kansas.

(2) Restricted Areas of the Spillway. The Restricted Area of the Spillway shall include all areas within 25 feet on either side of the concrete portion of the Spillway, and shall extend north from the northern edge of Douglas County Route 1 West, where it crosses the Spillway, to the northern edge of the Spillway stilling basin, where the Spillway becomes Washington Creek. The Restricted Area of the Lone Star Lake Spillway shall be marked by signs placed by the Department of Public Works.

(3) Authorized Persons. Authorized Persons shall be those persons authorized to use and access the Restricted Areas of the Spillway, as follows:

(i) County employees or private contractors and their employees under contract to Douglas County may access the Spillway for the purposes of inspection, maintenance and repair of the Spillway.

(ii) Other persons who have obtained authorization to use or access the Spillway from the Douglas County Engineer, the Douglas County Administrator, the Board of County Commissioners or from another person or entity that the Douglas County Engineer, the Douglas County Administrator or the Board County Commissioners has designated as approved to grant such authorization.

(iii) Other representatives of local, county, state, and federal agencies requiring use or access the Spillway in the performance of their official duties, including law enforcement activities and purposes relating to the safety or welfare of the general public.

(4) Unauthorized Persons. Unauthorized Persons shall be any person who is not an Authorized Person under Section 3.3. (HR-01-8-2, Sec. 3)

(b) Prohibited Access/Use of Restricted Area of the Lone Star Lake Spillway. It is hereby declared unlawful for an Unauthorized Persons to access, use, or trespass upon the Restricted Area of the Lone Star Lake Spillway. (HR-01-8-2, Sec. 4)

(c) Enforcement. The provisions of this Resolution shall be enforced as follows:

(1) Criminal Proceedings. Any person who violates the provisions of this Resolution shall be guilty of a misdemeanor, punishable by a fine in the amount of $250.00.

(2) Initiation of Criminal Proceedings. In addition to any other method of initiating a criminal proceeding under applicable law, any law enforcement officer may initiate a criminal proceeding under this Resolution by making an offense report and serving a citation and notice to appear in court upon the alleged violator. The offense report shall be forwarded to the district attorney for prosecution.

(3) Other Remedies. The provisions of this Resolution shall not limit any remedies that the Douglas County may have for unauthorized

access to or destruction of County property as may be from time to time provided by other applicable law.
(HR-01-8-2, Sec. 5)

ARTICLE 3. WELLS OVERLOOK COUNTY PARK

8-301. WELLS OVERLOOK RULES AND REGULATIONS. Wells Overlook County Park is open and free to the public. Visitors are welcome to use it for the various activities permitted.

(a) The destruction of any sign, guidepost, or property of any kind is unlawful. This includes the peeling of bark, carving and chopping trees, cutting branches, driving nails, digging ground from roots, and the removal of trees, shrubs and plants, picking wild flowers, and other injuries.

(b) The possession of firearms or other weapons in the park is unlawful.

(c) Throwing of tin cans, bottles, paper, junk or refuse of any kind on the ground, or the misuse or abuse of seats, tables, park buildings and other park equipment is prohibited.

(d) Washing or throwing of waste of any kind around water faucets or fountains or the use of woods as toilets is prohibited.

(e) Building or starting fires in the open or in any place except where there proper provisions have been made is prohibited.

(f) Dogs in the park must be tied with a chain or controlled by a leash. They are not allowed to run loose about the park.

(g) Speed limit on park roads for vehicles is 10 miles per hour except where otherwise posted.

(h) Horseback riding and the driving of automobiles or other vehicles on picnic grounds children's playgrounds, and areas posted against such traffic or use are prohibited.

(i) Camping in the park is prohibited.

(j) Disorderly conduct in the way of drunkenness, vile language, and fighting is prohibited. Indecent exposure is prohibited.

(k) The use of intoxicating liquors on park premises is prohibited.

(l) Wells Overlook County Park is a game sanctuary. Hunting, shooting, killing, trapping, injuring, pursuing, or molesting any way any bird or animal on or within the park is prohibited.

(m) The park area is open only between the hours of 6:00 a.m. to 10:00 p.m.

(n) Special rules will be adopted to govern special events.

(o) The park superintendent is a deputy sheriff and is assisted by special deputies to preserve order and make arrests for violation of rules.
(Res. 74-31, Sec. 1)

8-302. PENALTIES. Any person violating such rules and regulations shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not

exceeding $100 or commitment to the county jail for a period not exceeding 30 days or both such fine and imprisonment. (Res. 74-31, Sec. 1)

ARTICLE 4. PROHIBITION OF NUDITY ON PUBLIC PROPERTY.

8-401. NUDITY ON PUBLIC PROPERTY; DEFINITIONS. (a) Nude shall mean any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(b) Public Park and Recreation Area shall mean all real property in the unincorporated area of Douglas County that is owned, operated or managed by Douglas County, the State of Kansas, or the United States of America, or any agency thereof, or any other local unit of government, which is open for public visitation and usage for park or recreational purposes.

(c) Public Rights-of-Way shall mean all real property in which Douglas County has acquired an interest for roadway construction and maintenance purposes, including all improved or unimproved portions thereof. Public rights-of-way also shall include all bridges, culverts, and all appurtenances thereto used in connection with roadways constructed and maintained by Douglas County or any township thereof.
(HR 90-4-1, Sec. 1)

8-402. PUBLIC NUDITY PROHIBITED. It shall be unlawful to be nude in any public park and recreation area or on any public rights-of-way in the unincorporated area of Douglas County. This shall include, but not be limited to, nudity during the acts of swimming, sunbathing, changing into or out of swimming garments or other clothes, or any similar act in any such area that is not enclosed or shielded from public view. (HR 90-4-1, Sec. 2)

8-403. PENALTY. Any person who violates section 8-402 shall be subject to a fine of up to $50. (HR 90-4-1, Sec. 3)

ARTICLE 5. PROHIBITION OF MOTORIZED VEHICLES AND ANIMALS ON PATHS

8-501 PROHIBITION TO MOTORIZED VEHICLES. Other than those vehicles specifically authorized for maintenance purposes, it shall be unlawful to operate or park a motorized vehicle, other than that propelled by a human, upon any pathway or any bike, foot and hike path that is not otherwise designated for use or parking of such types of vehicles. (Res. 97-36, Sec. 1)

8-502 DEFINITION. Motorized and other prohibited vehicles shall include any device in, upon or by which any person or property is or may be transported or drawn, that is self-propelled by any means other than by human power. Motorized vehicles prohibited by this Article shall include but

shall not be limited to cars, trucks, tractors, trailers, passenger vehicles, mopeds, motorized bicycles, motorcycles, go-karts and ATVs. (Res. 97-36, Sec. 2)

8-503 RIDING ANIMALS PROHIBITED. No animal of any kind shall be ridden on bike, foot and hike paths nor shall they in any way be used to propel or draw any vehicle or human on the designated bike, foot and hike paths. (Res. 97-36, Sec. 3)

8-504 DEFINITION. Animal shall mean any horse, mule, donkey, or canine. (Res. 97-36, Sec. 4)

8-505 PENALTY. Any person found guilty of violating this resolution shall be guilty of a Class C misdemeanor or subject to a civil fine not to exceed $100.00 per each violation. (Res. 97-36, Sec. 5)

CHAPTER 9. PUBLIC WORKS

Article 1. General Provisions
Article 2. Construction Permits and Standards
Article 3. Traffic Control
Article 4. Minimum Maintenance Road Declaration
Article 5. Access Management Regulations
Article 6. Permits for Oversize or Overweight Vehicles

ARTICLE 1. GENERAL PROVISIONS

9-101. DEPARTMENT ESTABLISHED; DIRECTOR. A department of public works is hereby created, in accordance with the provisions of K.S.A. 19-4501 et seq. The head of the department, who shall be titled the director of public works, shall be the county engineer, and he or she shall manage and direct the department and its employees as provided by law and in accordance with rules and regulations adopted by the board. (Res. 72-27, Sec. 1)

9-102. OPERATIONS DIVISION ESTABLISHED. There is hereby established an operations division in the Douglas County public works department. The operations division shall be administered by a division manager who shall be appointed by the director of public works with the approval of the county administrator and confirmed by the county commission. The division manager shall be in the classified-exempt service under the Douglas County personnel policy. Unless later modified by resolution of the county commission, the incumbent manager of the operations division shall be accorded all fringe benefits available to county department heads under the Douglas County personnel policy. Successors to the incumbent shall receive the general employee benefit package. The division manager of the operations division shall be subject to removal only with the approval of the county commission. (Res. 87-9 Sec. 1)

9-103. PURPOSE OF OPERATIONS DIVISION. The operations division of the department of public works shall be responsible for the administration and coordination of all fleet maintenance, bridge maintenance, roadway maintenance, and vegetation control activities of the department of public works. The division also shall be responsible for such other duties as shall be assigned by the director of public works with the approval of the county administrator; however, the assignment of responsibility for the administration of additional or new programs to the operations division shall be approved by the county commission. All the powers, duties, functions and budget authority of the existing operations division and division of vegetation control are hereby transferred to and conferred upon the department of public works and the operations division therein. Such power

shall be exercised by the operations division manager, under the direction and supervision of the director of public works and his or her deputy. (Res. 87-9, Sec. 2)

9-104. COMPENSATION. The operations division manager shall be assigned to pay grade 15 of the Douglas County pay plan. There is hereby created the position classification of vegetation control superintendent which shall be assigned to pay grade 10 of the Douglas County pay plan. (Res. 87-9, Sec. 3)

9-105. COUNTY SALES OF CHEMICALS. All chemical materials purchased from Douglas County for application on privately owned lands in the county shall be paid for within 30 days of delivery. If any purchaser fails to make payment within 30 days, additional chemical materials shall not be sold such person by the Douglas County weed supervisor unless payment is made in full on the delinquent accounts and for the additional chemicals at the time of sale in cash, certified check or money order from the purchaser. (HR 86-1-1, Sec. 1)

9-106. SAME; PENALTY AND COLLECTION. The provisions of section 9-107 are supplemental to the penalty and collection procedures contained in K.S.A. 2-1320, and amendments thereto. (HR 86-1-1, Sec. 2)

9-107. PUBLIC UTILITY PLACEMENT IN RIGHT-OF-WAY. (Res 16-22, Sec.1)

9-107-1 DEFINITIONS.

a. “Construction work” as used in this article means any of the following activities:

   (1) Excavation, fill, grading, paving or other modification of the ground surface;
   (2) Construction of any post, pole, sign, wall, fence, gate, structure, enclosure or other fixed object;
   (3) Construction of any footing, foundation, vault, manhole or other buried structure;
   (4) Installation of any pipe, pipeline, conduit, cable, wire, antenna, equipment or related fixtures; or
   (5) Planting of trees or other vegetation that would create a physical or visual barrier; or
   (6) Removal of trees or tree limbs or other vegetation by physical or chemical means to accommodate public utilities.

b. “Person” means any individual, association, firm, partnership, corporation, public utility or private entity.

c. “Public right-of-way” means the area of real property in which the County has a dedicated or acquired right-of-way interest for the purpose of constructing and maintaining travel lanes, roadside ditches, culverts, bridges, signage and other features of a public road.

d. “Public utility” means those utilities identified in K.S.A. 66-104, and amendments thereto.

e. “Public utility facility” or “facility” means a pipe, pipeline, conduit, cable, wire, vault, manhole, enclosure, structure, post, pole, sign, marker, antenna, fixture, equipment or any other object installed and maintained by a public utility. (Res 16-22, Sec.1)

9-107-2 WRITTEN PERMISSION REQUIRED.

a. It shall be unlawful for any person to do any construction work within, above or below the public right-of-way of a road or bridge maintained by the county, without first obtaining written permission from the director of public works.

b. It shall be unlawful for any person to do any construction work within, above or below the public right-of-way of a road maintained by a township, without first obtaining written permission from the director of public works or township trustee.

c. The owner of frontage along a public right-of-way may plant grass seed, mow, trim, and apply appropriate weed control practices as recommended by the Noxious Weed Director or Kansas Department of Agriculture within that public right-of-way without obtaining the written permission in (a) or (b).

d. The owner of an existing public utility facility within the public right-of-way may perform maintenance work on that facility without obtaining the written permission in (a) or (b) provided that the maintenance work does not include construction work as defined in 9-107-1.

e. The director of public works may develop minimum standards for allowable construction within the public right-of-way. The director of public works and the township trustees shall apply those minimum standards when reviewing work within the public right-of-way, to ensure the continued integrity and safety of roads, culverts and bridges within the county. The director of public works or township trustee may require more stringent standards when, in their opinion, such more stringent standards are necessary to ensure the continued integrity and safety of roads, culverts and bridges within the county. (Res. 16-22, Sec. 1)

9-107-3 ENTRANCE PERMITS. When a property owner proposes to construct or improve an entrance within or connecting to the public right-of-way, the approval required in 9-107-2 shall be in the form of an entrance permit. The director of public works shall develop standards and forms as necessary for the issuance of entrance permits. The applicant shall pay a $75 permit application fee with each new application to construct or improve an entrance. (Res 16-22, Sec.1)

9-107-4 UTILITY PERMITS. When a public utility or its contractor proposes to construct, install, improve or modify facilities, or remove trees or limbs within, above or below the public right-of-way, the approval required in 9-107-2 shall be in the form of a utility permit. The director of public works shall develop standards and forms as necessary for the issuance of utility permits. A utility permit shall only be issued to a public utility if the applicant has the legal authority to occupy and use the public right-of-way for the purposes identified in the application for the permit. The public utility will reimburse Douglas County for fees for any consulting services needed in reviewing and approving the application or inspecting the installation, as determined necessary by the director of public works. (Res 16-22, Sec.1)

9-107-5 INSURANCE REQUIRED. Any person occupying the public right-of-way for the purpose of doing construction work or for the purpose of maintaining an existing public utility facility shall do so only after obtaining the following minimum insurance coverage to be in effect for the duration of the work:

a. Commercial general liability insurance for a combined single limit of a minimum amount of $500,000 for bodily injury and property damage;
b. Automobile liability insurance for a combined single limit of a minimum amount of $500,000 for bodily injury and property damage that covers owned, hired, and non-owned vehicles; and
c. Obtain insurance only from insurers authorized to transact insurance business in Kansas as an authorized insurer.
d. For utility attachments to bridges or other structures, the minimum insurance coverage shall equal the replacement value of the bridge or structure, as determined by the director of public works.

(Res 16-22, Sec.1)

9-107-6 TRAFFIC CONTROL REQUIRED. Any person occupying the public right-of-way for the purpose of doing construction work or for the purpose of maintaining an existing public or private utility facility shall do so only after providing, erecting and maintaining all traffic control devices necessary to protect the public and workers. All traffic control devices must conform to the current edition of the Manual on Uniform Traffic Control Devices (MUTCD) in terms of quality, quantity and placement. Construction work

within the public right-of-way is prohibited unless and until the required traffic control is in place. (Res 16-22, Sec.1)

9-107-7 PERMIT REVOCATION. The director of public works or township trustee may revoke the permit and remove any work performed for failure to complete a project as described in the Permit or failure to comply with established policy. The Utility Company or right-of-way occupant shall reimburse the director of public works or township trustee, as appropriate, for any cost incurred by the county and/or township to restore the right-of-way. The director of public works or township trustee will not authorize any other permits for the Utility Company or right-of-way occupant until they have either reimbursed the county and/or township or restored the right-of-way. (Res 16-22, Sec.1)

9-107-8 PENALTY. Any person that is determined by the district court to have failed to comply with the provisions of this article shall be subject to the injunction provisions of K.S.A. 19-101d, and amendments thereto. Any person that is determined by the district court to have committed a second violation of this article within 12 months of a previous violation shall be subject to the maximum penalties prescribed for conviction of a Class C misdemeanor. (Res 16-22, Sec.1)

9-108 POLICY ON PLACEMENT OF PUBLIC UTILITIES WITHIN PUBLIC RIGHT-OF-WAY. (Res 16-22, Sec.1)

9-108-1 REMOVAL OR RELOCATION. Any utility permit issued pursuant to this article shall be conditioned upon the agreement of the applicant to move the permitted facility at no expense to Douglas County or any township thereof in the event of a road improvement in the area within the right-of-way where the applicant's facility is located. Such agreement by the applicant shall be without reservation. The applicant shall agree to move the facility within 90 days after notification by the county or township, or four weeks prior to construction project bid letting, whichever is later.

9-108-2 NOTICE. The public utility or its subcontractor(s) shall notify the director of public works and/or township trustee when permitted work commences and when the work is completed. (Res 16-22, Sec.1)

9-108-3 LIABILITY.

a. The public utility assumes all risk and liability for accidents and damages that may occur to persons or property from work performed under a utility permit.
b. Douglas County shall not be liable for damage to any utility not installed in the location authorized by any permit or agreement issued pursuant to this policy.

9-108-4 UTILITY CORRIDOR. Public utility facilities paralleling the road shall be located as close to the right-of-way line as possible. Underground facilities should be located within ten feet of the right-of-way line. Overhead facilities should be located within three feet of the right-of-way line.

9-108-5 CLEAR ZONE LIMITATIONS. Above ground public utility facilities shall not be located on the ground within the roadside clear zone available for errant vehicles, unless otherwise approved by the director of public works. The appropriate clear zone is site specific based on speed, traffic count, and cross section at the location. The director of public works shall determine appropriate clear zone dimension standards and/or appropriate clear zone dimensions at a particular location.

9-108-6 VERTICAL CLEARANCE. The depth of cover over buried public utility facilities and the vertical clearance under overhead public utility facilities shall comply with standards determined by the director of public works. (Res 16-22, Sec.1)

9-108-7 MAXIMUM HEIGHT. The maximum height of any public utility facility shall be 65 feet. (Res 16-22, Sec.1)

9-108-8 MAXIMUM WIDTH.

a. Measured perpendicular to the road, the combined width of all of the underground facilities owned by one public utility shall not exceed five feet, except where necessary to cross the road. Road crossings shall be aligned as close to perpendicular as possible.

b. Measured parallel to the road and at the ground surface, the combined width of all of the above ground facilities owned by one public utility shall not exceed five feet within any 50 foot length of road.

c. Measured perpendicular to the road and at the ground surface, the maximum width of any above ground facility shall not exceed three feet.

9-108-9 COMPLIANCE. Any utility permit issued pursuant to this article shall be conditioned upon the agreement of the applicant to remove or relocate the permitted facility at no expense to Douglas County or any township thereof in the event the facility does not comply with the size or location requirements of the approved permit. (Res 16-22, Sec.1)

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(Res. 16-22. Sec. 1)

9-113 POLICY ON ESTABLISHING OR EXTENDING PUBLIC ROADS. The Board hereby adopts the following policy & review criteria to use in the deliberation to of a petition from one or more landowners to establish a new public road or extend an existing public road right-of-way, and in determining whether the new road is appropriate and in the public's interest, or that it will be of public utility.

The criteria for evaluation of such petitions are provided in the following tables. A petition must be accompanied by written responses to the following criteria before it will be placed on a Commission's agenda for public discussion.

CATEGORY	EVALUATION & REVIEW CRITERIA
I. Economic Considerations	Cost benefit analysis prepared by the petitioner that provides the County Commission with the following information for review: 1. an estimate of the cost of road construction; 2. an estimate of the total maintenance cost to the Township [based on cost figures provided by the County Engineer to the petitioner]; and, 3. a realistic estimate of the tax appraisal value and the number of additional homes to be built with access from the proposed road over a period of no more than 10 years.

II. Road Network Considerations	The proposed road will be an improvement to the current road network in the Township it is located in and the appropriate Township Board and the County Engineer have reviewed and recommended approval.

The County Commission may also consider safety and environmental issues when deliberating on a petition for a new road. The landowners petitioning for a new road may also request review under the safety and/or environmental criteria to lend additional support to and/or justification for the request for a new public road. The safety and environmental criteria are in the following table:

CATEGORY	EVALUATION & REVIEW CRITERIA
III. Safety & Environmental Considerations	1. The proposed road will provide a safer way to access existing residential properties than currently exists; 2. The proposed road will improve connectivity across a one-mile square grid by the addition of a through road that would improve emergency and/or safety vehicle response time to residences within the one-mile square grid; 3. The proposed road would eliminate: a steep slope

	approach, a low water crossing, a railroad crossing, or other similar safety concern; or 4. The proposed road will create an alternative access to an otherwise developable parcel, which reduces the development impact on environmental features such as FEMA floodplain; jurisdictional wetland; or significant stands of mature trees.

The foregoing evaluation and review criteria are not exclusive and the Board may consider other factors that it deems important to any individual case. The foregoing policy considerations, however, need not necessary apply to (1) widening existing public roads, (2) accepting the dedication of roads in platted subdivisions, or (3) establishing new or extending existing public roads at the Board's initiative.

(Res. HR-08-5-2)

ARTICLE 2. CONSTRUCTION PERMITS AND STANDARDS

9-201. PERMIT FEES. The fees for the issuance of permits by the county engineer (Douglas County director of public works) in accordance with section 11-708 shall be:

a. <u>Roadways</u>
   1. Earth Grading--$0.39 per linear foot
   2. Rock Base or Light Type Surfacing - $0.23 per linear foot
   3. Prime and Double Seal Coat - $0.15 per linear foot

b. <u>Structures</u>
   1. Single Cell Reinforced Concrete Box Culverts - $610 each
   2. Double Cell Reinforced Concrete Box Culverts - $916 each
   (3) Cross Road Corrugated Steel Pipes - (18 in. - 36 in.)- $76 each
   (4) Cross Road Corrugated Steel Pipes - (42 in. - 72 in.)-$153 each

(Res. 91-10, Sec.1)

9-202. CONSTRUCTION REGULATIONS FOR PRIVATE ENTRANCES ONTO COUNTY MAINTAINED ROADS.

9-202-1 ENTRANCE PERMITS. Any person wishing to install and construct a culvert or entrance into private property from a county maintained road shall do all of the following:

a. Obtain approval of the location plan and culvert size from the county Engineer.

b. Pay a permit and inspection fee of $75.

c. Comply with the directions and requirements of the County Engineer including, but not limited to, the specifications for entrance installation,

the initial specifications of which are attached hereto as Exhibit 9-202-1c.1, and the standards for entrance installation, the initial standards of which are attached hereto as Exhibit 9-202-1c.2. Said specifications and standards are hereby adopted by reference and incorporated herein. The County Engineer is authorized to amend and supplement said specifications or standards from time to time as the County Engineer determines, in the exercise of the County Engineer's engineering judgment, reasonable; provided, however, that the County Engineer may not amend or supplement said specifications or standards in a way that significantly increases the cost of installing the entrance, unless the County Engineer receives approval from Board of County Commissioners. Copies of the then current specifications and standards shall be available in the office of the County Engineer.

d. Obtain inspection and approval of the installed culvert by the County Engineer.

9-202-2 SHARED ENTRANCES.

a. A shared entrance is an entrance intended to serve more than one property. It is typically located on or near a common property line shared by adjacent property owners or developers. A shared entrance is desirable because it eliminates an additional point-of-conflict along the roadway, thereby reducing the possibility of traffic accidents.

b. When conditions allow, the County Engineer may require the installation of a shared entrance onto County maintained roads in order to reduce the number of entrances and maintain desirable entrance spacing. A typical example for the requirement of shared entrances is when a series of relatively small, adjacent tracts are developed or development is expected in the near future. A shared entrance may also be required by the County Engineer to maximize sight distance depending on roadway and site conditions.

c. A shared entrance onto a County maintained road shall be contained on public road right-of-way, and upon proper installation and acceptance shall be maintained by the County in a manner similar to maintenance of other private entrances on County maintained roads.

d. Construction of a shared entrance onto a County maintained road shall conform to the directions and requirements of the County Engineer including, but not limited to, the specifications for entrance installation, the initial specifications of which are attached hereto as Exhibit 9-202-1c.1 (to the extent applicable to a shared entrance) and standards for shared entrance installation, the initial standards of which are attached hereto as Exhibit 9-202-2d. Said specifications and standards are hereby adopted by reference and incorporated herein. The County Engineer is authorized to amend and supplement said specifications or

standards from time to time as the County Engineer determines, in the exercise of the County Engineer's engineering judgment, reasonable; provided, however, that the County Engineer may not amend or supplement said specifications or standards in a way that significantly increases the cost of installing the shared entrance, unless the County Engineer receives approval from the Board of County Commissioners. Copies of the then current specifications and standards shall be available in the office of the County Engineer.

e. A properly constructed and approved shared entrance onto county rights-of-way (including township maintained roads) shall not be deemed a private road or street, and shall not be prohibited by the Joint Subdivision Regulations of the City of Lawrence and Douglas County, as in effect on the effective date of this Resolution; provided, however that the portion of the entrance that is shared must be within the county right-of-way. Any shared portion of the entrance and driveway that extends beyond the boundaries of the county right-of-way shall be deemed a private road or street and prohibited by such Subdivision Regulations. Shared entrances onto township maintained roads must be constructed and approved in accordance with regulations or policies of the applicable township.

9-202-3 COUNTY ENGINEER DISCRETION. The County Engineer is hereby delegated and granted the authority to permit a variance from the specifications and standards referenced in Sections 9-202-1c and 9-202-2d, as from time to time amended, on a case-by-case basis in situations in which the County Engineer determines, in the exercise of the County Engineer's engineering judgment, that strict application of the specifications or standards will involve increased risk to property or public safety, or that strict application of construction requirements are not appropriate for the specific site conditions. In the event that the County Engineer exercises the County Engineer's engineering judgment to permit a variance from the above specifications and standards in any particular instance, the County Engineer shall set forth in writing the reasons for such decision and maintain such writing in the files relating to the subject entrance, unless the variance is a minor variance of the construction requirements due to specific site conditions.

9-202-4 VIOLATIONS.

a. Any person who shall install or construct a culvert or entrance into private property from a county maintained road without obtaining a permit as required by this Section 9-202 shall be guilty of violating this Section and the Resolution enacting this Section.

b. Any person who shall obtain a permit as required by this Section 9-202 to install or construct a culvert or entrance into private property from a county maintained road, but (i) shall install or construct the culvert in

such a manner so as to not comply with the plans and specifications approved by the County Engineer and (ii) shall fail to remedy the deficiencies within thirty (30) days of notice by the County Engineer sent to the property owner by certified mail, return receipt requested, or within such additional time as the County Engineer may grant, shall be guilty of violating this Section 9-202 and the Resolution enacting this Section. In addition, if the deficiencies are not remedied within said thirty (30) day period, or within such additional time as the County Engineer may grant, the Department of Public Works may abate such violation at the expense of the owner of the property.

c. Any person who shall violate the provisions of this Section 9-202 shall be civilly liable to Douglas County in the amount of $100, which civil liability shall be in addition to criminal liability set forth in K.S.A. 68-543 and shall be in addition to costs of Douglas County in abating any violation. Each day that the violation exists shall be deemed a separate violation.

9-202-5 ASSESSMENT OF COSTS OF ABATEMENT; NOTICE OF COSTS; APPEAL.

a. The Department of Public Works shall keep an itemized account of the expenses, including labor, materials, and equipment costs, incurred by the County in the abatement of any violations of this Section 9-202. Following an abatement, the Department of Public Works shall cause an assessment entitled “Notice of Costs” to be mailed to the property owner by certified mail, return receipt requested. The owner shall have thirty (30) days from the date of the Notice to make full payment. The Notice of Costs shall state:

1. The common or legal description of the property, or both;

2. The nature of the violation that was abated;

3. The nature of the work performed to abate the violation;

4. The amount of the costs incurred for the abatement of the nuisance either in a lump sum or in an itemized form;

5. That the failure to pay the entire amount within sixty (60) days shall allow the County to file a lien against the property or to pursue litigation for the recovery of the costs, or both. Partial payments will not be accepted and shall be considered as nonpayment under this Section; and

5. That an appeal of the proposed assessment must be made in writing and received by the Department of Public Works within sixty (60) days from the date of the Notice.

b. Upon the expiration of the sixty (60) day period, if no appeal has been received by the Department of Public Works, a copy of the Notice of Costs shall be forwarded to the County Clerk who shall enter the amount on the County assessment roll, which shall constitute a special assessment against and a lien upon the property and shall be collected as any other assessment by the County.

c. If a written appeal of the proposed assessment is received by the Department of Public Works prior to the expiration of the sixty (60) day period, an appeal of the assessment before the County Administrator or his designee shall be scheduled by the Department of Public Works for a date no sooner than twenty (20) days following the date the appeal was received. Written notice of the time and place of the hearing shall be given to each appellant by first class mail at the address provided with the written appeal request, and shall be mailed at least fifteen (15) days before the date set for the hearing. The appeal hearing shall be conducted by the County Administrator or his designee, who shall make a written determination of whether the assessment was authorized by this Section 9-202 and whether the amount of the charges should be canceled, reduced, or remain the same. If the County Administrator or his designee determines that the proposed assessment, or any part of it, is proper and authorized, the County Administrator or his designee shall so certify to the County Clerk who shall enter the amount on the County assessment roll, which shall constitute a special assessment against and a lien upon the property and shall be collected as any other assessment by the County. The decision of the County Administrator or his designee shall be considered a final order of the Board of County Commissioners.

d. The County Administrator or his designee may reduce or cancel a proposed assessment if it is determined that any of the following did not substantially conform to the provisions of this Section:

    1. The notice of violation;

    2. The work performed by the Department of Public Works in abating the violation; and

    3. The computation of charges incurred in abating the violation.

e. If, after a lien has been entered in the assessment roll, there is a written request of the owner who alleges that the owner did not receive notice of the proposed assessment, the County Clerk shall refer the matter for appeal procedures pursuant to Subsection 9-202-5.d. The lien may be canceled or reduced by the County Administrator or his designee if, after hearing, it is determined:

1. The owner did not receive notice of the proposed assessment; and

2. The circumstances are such that a reduction or cancellation of the charges would have been appropriate had the owner received notice of the proposed assessment.

f. Immediately upon its being placed on the assessment roll, the assessment shall be deemed to be complete, the several amounts assessed shall be payable, and the assessments shall be liens against the lots or parcels of land assessed, respectively. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state and county property taxes, which shall be upon the same parity. The lien shall continue until the assessment and all interest due and payable thereon are paid.

g. The County Clerk shall add the amount of the assessment to the next regular tax bill levied against the property. All assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall be come delinquent and shall bear interest at the rate of interest for delinquent ad valorem real property taxes. The County Treasurer shall collect the assessment at the same time and in the same manner as ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

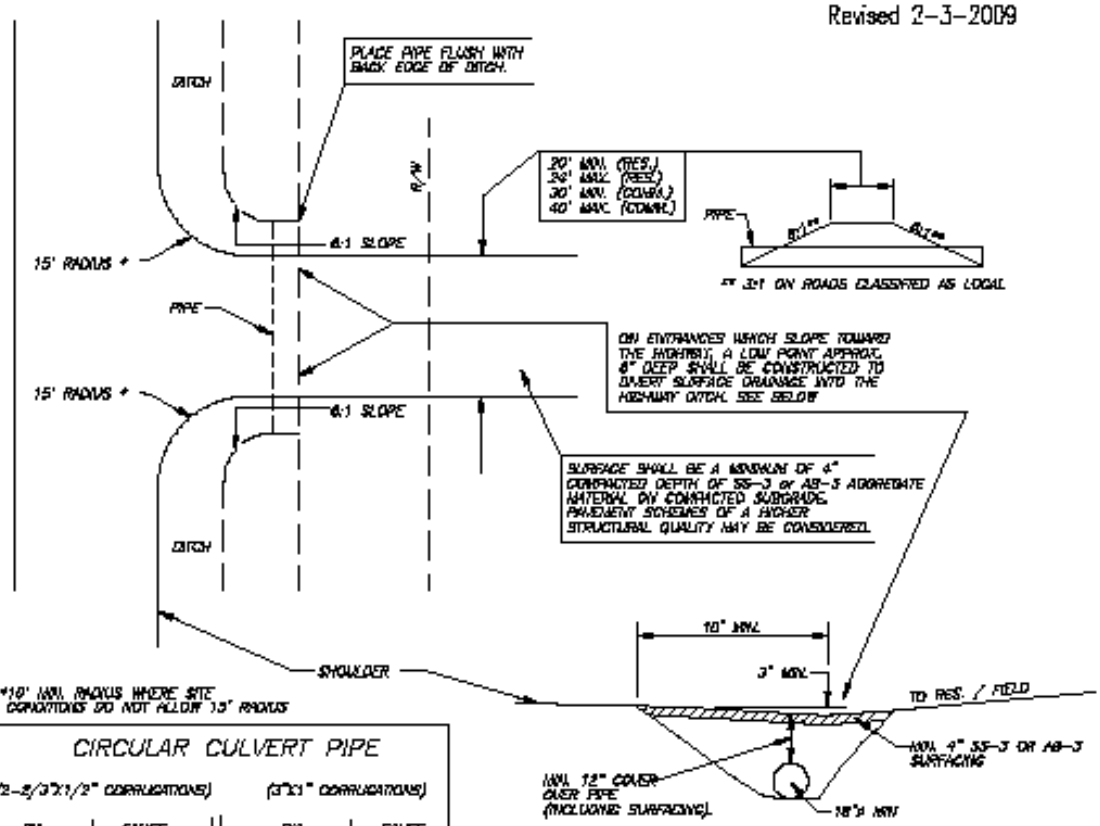
h. The person who is the owner of the property at the time at which the notice of violation is sent shall be personally liable for the amount of the assessment, including all interest, civil penalties, and other charges.

i. Nothing in this Subsection shall limit the County from utilizing other collection methods to recoup abatement costs.

9-202-6 SAVINGS CLAUSE. If any section, subsection, sentence, clause, or phrase of this Section 9-202 is for any reason held to be invalid or unconstitutional by final decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Section. The Board of County Commissioners declares that it would have adopted this Section and each subsection, sentence, clause, or phrase, despite the fact that any one or more subsections, sentences, clauses, or phrases would be declared invalid or unconstitutional.
(HR Res. 09-2-2 replaced Res. 02-12-8)

EXHIBIT 9-202-1c.2

Revised 2-3-2009



CIRCULAR CULVERT PIPE

(2-2/3"X1/2" CORRUGATIONS)		(3"X1" CORRUGATIONS)	
DIA.	GAUGE	DIA.	GAUGE
18-21"	16	36-54"	14
24-30"	14	60-84"	12
36-54"	12		
60-72"	10		

ARCH CULVERT PIPE MAY BE REQUIRED AND / OR MAY BE ALLOWED AS AN ALTERNATE. WHEN ARCH PIPE IS APPROVED FOR USE, GAUGE WILL BE SPECIFIED ON PERMIT.

TYPE OF "MATERIALS" ALLOWED

NEW BITUMINOUS COATED CORRUGATED STEEL PIPE
NEW GALVANIZED CORRUGATED STEEL PIPE
NEW ALUMINIZED CORRUGATED STEEL PIPE
NEW TYPE III REINFORCED CONCRETE PIPE
NO OTHER MATERIALS ARE APPROVED

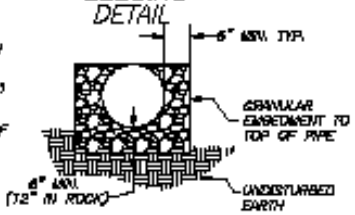
DETAILS

PIPE SLOPE: MATCH SLOPE OF DITCH OR AS SPECIFIED ON THE PERMIT

4:1 SHOULDER SLOPE

ALL PIPES MUST BE NEW AT TIME OF PLACEMENT.

BEDDING DETAIL



CONSTRUCTION METHODS

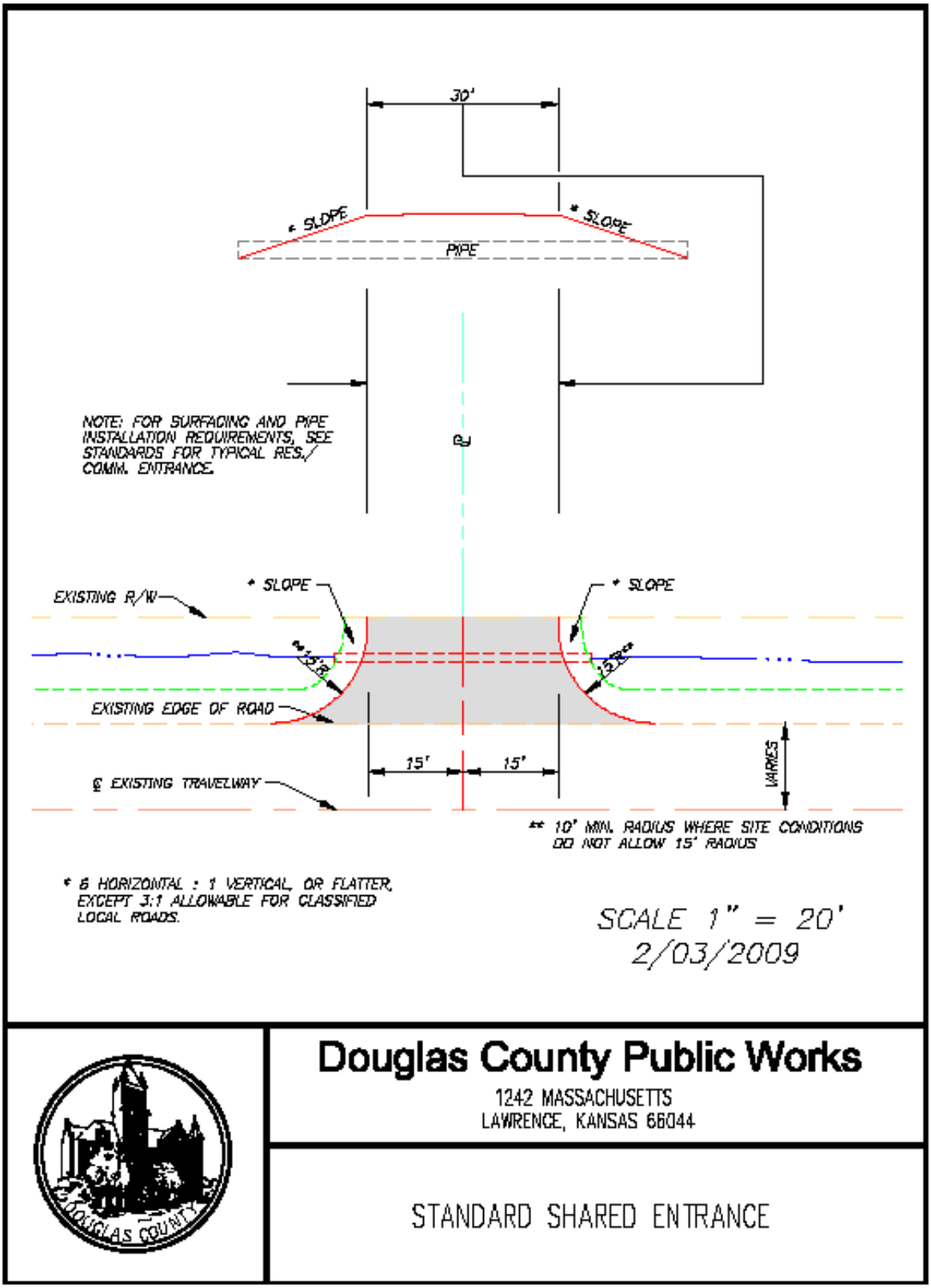
BACKFILL WITH 6" COMPACTED LAYER, FILLING ON BOTH SIDES UNIFORMLY. PROVIDE MINIMUM 8" COMPACTED SOIL AND MINIMUM 4" COMPACTED SS-3 OR AB-3 COVER OVER PIPE. SS-3 OR AB-3 MAY BE SUBSTITUTED FOR SOIL.

Douglas County Public Works

1242 MASSACHUSETTS
LAWRENCE, KANSAS 66044

STANDARDS FOR
TYPICAL RES./COMM. ENTRANCE

EXHIBIT 9-202-2d



9-203 MINIMUM CONSTRUCTION STANDARDS FOR LOCAL AND COLLECTOR ROADS AND STREETS AND OTHER PUBLIC IMPROVEMENTS. Minimum design and construction standards for local and collector roads and streets and other public improvements, other than in industrial and commercial subdivisions, in Douglas County, Kansas, are as follows:

a. General. These standards are to be minimum standards set forth for the various improvements herein outlined. If conditions dictate, these standards may be varied with the consent of the County Engineer. It shall be the responsibility of the County Engineer to outline the reasons for any significant variations and submit those reasons to the Board of County Commissioners for its approval.

The "Standard Specifications for State Road and Bridge Construction" adopted by the Kansas Department of Transportation, 1990 or current Edition, shall be the standard construction specifications unless otherwise noted in this Section.

The "Project Development Manual for Non-National Highway System Local Government Road and Street Projects," Appendix B, 2003 or current Edition, as distributed by the Kansas Department of Transportation, shall be the minimum design standards unless otherwise noted in this Section. Although these standards allow design flexibility in certain circumstances, the County Engineer must approve any deviations from the tabled design standards.

b. Design Details. Design details are as follows:

1. Right-of-Way: 80 feet minimum (collector), 70 feet minimum (local), or wider as required to accommodate the grading section.
2. Earthwork: Minimum depth of ditch from top of finished subgrade, 2.0 feet. Minimum compaction efforts required for fill sections, Type B (MR-90).
3. Pavement:
   a. Local and Collector Aggregate Road:
      4 inch compacted Combined Material (AB-3) with 3 to 5% crown.
   b. Local Hard Surfaced Road:
      Alternate (1): 4-inch compacted AB-3 with 2-inch Asphaltic Concrete Surface, 2 to 3% crown.
      Alternate (2): 6-inch compacted AB-3 with a prime and double seal, 2% to 4% crown.
   c. Collector Roads (Hard Surfaced):
      Alternate (1): 6-inch compacted Combined Material (AB-3) with 2-inch Asphaltic Concrete surface, 2% to 3% crown
      Alternate (2): 8-inch compacted combined material (AB-3) with

Prime and Double Seal, 2% to 4% crown.

4. Collector roadway width shall be 32 feet minimum (minimum widths for AADT<400 vehicles per day indicated in KDOT Project Development Manual, Appendix B shall not apply).
5. Roadway shall be surfaced full roadway width, which includes shoulders.
6. Minimum crossroad drainage structure shall be reinforced concrete or corrugated metal pipe, 24-inch diameter meeting the Kansas Department of Transportation Standards for strength and thickness.
7. Entrances shall comply with the current Douglas County construction standards for entrances on county routes. Entrance pipes shall be reinforced concrete or corrugated metal pipe, minimum 18-inch diameter, meeting Kansas Department of Transportation Standards for strength and thickness.
8. Prime and Double Seal Rates of Application:
   - MC-30 Prime - 0.3 gallons per square yard.
   - RC-800 Seal - 0.35 gallons per square yard (for each of 2 seals)
   - Cover Material (CM-K) – 26 pounds per square yard (for each of 2 seals)
9. Construction Traffic Control Details shall be shown on the plans or submitted by the Owner to the County Engineer for approval prior to construction.

c. Construction Details. Construction details are as follows:

1. The Combined Material (AB-3) base shall be placed under the supervision of the County Engineer or his representative.
2. The Combined Material (AB-3) base for hard surfaced roads shall be placed full lane width or shoulder width by means of an approved aggregate spreader. The approved spreader shall be capable of distributing the base material at the desired uniform rate, free from segregation and requiring minimal blading after placement. Combined material (AB-3) base may be placed with an approved aggregate spreader or a motor grader for hard surfaced roads requiring less than 500 tons of base material and for aggregate surfaced roads.
3. Combined Material (AB-3) shall be mixed to specified moisture content utilizing the Central Plant Method or Travel Plant Method. The road mix method may be used for aggregate surfaced roads and hard surfaced roads requiring less than 500 tons of base material. The specified moisture content shall be the optimum moisture content as determined by laboratory analysis.
4. If the required compacted depth of the aggregate base course or shoulder exceeds six inches; construction shall be in two or more lifts of approximate equal thickness.
5. Immediately after placing the base material, the aggregate base course shall be compacted to a density of not less than 95% of standard Proctor compaction. Compaction equipment shall consist

of pneumatic tired and/or steel drum rollers only.

6. The compacted base course shall be maintained and cured until the moisture content of the entire thickness of the base does not exceed 70 percent of optimum moisture content.
7. The County Engineer shall determine when the surface of the base has cured sufficiently to permit the bituminous application or other surfacing to be applied. If the Contractor chooses not to apply the bituminous prime or other surfacing at that time, he must maintain the surface at his expense (including application of the necessary water) until such time as it is applied.
8. The bituminous prime coat shall have sufficient time to thoroughly penetrate the base before application of the first seal.
9. The second seal coat shall not be applied until 30 days after the application of the first seal coat.

(Res. 05-15, Sec. 1)

ARTICLE 3. TRAFFIC CONTROL

9-301 SPEED LIMITS

a. Except as provided in K.S.A. 8-1557, and amendments thereto, the limits specified in this subsection or established as authorized by law shall be maximum lawful speeds, and no person shall operate a vehicle at a speed in excess of such maximum limits:

   1. In any urban district, 30 miles per hour, except where otherwise posted;

   2. on any separated multilane highway, as designated and posted by the secretary of transportation, 70 miles per hour;

   3. on any county or township highway, 55 miles per hour, except where otherwise posted; and

   4. on all other highways, except where otherwise posted, 65 miles per hour.

b. Pursuant to K.S.A. 8-1560, the county commission may determine based on an engineering and traffic investigation or without an engineering and traffic investigation, the proper maximum speed for such county or township highways and shall declare a reasonable and safe maximum limit thereon , and that limit shall be effective when posted upon appropriate fixed or variable signs.

c. Pursuant to subsection b, the county commission hereby declares that all speed limits posted as of the time this Code is adopted are the reasonable and safe maximum limit thereon. Any alteration to these

speed limits will be made by resolution, will be included in Appendix B to this Code and shall be effective when posted upon appropriate fixed or variable signs.

9-302 GROSS WEIGHT LIMITS

a. The Director of Public Works may determine and declare upon the basis of an engineering investigation, the maximum gross weight limits for any roadway or bridge within the county, and these limits shall be effective when posted upon appropriate signs adjacent to said roadway or bridge. No person, firm, association, partnership or corporation shall drive a vehicle in excess of the posted gross weight limits upon such roadways or bridges with written permission of the Director of Public Works.

b. When the department of transportation shall determine upon the basis of an engineering investigation maximum gross weight limits on any bridge which is on a state highway connecting link, said maximum gross weight limits shall be effective at all times when appropriate signs giving notice thereof are erected adjacent to said bridges.

c. Pursuant to subsection (a), the Director of Public Works hereby declares that all maximum gross weight limits posted as of the time this Code is adopted are effective as posted. Any alteration to these gross weight limits will be documented by the Director of Public Works, will be kept for public inspection in the Public Works office, and will shall be effective when posted upon appropriate fixed or variable signs.

9-303 PARKING REGULATIONS

a. The county commission may determine based on an engineering and traffic investigation or without an engineering and traffic investigation, whether or not parking should be allowed along all or a portion of any county or township highways and shall declare the parking regulation which shall be effective when posted upon appropriate fixed or variable signs.

b. Pursuant to subsection a, the county commission hereby declares that all no parking signs posted as of the time this Code is adopted are effective as posted. Any alteration to these speed limits will be made by resolution, will be included in Appendix C to this Code and shall be effective when posted upon appropriate fixed or variable signs.

9-304 OTHER TRAFFIC CONTROL DEVICES

a. The Director of Public Works may determine and declare all traffic regulations not set forth above for any roadway or bridge within the

county, and these limits shall be effective when posted upon appropriate signs adjacent to said roadway or bridge.

b. Pursuant to subsection (a), the Director of Public Works hereby declares that all regulatory signs and traffic control devices posted as of the time this Code is adopted are effective as posted. Any alteration to these traffic regulations will be documented by the Director of Public Works, will be kept for public inspection in the Public Works office, and will shall be effective when posted upon appropriate fixed or variable signs.

c. The Director of Public Works shall place, maintain, change and remove traffic control signs, signals, and devices, when required to make effective and carry out the provisions of this Code or any resolution of the County, and may place, maintain, change and remove such additional traffic control devices as he or she may deem necessary to regulate traffic or to warn or guide traffic.

9-305 EMERGENCY, TEMPORARY, AND EXPERIMENTAL REGULATIONS. The Sheriff or the Director of Public Works is hereby empowered to make emergency, temporary or experimental regulations, including speed limits, effective upon signs being properly posted, as follows: to establish no parking zones on special occasions or to expedite traffic for safety purposes; to make and enforce temporary regulations in construction zones; and to make and enforce temporary or experimental regulations to cover emergencies or special conditions or to determine the advisability of permanent regulations for recommendation to the Board of County Commissioners, and test traffic-control devices under actual conditions of traffic. When the Sheriff or Director of Public Works exercises this emergency authority, the County Commission shall be notified of the temporary regulation within five (5) working days of the action. No emergency, temporary or experimental regulations created pursuant to this Section shall remain in force for more than 90 days. (Res. HR-03-1-1, Sec. 2).

ARTICLE 4. MINIMUM MAINTENANCE ROAD DECLARATION

9-401 GUIDELINES ESTABLISHED. The Board hereby establishes the following guidelines for the declaration of minimum maintenance roads. Such guidelines are intended to be reviewed by the Board of County Commissioners whenever requests or recommendations are made for the declaration of minimum maintenance roads. The failure of any road(s) proposed for minimum maintenance status to meet all the following guidelines shall not prohibit the Board of County Commissioners from adopting a resolution declaring a road(s) as minimum maintenance:

a. Roads which have been constructed with federal aid monies shall not be declared as minimum maintenance roads;

b. The average daily traffic volume on the road should be less than 24 trips per day;

c. The primary use of the road should be to provide access for low speed agricultural vehicles;

d. A residence, residential subdivision, or other intensive land use located on the road must have an available alternative access even if it is not as convenient;

e. Physical problems with routine maintenance such as difficult soil conditions or expensive drainage correction problems shall be given strong weight in a minimum maintenance road designation; and

f. A minimum maintenance level of service will not have a significant impact on local traffic circulation and traffic will be able to utilize other local roads with minimal hardship.

(Res. 92-10-2, Sec. 1)

9-402 DISCONTINUATION OF MINIMUM MAINTENANCE DECLARATION. The procedure for discontinuance of a minimum maintenance road designation shall be the same as that provided in K.S.A. 68-5, 102, and amendments thereto for establishment of such a road.

(Res. 92-10-2, Sec. 2)

9-403 SPECIAL NOTICE PROCEDURE. All owners of land adjacent to roads proposed for minimum maintenance status shall be notified by first class mail no less than ten (10) days prior to a public hearing on such proposal by the Board of County Commissioners. The failure to send or receive such notice shall not invalidate any minimum maintenance road proceeding.

(Res. 92-10-2, Sec. 3)

9-404 HEARING BEFORE THE TOWNSHIP BOARD OF HIGHWAY COMMISSIONERS. Upon the adoption of a resolution by the Board making the determination that one or more roads or parts of roads may be declared minimum maintenance roads as provided by K.S.A. 68-5-102(b), the Board shall send a copy of the resolution to the Township Board of Highway Commissioners in each township in which a portion of the road which is to be vacated is located, and the Township Board of Highway Commissioners shall hold a public hearing on the proposal to declare such road or roads to be minimum maintenance. In the event that a Township Board of Highway Commissioners desires to have a road or roads declared to be minimum maintenance roads, prior to submitting the request to the County Commissioners, the Township Board of Highway Commissioners shall hold a public hearing on the proposal to declare the road or roads to be minimum maintenance roads. In either such event,

the Township Board or Boards shall cause to be published once in the official County paper at least ten (10) days prior to the date of the hearing a notice of a public hearing to be held stating the description of the road to be declared to be a minimum maintenance road and the date, time, and place of the hearing, and all owners of land adjacent to the portion of the road or roads proposed for minimum maintenance status shall be notified by first class mail no less than ten (10) days prior to the public hearing. Any person wishing to appear at such hearing and give evidence or testimony thereon may do so. At the conclusion of such hearing, the Township Board shall make a recommendation to the Board of County Commissioners as to what roads or parts of roads described in such resolution should be declared to be minimum maintenance roads.

(Res. 94-2-1, Sec. 1)

ARTICLE 5. PUBLIC ROAD ACCESS MANAGEMENT STANDARDS

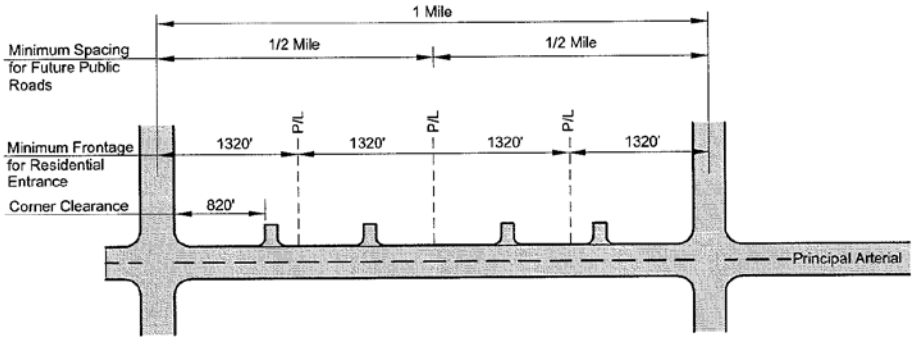
9-501. The Entrance Spacing Standards for Entrance Permits for platted and unplatted property onto public roads in the unincorporated areas of Douglas County (regardless of which governmental entity maintains the public road) are hereby adopted as follows:

Access Class	(feet) Minimum Frontage	(feet) Desirable Entrance Spacing	(feet) Corner Clearance From Intersection
Freeway:		Subject to KDOT policy	
Principal Arterial:*	1320	1320	820
Minor Arterial:	660	660	600
Major Collector: Posted or design speed (as determined by County Engineer) 55 mph less than 55 mph	 660 500	 660 500	 600 450
Minor Collector:	330	330	250
Local:	250	250	200
*Access to state and federal highways subject to KDOT policy. Some Entrance Spacing Standards concepts are shown on Figure 9-501.			

Notwithstanding the foregoing, no entrance permit other than a field permit may be issued for entrance onto a public road that is then designated a “minimum maintenance road” pursuant to K.S.A. 68-5,102, as amended.
(Res. HR-06-10-7; Res. HR-07-1-1)

Conceptional Schematics to Illustrate Concepts of Minimum Property Frontage, Corner Clearance and Minimum Public Road Spacing

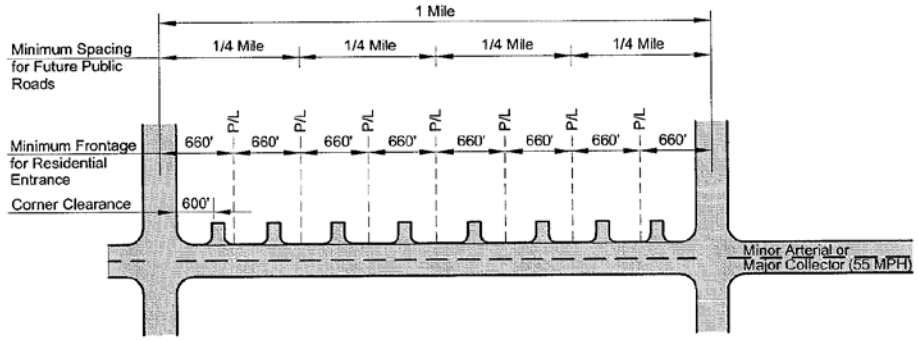
Principal Arterial



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

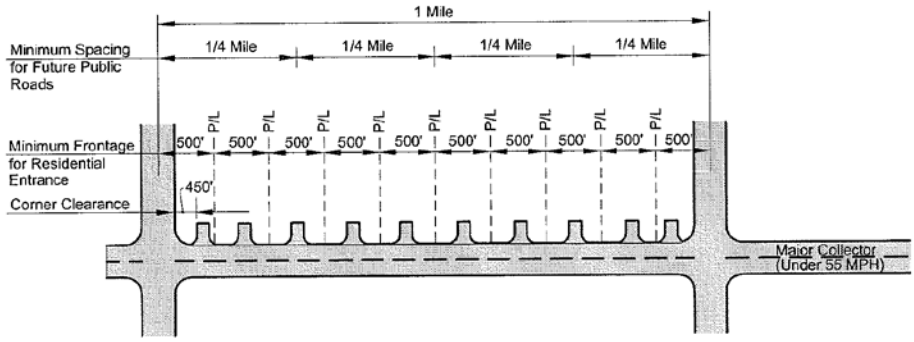
Minor Arterial or Major Collector (55 MPH)



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Major Collector (40-50 MPH)



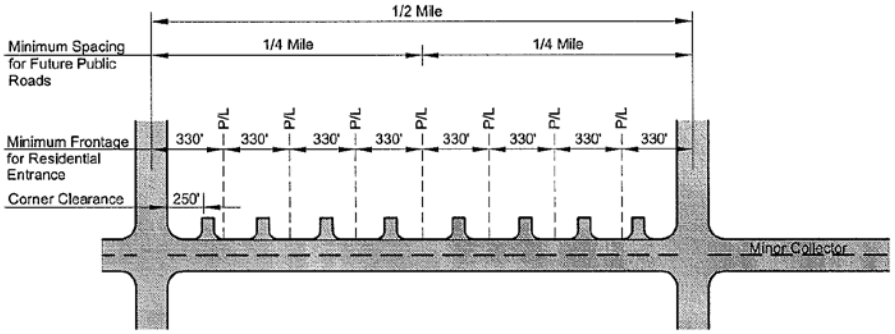
P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Figure 9-501

Conceptional Schematics to Illustrate Concepts of Minimum Property Frontage, Corner Clearance and Minimum Public Road Spacing

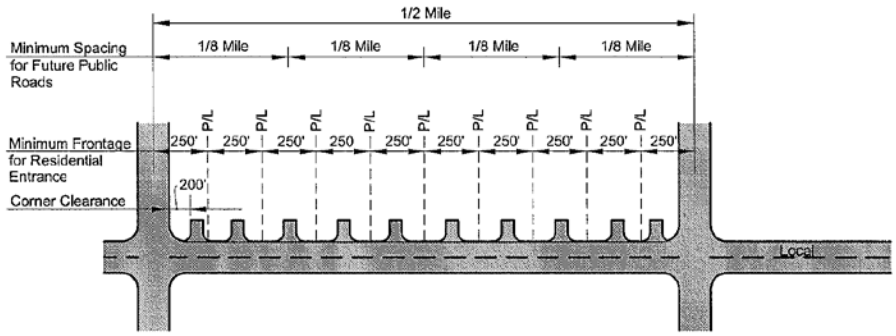
Minor Collector



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Local



P/L = Property Line

Note: Shared entrances constructed at or near property lines are allowable, and may be required by the County Engineer.

Figure 9-501

9-502. No property for which a deed, an affidavit of equitable interest, or plat of survey is recorded with the Office of the Douglas County Register of Deeds on or before October 25, 2006, which instrument identifies the property as a separate tract of real estate, shall be denied an entrance permit onto a public road classified as Minor Collector or Local for purposes of construction of a residential dwelling solely for the reason that the property does not have sufficient frontage along a public road if the property has not been further divided since the effective date of Section 9-501 and any of the following apply with respect to the subject property:

a. It has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home gains its primary access directly to and from an existing public roadway within such public road right-of-way; or

b. It has 250 feet of frontage along a public road right-of-way and the dwelling or mobile home will gain its primary access directly to and from a public roadway to be constructed within such public road right-of-way if (1) engineered plans for construction or improvement of the public roadway to current county standards have been approved by the County Engineer, and (2) a sufficient bond or letter of credit, in an amount determined by the County Engineer, is provided to ensure construction or improvement of the public roadway to current County standards; or

c. It has access to a public road by virtue of a private road approved by the Board prior to October 30, 2006; or

d. Is located within a subdivision which has been platted as provided in the Subdivision Regulations for the unincorporated area of Douglas County; or

e. A deed or an affidavit of equitable interest for the property was recorded with the Register of Deeds on or before August 17, 1994 describing the property as a single tract under one ownership and the property would have been eligible for a residential entrance permit on the date of recordation; or

f. A variance of the above requirements is granted by the Board of Douglas County Commissioners, based upon a finding that all of the following conditions have been met:

(1) That the variance requested arises from such condition which is unique and is created by this Article and not by an action or actions of the property owner;

(2) That the granting of this variance will not adversely affect the rights of adjacent property owners or residents;

(3) That the strict application of the provisions of this Article will constitute unnecessary hardships upon the property owner represented in the application;

(4) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, or general welfare; and

(5) That granting the variance desired will not be opposed to the general spirit and intent of this Article.

The provisions of this Section shall not apply to property divided after October 30, 2006. (Res. HR-06-10-7; Res. HR-10-1-1)

9-503 For purposes of this Article, the following words shall have the following definitions:

a. Field Permit. The term "field permit" means an entrance permit which allows access to a public road only for agricultural purposes, but not for purposes of access to a residential or commercial building. No entrance permit for the construction or placement of dwellings, mobile home, or commercial building shall be issued with respect to property that gains its access to an adjacent public road by a field permit.

b. Frontage. The term "frontage" means the portion of private property touching the adjacent public road right-of-way from which the property gains its primary access, provided, however, that such private property must have a depth equal or greater than required by applicable Zoning Regulations or Subdivision Regulations.

c. Public Road Right-of-Way. The term "public road right-of-way" means any right of way within which a public road may be constructed, whether or not a public road actually is constructed, including state highways, county roads, township roads, and any other road that has been dedicated to and accepted for public use.

d. Public Road. The term "public road" means the part of the public road right-of-way that is improved and ordinarily used by the public for vehicular traffic, but does not include the shoulder, and, where a highway includes two or more separate roads, the term public road refers to any one road separately and not to all of the roads collectively.

(Res. HR-06-10-7)

9-504. The Minimum Public Road Spacing Standards for spacing between new public roads intersecting with other public roads (regardless of which governmental entity maintains the public road) for purposes of approval of subdivision plats pursuant to the Douglas County Subdivision Regulations

shall depend upon the road classification of the other public road and are hereby adopted as follows:

Access Class	(feet) Minimum Public Road Spacing
Freeway:	Subject to KDOT policy
Principal Arterial:*	2640
Minor Arterial:	1320
Major Collector: Posted or design speed (as determined by County Engineer) 55 mph less than 55 mph	 1320 1320
Minor Collector:	1320
Local:	660
*Access to state and federal highways subject to KDOT policy. Some Minimum Public Road Spacing Standards concepts are shown on Figure 9-501.	

(Res. HR-06-10-7)

9-505. The Minimum Frontage Spacing , Desirable Entrance Spacing and Minimum Public Road Spacing standards set forth in Section 9-501 and Section 9-504 are based upon a one-mile section being exactly 5280 feet. Thus, distances of 2640, 1320 feet, 660 feet and 330 feet are intended to require 1/2 mile, 1/4 mile, 1/8 mile, and 1/16 mile nominal distances, respectively. If any particular one-mile section is shorter than 5280 feet, the distances set forth in Section 9-501 and Section 9-504 shall vary proportionately. For instance, if a section has a length of 5275 feet, the minimum frontage along a Principal Arterial abutting that section is 1318.75 feet (1320 x 5275/5280), thus allowing as many as four entrances along that section. (Res. HR-06-10-7)

9-506 The road classification~~s~~ shown on **Exhibit 9-**506, Road Classifications is adopted as the Road Classification Map for the Access Management Standards. (Res. HR 13-2-1)

Proposed for adoption on February 20, 2012.

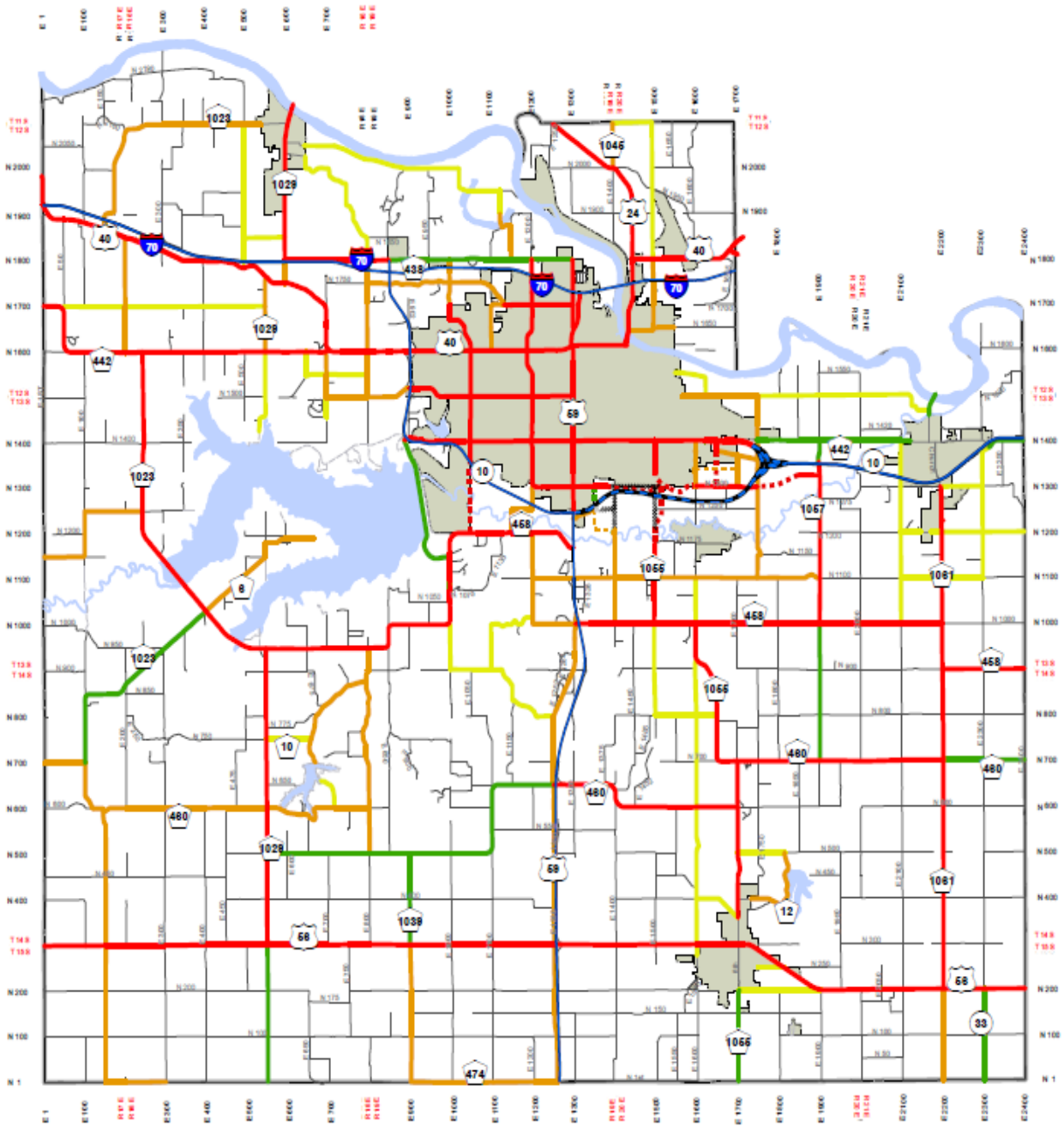


Exhibit 9-506

Road Classifications

- Freeway
- Future Freeway
- Principal Arterial
- Future Principal Arterial
- Major Collector
- Future Major Collector
- Minor Arterial
- Future Minor Arterial
- Minor Collector
- Future local/rural
- Roads eradicated after completion of SLT
- Park Road*
- City Road*
- Local Road

* Shown for informational purposes, not part of road classification.

N

MAP DISCLAIMER: All data, information, and maps are provided "as is" without warranty or any representation of accuracy, timeliness of completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the requester. Douglas County makes no warranties, express or implied, as to the use of the information obtained here. There are no implied warranties of merchantability or fitness for a particular purpose.

9-507. Recognizing that configuration of existing land parcels, topography, sight distances, and other engineering considerations may make it impractical or undesirable to strictly comply with the desirable entrance spacing standards and corner clearance standards set forth in Section 9-501, and further recognizing the strict compliance with the minimum frontage, desirable entrance spacing, and corner clearance standards, may impair a property owner's right to access abutting public roads, the County Engineer is hereby authorized to grant exceptions to the standards set forth in Section 9-501 as follows: (i) if sound engineering design practices for a particular tract dictate different spacing of entrances, the County Engineer may grant exceptions to the desirable entrance spacing standards and the corner clearance standards; and (ii) if provisions of state common law requires access to property abutting public roads, the County Engineer may grant exceptions to the minimum frontage standards. Entrance permits issued pursuant to clause (ii) shall be issued only to comply with state law requiring access to property abutting public roads and shall be limited to a field permit.

In addition, the County Engineer is authorized to grant exceptions to strict compliance with the standards set forth in Section 9-501 upon the division of a tract of property, on which a residential building existed on December 31, 2006, if the property owner or owners entered into an agreement with the County Engineer, to be recorded with the Office of the Douglas County Register of Deeds, limiting the location, number, and type of current and future entrance permits to be granted each resulting division, as the County Engineer determines necessary or advisable to substantially comply with the purpose and intent of these Access Management Regulations; provided, however, that the total number of permissible entrance permits onto the public road for access to a residential or commercial building shall not be increased as a result of any such agreement.

The decision of the County Engineer pursuant to this Section may be appealed to the designee of the Board of County Commissioners and to the Board of County Commissioners in accordance with Section 9-512. (Res. HR-08-4-1)

9-508 No building permit shall be issued for construction on a tract of land that gains its primary access from (i) a public road, unless a lawful entrance permit has first been issued, provided, however, that no building permit for a residential, commercial, or industrial use shall be issued if the entrance permit is a field permit; or (ii) a private road, unless approved by the Board. (Res. HR-06-10-7)

9-509. Entrance Permits onto township-maintained roads classified as Minor Collector or higher classification shall be issued according to the following process:

a. Each respective Township shall administer and issue entrance permits onto roads that it maintains.

b. The County Engineer or designee shall provide the following information on the township entrance permit:

(1) Certification that proposed entrance installation meets the requirements of this Article.
(2) Required or optimal entrance location, if any.
(3) Approved entrance type (single, shared, residential, field, commercial, etc.)

c. No building permit shall be issued for a tract of land that gains its primary access from a township-maintained road classified as Minor Collector or higher unless the entrance permit includes approval of the County Engineer or designee. (Res. HR-06-10-7)

9-510. Entrance Permits onto township-maintained roads classified as Local shall be issued by the appropriate Township, and do not require approval of the County Engineer or designee.
(Res. HR-06-10-7)

9-511. If the County Engineer, in the County Engineer's professional opinion, determines that a proposed entrance may result in an unreasonable safety risk to the traveling public or property owner due to configuration of land parcels, topography, sight distances, traffic characteristics or other engineering considerations, and if no feasible means of mitigation or alternative entrance location exists along the property frontage, the County Engineer is authorized to deny an entrance permit for purposes of construction of a residential dwelling, even if the frontage along the public road satisfies the standards set forth in Section 9-501 or is exempt from those standards based upon Section 9-502. (Res. HR-06-10-7)

9-512 If any owner of a tract of property is denied an entrance permit onto a public road for purposes of construction of a residential dwelling pursuant to the provisions of Section 9-502 *solely* for the reason that the property does not have sufficient frontage along a public road, and that the property is located on a public road classified as anything other than a Local or Minor Collector road (in other words, the property satisfies one of the criteria in 9-502 but is not located on a Local or Minor Collector road), the owner may file an application with the Douglas County Department of Public Works for a variance to the strict application of this Article. Such request shall provide justification for the requested variance and shall be heard by the designee of the Board of County Commissioners within a reasonable time after the filing of the application. In addition to other relevant issues, the person hearing the owner's application may consider and require alternatives to the requested entrance permit so as to reduce

the number of entrances onto the public road, including but not limited to requiring shared entrances, frontage roads, obtaining an entrance from a different road, or combining adjacent tracts of property under the same ownership or control into one tract. In reaching a decision on the owner's application, the designee of the Board of County Commissioners shall consider the economic impact of the denial of an entrance permit or the requirement of an alternative entrance, the extent to which the denial or alternative requirement interferes with the owner's reasonable investment-backed expectations, and the adverse impacts of the proposed access to the safety of the public road. The designee's decision shall be in writing and shall be promptly conveyed to the owner. Any owner adversely affected by the decision of the designee of the Board of County Commissioners may appeal the decision to the Board of County Commissioners by written notice filed with the Board within 30 days of the written decision of the designee, specifically stating the basis for the appeal and the requested relief. The Board of County Commissioners may affirm, reverse, or affirm in part and reverse in part the decision of the designee, or may remand the application back to the designee for further consideration in accordance with instructions provided by the Board. (Res. HR-06-10-7; Res. HR-10-1-1)

9-513. If any provision or condition of this Article shall be held to be invalid or unenforceable, the validity or enforceability of the remaining provisions and conditions will not be affected thereby.
(Res. HR-06-10-7)

ARTICLE 6. PERMITS FOR OVERSIZE OR OVERWEIGHT VEHICLES

9-601. DEFINITIONS. For purposes of this Article, the following terms have the following definitions:

"Applicant" means a Person who applies for a Permit.

"Application" means an application for a Permit, including an application pursuant to K.S.A. 8-1911, and amendments thereto, and K.S.A. 17-1915, and amendments thereto.

"Board" means the Board of Douglas County Commissioners.

"County Road" means any public road in the unincorporated areas of Douglas County, Kansas under the Board's jurisdiction, including Township-maintained roads but excluding any highway under the jurisdiction of the Secretary of the Kansas Department of Transportation.

"Director" means the Director of the Douglas County Department of Public Works or designee.

"Permit" means a permit issued pursuant to this Article to operate or move

an oversize vehicle on a County Road or bridge.

"Person" means an individual, trust, trustee, limited liability company, corporation, partnership, and any other association or organization.

"Trustee" means the Trustee of the applicable Township or designee.

9-602 DESIRE TO EXERCISE POWERS. The Board desires to exercise the powers conferred upon it by K.S.A. 8-1911, and amendments thereto, to issue or deny permits of oversize and overweight loads and, in addition, exercises its home rule authority to adopt additional regulations not inconsistent with K.S.A. 8-1911.

9-603 TRANSFER AND DELEGATION OF PERMITTING AUTHORITY. The Board finds that (i) the authority of the Douglas County Clerk to issue permits pursuant to K.S.A. 17-1915, and amendments thereto (to permit operation of vehicles having a height of 16 feet or more), and (ii) the authority of the Board to issue permits pursuant to K.S.A. 8-1911, and amendments thereto (to permit operation of oversize or overweight vehicles), both relating to public roads under the Board's jurisdiction, can be more efficiently and effectively exercised by the Director, and the Board hereby transfers and delegates such permitting authority to the Director. The Douglas County Clerk and other Douglas County offices shall forward any such applications to the Director and the Director shall handle such applications in accordance with this Article.

9-604 UNLAWFUL USE OF PUBLIC ROADS. It shall be unlawful to operate or move on a County Road, or for the owner or lessee to cause or knowingly permit to be operated or moved, a vehicle or combination of vehicles if the vehicle or combination of vehicles is of a size or weight of vehicle or load exceeding the maximum specified under Article 19 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or of a height exceeding the maximum specified at K.S.A. 17-1914, and amendments thereto, without first receiving a Permit for such operation. The Permit may be for a single trip or for annual operation. Further, it shall be unlawful to violate the terms and conditions, or for the owner or lessee to cause or knowingly permit the violation of the terms and conditions, of any Permit issued pursuant to this Article, including but not limited to failing to follow the permitted route on the permitted date.

9-605 APPLICATION FOR PERMIT. Before operating or moving a vehicle or combination of vehicles of a size or weight for which a Permit is required under Section 9-604, or before the owner or lessee causes or knowingly permits any such operation or move, an Application shall be filed with the Director to permit such operation or move. The Director shall review the Application for the possible need for professional consultation, and, if deemed necessary by the Director, shall inspect each route/location for which such approval is requested, and, if determined appropriate, approve

the issuance of a Permit therefor, with such terms and conditions as the Director determines appropriate. The Director shall take reasonable effort to accommodate the needs of each Applicant while at the same time considering the continued integrity and safety of County Roads and bridges. An Application may be denied upon the Director's determination that the granting of the Permit would compromise the integrity or safety of County Roads.

9-606 TOWNSHIP-MAINTAINED ROADS. If the Director determines that any Application includes a route/location involving the use of Township-maintained roads, the Director shall forward such Application or otherwise communicate the information from such Application to the Trustee of the appropriate Township. The Trustee shall review such Application, inspect each route/location for which such approval is requested, and make a recommendation to the Director to issue or deny a Permit for such route/location, with or without conditions. The Trustee should take reasonable effort to accommodate the needs of each Applicant while at the same time considering the continued integrity and safety of the applicable Township-maintained County Road. The Trustee's involvement is in an advisory role. Only the Director may issue the Permit.

9-607 PROFESSIONAL CONSULTATION. The Director is authorized and has sole discretion to utilize professional consultants for all or any portion of the review of an Application. When the Director determines professional consultation is necessary, the Applicant shall deposit an amount that the Director estimates as compensation for professional consultation. The Director shall then retain the professional consultant on the matters the Director determines necessary. If the deposited amount is greater than the actual consultation fee, the overage shall be refunded to the Applicant upon Permit issuance or denial. If the deposited amount is less than the actual consultation fee, the underage shall be paid by the Applicant prior to Permit issuance.

9-608 PERMIT TERMS AND CONDITIONS; PERMIT DURATION AND FREQUENCY OF USE. Any Person operating or moving a vehicle or combination of vehicles pursuant to a Permit shall comply with all provisions of this Article and all terms and conditions of the Permit. Term of the Permit shall be 14 calendar days from the issuance date of the Permit. The Director may extend a Permit term for just cause. Term of the annual Permit shall be 365 calendar days from the issuance date of the Permit.

9-609 APPLICATION PROCESS AND INFORMATION TO BE SUBMITTED. The Director shall determine procedural matters for submitting an Application and issuance of a Permit based on the following general guidelines. The Director shall develop such forms and standards as the Director determines necessary for the issuance of Permits pursuant to this Article. At a minimum, the Application shall contain details on the vehicle

or combination of vehicles, load or cargo, requested route, and the requested date of the operation or move. The Applicant shall provide any additional information the Director determines necessary. Absent exigent circumstances, the Application, together with the Application fee, proof of required insurance, and all other required documentation shall be submitted no later than 3 days prior to the requested date for the Permit.

9-610 APPLICATION FEE. The Application fee for a single trip Permit is based on the following guidelines.

Base fee .....$ 50.00
Additional fee based on travel length on
County Roads ..... $ 10.00 per mile
Professional consultation fee, if required..... As estimated

The base fee is not refundable, even if a single trip Permit is not issued.

The Application fee for an annual Permit is based on the following guidelines.

Base fee.....$300.00
Professional consultation fee, if required …….…… As estimated

9-611 APPLICANT RESPONSIBILITY AND SECURITY DEPOSIT. The Applicant shall be personally responsible for any and all damage occurring as a result of the permitted activity. Prior to issuance of any single trip Permit, the Applicant shall deposit with the Director a certified cashier's check or other official check in the amount of $1,000.00, payable to Douglas County. If the Director determines a proposed permitted activity poses greater risk of damage to County Roads and bridges than routine transportation of oversize and/or overweight vehicles and/or loads, the Director may condition issuance of a Permit upon provision of a larger deposit. A security deposit will not be required for issuance of an annual Permit.

The Applicant shall replace any traffic control or directional signs moved to allow for the load to pass **IMMEDIATELY UPON PASSAGE OF THE LOAD.**

Upon completion of the move, the Director shall, if deemed necessary by the Director, inspect the route/location and determine the extent of any damage caused. The Director shall notify the Applicant of any such damage. The Applicant shall cause such damage to be repaired within 48 hours if the damage is of a type the Director permits third-parties to repair. Failure to repair any damage shall be a violation of this Article and is subject to the penalties contained herein.

If the Applicant fails or refuses to repair such damage or if the damage is of the type the Director does not permit third-parties to repair, the Director shall cause such damage to be repaired. The cost of repairs shall be deducted

from any funds deposited by the Applicant and the balance shall be refunded. If the cost of repairs exceeds any funds deposited, the Applicant shall pay the County and/or Township the amount of the excess within 30 days of the date the Director mails notice to the Applicant of the excess.

9-612 APPLICANT INSURANCE AND PROOF THEREOF. The Applicant, driver(s), vehicle(s) and/or load(s) thereon shall carry liability insurance in the following amounts:

a. Housetrailers, manufactured homes, and mobile homes not exceeding 16 ½ feet in width: insurance amount as provided by K.S.A. 8-1911(h)(3), and amendments thereto;

b. All others: combined single limit of a minimum of $500,000.00 for bodily injury and property damage.

Proof of insurance shall be provided to the Director prior to issuance of a Permit and such proof of insurance shall accompany the vehicle, item, and/or person insured during any activity permitted.

9-613 PERMIT DISPLAY. Any Permit issued pursuant to this Article shall be present and available for inspection by any law enforcement officer or other authorized agent, as designated by the Director or Trustee, during all activities permitted. Any sticker or decal issued with the Permit shall be displayed on the load and/or vehicle in a manner the Director directs.

9-614 TRAFFIC CONTROL. Applicants and other holders of Permits shall comply in all respects with the latest edition and addenda of the "Manual on Uniform Traffic Control Devices" and any other requirements the Director determines necessary, and shall pay for all costs thereof.

9-615 PENALTY. Any Person who fails to comply with the provisions of this Article, including violation of terms and conditions of a Permit when operating a vehicle pursuant to a Permit, shall be guilty of a Class C misdemeanor and subject to the maximum penalties prescribed by Chapter 21 of the Kansas Statutes Annotated for conviction of a Class C misdemeanor and, in addition, subject to an action brought by the Board or the Director enjoining such violation pursuant to the provisions of K.S.A. 19-101d, and amendments thereto, and/or penalties provided for violations of Article 19 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto. Any Person who violates the provisions of this Article a second time within 12 months of a previous violation shall be guilty of a Class B misdemeanor and subject to the maximum penalties prescribed by Chapter 21 of the Kansas Statutes Annotated for conviction of a Class B misdemeanor. If the Director determines any Person has not complied with the provisions of this Article and the rules and regulations of the Director relating thereto, the Director may revoke any annual Permit, if applicable, and may withdraw the privilege of such Person from receiving

additional Permits in the future. Any Person who fails to comply with the provisions of this Article and is apprehended during an unauthorized activity shall: 1) immediately cease all unauthorized activity; 2) be issued a citation, notice to appear, or warrant by a law enforcement officer; and 3) apply for a Permit, as provided by this Article.

9-616 TYPICAL VEHICLES AND LOADS INCLUDED. Typical vehicles and/or loads covered by this Article include, but are not limited to, the following: Any vehicle, trailer or load with a width greater than 8 1/2 feet; any vehicle, trailer or load with a height greater than 14 feet; and any vehicle, trailer or load with the weight on any wheel exceeding 10,000 pounds. Examples are: hauled construction vehicles; houses being relocated; and house trailers, manufactured homes, or mobile homes. Vehicle/load combinations must meet the requirements of K.A.R. 36-1-37(a), as amended, to be eligible for movement under an annual permit.

9-617 EXEMPTIONS. The following vehicles and/or loads are exempted from the provisions of this Article: Farm tractors, combines, fertilizer dispensing equipment or other farm machinery, or machinery being transported to be used for terracing or soil or water conservation work upon farms; and vehicles owned by counties, cities and other political subdivisions of Kansas, except this Section shall not exempt trucks owned by counties, cities and other political subdivisions specifically designed and equipped and used exclusively for garbage, refuse or sold waste disposal operations from the maximum gross weight limitations contained in the table in K.S.A. 8-1909, and amendments thereto.

9-618 ADDITIONAL POWERS, RULES, AND REGULATIONS. The Director is authorized to establish and enforce such additional rules and regulations necessary for the orderly administration of this Article. Without limiting the scope of the Director's authority in establishing and enforcing rules and regulations to administer this Article, the Director is authorized to adopt rules and regulations generally restricting annual permit holders to the use of County routes and limiting the dimensions, weights, and types of vehicle/load combinations eligible for an annual Permit. The violation of any such rule or regulation shall constitute a violation of this Article.

CHAPTER 10. SOLID WASTE MANAGEMENT

Article 1. General Provisions
Article 2. Definitions
Article 3. Solid Waste Storage
Article 4. Solid Waste Collection and Transportation
Article 5. Solid Waste Processing Facilities
Article 6. Permits
Article 7. Penalties
Article 8. Douglas County Solid Waste Management Plan
Article 9. Refuse Vehicle Covers

ARTICLE 1. GENERAL PROVISIONS

10-101. SCOPE AND CONTENT. These rules and regulations establish minimum standards for the storage, collection, transportation, processing, utilization and final disposal of solid waste by any person, industry, or city in Douglas County. Nothing in these regulations shall interfere with the right of incorporated areas to enact ordinances for control of solid waste management practices. (Res. 76-28, Sec. 1)

ARTICLE 2. DEFINITIONS

10-201. DEFINITIONS. For the purposes of this article the following terms shall be deemed to have the meaning indicated below:

(a) Agricultural Waste -- Solid waste resulting from the production of farm or agricultural products.

(b) Air Pollution -- The presence in the outdoor atmosphere of one or more air contaminates in such quantities and duration as is, or tends significantly to be, injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or property.

(c) Board -- The Board of Commissioners of Douglas County, Kansas.

(d) Bulky Waste -- Large items of solid waste including, but not limited to, appliances, furniture, tires, large auto parts, trees and branches.

(e) Commercial Waste -- All solid waste emanating from establishments engaged in business. This category include, but is not limited to, solid waste originating in stores, markets, office buildings, restaurants, shopping centers and theaters.

(f) Construction and Demolition Waste -- Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures and pavements.

(g) Demolition Landfill -- A landfill used exclusively for the disposal of demolition wastes.

(h) Dump -- A collection or consolidation of solid waste from one or more sources at a central disposal site which has little or no management.

(i) Department -- The Kansas Department of Health and Environment.

(j) Garbage -- The animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, produce and other foods and shall include unclean containers.

(k) Gross Weight -- The empty weight of truck or combination of truck or trucktractor and any type of trailer, plus the maximum weight of cargo which will be transported on or with the same.

(l) Ground Water -- Water in the ground that is in the zone of saturation.

(m) Hazardous Wastes -- Solid and liquid wastes which require special handling and disposal to protect and conserve the environment including pesticides, acids, caustics, pathological wastes, radioactive materials, flammable or explosive material, oils and solvents, and similar chemicals and materials and including containers and materials that have been contaminated with hazardous wastes.

(n) Incineration -- The controlled process of burning solid, liquid and gaseous combustible wastes for the purpose of volume and weight reduction in facilities designed for such use and approved by the Kansas Department of Health and Environment.

(o) Incinerator -- Any device or structure used for the destruction, or volume reduction of garbage, rubbish, or other liquid or solid waste materials by combustion pursuant to disposal or salvaging operations.

(p) Industrial Waste -- All solid waste resulting from manufacturing and industrial processes and liquid waste resulting from manufacturing or industrial processes which is not suitable for discharge to a sanitary sewer or treatment in a community sewage treatment plant.

(q) Mixed Refuse -- A mixture of solid waste containing both putrescible and nonputrescible materials.

(r) Non-Putrescible -- Substances which are not nitrogenous or organic and will not undergo bacterial decomposition or become putrid.

(s) Nuisance -- Anything which (1) is injurious to health, or is offensive to the senses or any obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, or (2) adversely affects an entire community or neighborhood, or any substantial number of persons even though the extent to the annoyance or damage inflicted upon individuals may be unequal, and (3) is caused by or is a result of the handling or disposal of solid wastes.

(t) Processing -- Any technology applied for the purpose of reducing the bulk or hazards or solid waste materials or any technology designed to convert part or all of the solid waste materials for reuse.

(u) Putrescible -- A substance, usually nitrogenous and organic, which is liable to undergo bacterial decomposition and become putrid.

(v) Refuse -- Unwanted or discarded material resulting from commercial, industrial and agricultural operations and from normal community activities. Refuse includes in part the following: garbage; rubbish; ashes and other residue after burning; street refuse; dead animals; animal waste; motor vehicles; agricultural, commercial and industrial waste; construction and demolition waste, and sewage treatment residue; provided, however, that the term "refuse" does not include any uncontaminated earth, stone or minerals.

(w) Rubbish -- Non-putrescible solid waste 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.

(x) Salvaging -- The controlled removal of reusable materials.

(y) Sanitary Landfill -- A method of disposing solid wastes on land without creating nuisances or hazards to the public health or safety by confining refuse to the smallest practical area, compacting it to the smallest practical volume by employing power equipment, and covering it with a layer of compacted earth or other suitable cover material at the conclusion of each day's operation.

(z) Solid Waste Administrator -- Person appointed by the Board of County Commissioners to coordinate the county solid waste program.

(aa) Solid Waste Disposal Area -- Any area used for the disposal of refuse from more than one residential premise, or one or more commercial, industrial, manufacturing, or municipal operation.

(bb) Solid Waste Management System -- The entire process of storage, collection, transportation, processing, and disposal of solid waste by any city, authority, county or any combination thereof, or by any person engaging in such process as a business.

(cc) Solid Waste -- Garbage, refuse, and other discarded material including, but not limited to, solid and liquid waste materials resulting from industrial, commercial, agricultural and domestic activities.

(dd) Solid Waste Processing Facility -- Incinerator, compost plant, transfer station or any other location where solid wastes are consolidated, temporarily stored or salvaged prior to being transported to final disposal site.

(ee) Vector (of Disease) -- An animal or insect which transmits infectious diseases from one person or animal to another by biting the skin or mucous membrane or by depositing infective material on the skin, or on another object.

(ff) Water Pollution -- Contamination, or other alternation of the physical, chemical or biological properties of any waters of the state as will, or is likely to, create a nuisance or render such waters harmful, detrimental, or injurious to public health, safety or welfare, or to the plant, animal, or aquatic life of the state, or unsuitable for other legitimate beneficial uses.

(gg) Waters of the State -- All streams and springs, and all bodies of surface or ground water, whether natural or artificial, within the boundaries of the state.
(Res. 76-28, Sec. 2)

ARTICLE 3. SOLID WASTE STORAGE

10-301. GENERAL. The owner and/or occupant of any dwelling, business establishment or industrial plant shall provide sanitary storage for all solid waste produced on his or her property which meets standards set forth in this chapter or standards in the municipality in which such is located. All solid waste shall be stored so that (1) it does not attract rats, flies, mosquitoes or other vectors; (2) it does not provide shelter or a breeding place for vectors; (3) it does not create a health or safety hazard; (4) it is not unsightly; and (5) the production of offensive odors is minimized. Each premises shall be provided with a sufficient number of acceptable containers to accommodate all solid waste materials other than bulky wastes that accumulate on the premises between scheduled removal of these materials. The containers and the area surrounding them shall be maintained in a clean, neat and sanitary condition at all times. (Res. 76-28, Sec. 3.1)

10-302. SOLID WASTE STORAGE CONTAINERS. Solid waste from residential, commercial and industrial establishments shall be stored in approved solid waste containers. Where the quantity of waste is not large, the approved containers shall be no larger than a 32 gallon galvanized metal or other suitable container which is leakproof, waterproof, vector proof and equipped with a closefitting lid and handles or bails. On commercial and industrial premises where the quantity of waste generated is large and where the use of individual storage containers is impractical, bulk containers may be used for on-premise storage of waste. The bulk container may be equipped with compaction equipment and shall be of such size, design, and capacity as to be compatible with the collection equipment. Containers shall be constructed of durable metal or plastic material; be easily cleaned, and be equipped with tight-fitting lids or doors that can be easily opened and closed. (Res. 76-28, Sec. 3.2)

10-303. SPECIFIC STORAGE STANDARDS FOR GARBAGE AND PUTRESCIBLE WASTE. (a) Garbage and putrescible wastes shall be stored in rigid containers that are durable, rust resistant, nonabsorbent, water tight and rodent proof. The container shall be easily cleanable; fitted with close fitting lids, fly tight covers; and provided with suitable handles or bails to facilitate handling; or

(b) Stored in rigid containers equipped with disposable liners made of reinforced kraft paper or polyethylene or other similar material designed for storage of garbage; or

(c) Stored in nonrigid disposable bags constructed of reinforced kraft paper or polyethylene designed for storage of garbage. The bag shall be provided with a wall-hung or free standing holder which supports and seals the bag; prevents insects, rodents and dogs from access to the contents; and prevents rain and snow from falling into the bag; or

(d) Stored in other types of containers meeting the general requirements of section 10-301 and acceptable to the collection agency. (Res. 76-28, Sec. 3.3)

10-304. MIXED REFUSE. When garbage and putrescible wastes and nonputrescible refuse are stored together, the container shall meet the standards and requirements for garbage containers. On premises where the quantity of refuse generated is large and where the use of individual storage containers is impractical, bulk containers may be used for on-premises storage of refuse. The bulk container may be equipped with compaction equipment and shall be of such size, design, and capacity as to be compatible with the collection equipment. Containers shall be constructed of durable metal or other nonrusting material which does not become brittle in cold weather; can be easily cleaned, and equipped with tight-fitting lids or doors that can be easily closed and opened. (Res. 76-28, Sec. 3.4)

10-305. HAZARDOUS WASTES. Hazardous wastes shall be stored in compliance with Kansas Department of Health and Environment requirements and in a manner which will prevent spillage, leakage of liquids, and/or the concentration or generation of harmful or explosive vapors or offensive odors from the stored materials. Containers for hazardous wastes shall be durable, corrosion resistant, water-tight construction and shall be provided with tight-fitting lids or covers. Containers shall be properly labeled, and kept in safe location protected from tampering by unauthorized persons. Other types of storage containers may be used when written approval of the Kansas Department of Health and Environment has been obtained for use of a container at a specific location for a specific purpose. All piping, valves and other appurtenances associated with the storage and transfer of hazardous wastes shall be constructed of corrosion - resistant materials and shall be maintained in a leak-proof condition. (Res. 76-28, Sec. 3.5)

10-306. NONPUTRESCIBLE BULKY WASTES. Nonputrescible bulky wastes shall be stored for collection in any manner that does not create a health hazard, fire hazard, rodent harborage, or permit any unsightly conditions to develop. (Res. 76-28, Sec. 3.6)

ARTICLE 4. SOLID WASTE COLLECTION AND TRANSPORTATION.

10-401. GENERAL. All solid waste generated within Douglas County shall be removed from the premises on which it was generated as often as necessary

to prevent nuisance conditions from occurring as determined by the Douglas County health department. (Res. 76-28, Sec. 4.1)

10-402. RESIDENTIAL SOLID WASTE COLLECTION. (a) Urban Areas. In the cities of Lawrence, Baldwin, Eudora and Lecompton the collection of residential solid waste shall be left to the discretion of each municipality.

(b) Rural Areas. In the unincorporated areas of the county the individual residents shall be responsible for the handling, disposal and cost of their own solid waste. Each resident shall have the option of transporting his or her solid waste to the county landfill and be responsible for gate fee, or of employing a licensed private solid waste collector of his or her choice. Provided, however, that rubbish may be utilized on private property for control of soil erosion if such use does not constitute a health hazard to the public.
(Res. 76-28, Sec. 4.2)

10-403. COMMERCIAL AND INDUSTRIAL SOLID WASTE COLLECTION. The owner and/or occupant of each commercial or industrial establishment in the county is responsible for the collection of all solid waste generated upon any such premises. All such commercial and industrial solid waste shall be collected and transported in accordance with sections 10-403(a) or (b) whichever is applicable.

(a) Urban Areas -- In the cities of Lawrence, Baldwin, Eudora and Lecompton, the collection and transportation of commercial and industrial solid waste shall be left to the discretion of each municipality.

(b) Rural Areas -- In unincorporated areas of the county each commercial or industrial establishment shall have the option of transporting its own solid waste to the landfill or of employing a licensed private solid waste collectors of its choice.

(c) Frequency of Collection -- Garbage and putrescible materials shall be removed from commercial and industrial properties at least twice each week or as often as necessary to prevent unhealthy or nuisance conditions. Non-putrescible materials shall be removed from commercial and industrial properties at least twice each week or as often as necessary to prevent overfilling of storage facilities or creation of fire hazards.
(Res. 76-28, Secs. 4.3:4.3.3)

10-404. HAZARDOUS WASTES. Hazardous materials shall be removed from commercial and industrial premises as often as is necessary to prevent explosions or fire hazards. Whenever hazardous wastes, in any quantity which could be reasonably expected to be hazardous to public health or the environment, are to be transported off the premises to a disposal site, the producer of such wastes: (1) shall render them harmless, or shall issue a bill of lading to accompany each shipment of wastes; (2) shall provide such information as is necessary to insure safe handling; (3) and shall make prior arrangements with the management of the disposal area, processing facility, or salvage company, to permit the operation of the disposal area to be altered

as is necessary for safe handling. Every producer of hazardous wastes shall provide labels for all containers. (Res. 76-28, Sec. 4.3.3)

10-405. COLLECTION EQUIPMENT. All vehicles and equipment used for collection and transportation of solid waste materials shall be designed, constructed, maintained and operated in a manner that will prevent the escape of any solid, semi-liquid, or liquid wastes from the vehicle or container onto the ground, street, or highway. No solid waste shall be transported in the loading hopper of compaction-type bodies. All vehicles used for the collection and transportation of solid waste in Douglas County shall be maintained in a safe, clean and sanitary condition.

Inspection of Collection Vehicles -- All vehicles used for solid waste collection shall be inspected and approved by a state licensed vehicle inspection agency and the solid waste administrator for compliance with this chapter and state statutes relating to mechanical safety of equipment and safe operation of motor vehicles. All vehicles used by solid waste collection shall be inspected by a state licensed vehicle inspection station and the solid waste administrator every 12 months. Any deficiencies shall be noted at the time of the inspection, and no collector shall be allowed to haul solid waste in that vehicle until such time as the deficiency has been corrected. (Res. 76-28, Sec. 4.4.1)

10-406. SEMIANNUAL REPORTS. All private solid waste collectors shall file a written report with the solid waste administrator on forms prescribed and furnished by him or her on April 10th, and October 10th of each year. Such report shall list the names and addresses of all customers whom the collectors serviced during the six preceding calendar months.

Semiannual reports shall cover only those customers receiving collection on a regular basis in unincorporated areas of Douglas County. No special or one time collection shall be included in the report.

Failure to comply with the provisions hereof shall be sufficient cause for cancellation of the collector's permit. (Res. 76-28, Sec. 4.5)

ARTICLE 5. SOLID WASTE PROCESSING FACILITIES

10-501. GENERAL. Solid wastes shall be disposed of at a processing facility or disposal site approved by solid waste administrator and complying with all requirements of the Kansas Department of Health and Environment and appropriate zoning regulations of Douglas County.

No person shall dispose of any solid waste by depositing or dumping the same in or upon any street, alley, road, highway, park or public grounds, or along the banks, or in any river, stream, drainage canal, drainage ditch, creek, or natural water course, or any other place within Douglas County except at an approved processing facility or disposal site. Provided, however, that upon private rural property rubbish may be utilized for control of soil erosion if such

use does not constitute a public health hazard. All commercial private solid waste collectors must be able to prove, through dumping receipts, continuous use of such processing facility or disposal site. (Res. 76-28, Sec. 5.1)

10-502. INCINERATORS. Combustible solid waste may be burned in incinerators that conform with the provisions of the air quality control act K.S.A. 1975 Supp. 65-3001 through 65-3020 and regulations adopted thereunder, with all local zoning regulations, and which are approved by the Kansas Department of Health and Environment. (Res. 76-28, Sec. 5.2.1)

10-503. TRANSFER STATIONS AND WASTE SHREDDING PLANTS. Solid wastes may be shredded, separated, and consolidated at shredding or separating plants or transfer stations which are approved by the Kansas Department of Health and Environment and meet appropriate zoning regulations of Douglas County. (Res. 76-28, Sec. 5.2.2)

10-504. SOLID WASTE DISPOSAL FACILITIES. All nonhazardous solid wastes and residues from solid waste processing operations shall be disposed of in registered sanitary landfills located on sites approved by the Kansas Department of Health and Environment and meeting appropriate zoning regulations of Douglas County.

No materials of a hazardous nature, including but not limited to, sewage solids, oil sludge, dye concentrates, waste chemicals, pathological and biological wastes, radioactive materials or explosives, shall be disposed of in a sanitary landfill until the locations, method of disposal, and site factors have been evaluated by the department and the specific arrangements for handling the materials have been approved.

Nonputrescible rubble and demolition waste materials such as brick, mortar, broken concrete, rock, dirt, and similar materials produced in connection with demolition of buildings, streets and other structures may be disposed of in approved demolition landfills holding valid permits from the department. (Res. 76-28, Sec. 5.3)

ARTICLE 6. PERMITS.

10-601. GENERAL. No person, excepting municipalities and the county, shall engage in the business of collecting, transporting, processing or disposing of solid waste within Douglas County without first obtaining a permit appropriate for this particular operation. Provided, however, that these provisions shall not be deemed to apply to the employees of the holder of any such permit. (Res. 76-28, Sec. 6.1)

10-602. COLLECTION AND TRANSPORTATION VEHICLE PERMITS. Any person desiring to collect and/or transport solid waste in Douglas County shall obtain an annual permit from the solid waste administrator for each vehicle to

be used for said collection and/or transportation of solid waste. Provided, however, that this requirement shall not be construed to apply to vehicles operated by Douglas County or any municipality within the county. Provided further, however, that this requirement shall not be construed to apply to licensed persons, firms or corporations engaged in the occupations known as tree trimmers or surgeons, or to persons transporting their own solid waste to a processing or disposal site. However, such persons who are not required to obtain a permit hereunder shall comply with all other regulations of the county or appropriate municipality pertaining to the transportation of solid waste. (Res. 76-28, Sec. 6.2)

10-603. INSPECTION. Prior to the issuance of any permit, all vehicles shall be inspected in accordance with the provisions of section 10-405. (Res. 76-28, Sec. 6.2.1)

10-604. INSURANCE. No permit shall be issued pursuant to section 10-602 until and unless the applicant, in addition to all the other requirements set forth, shall file and maintain with the solid waste administrator evidence of a satisfactory public liability insurance policy, covering all operation of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, as follows:

Vehicular liability coverage in the amount of not less than $250,000 for each person and not less than $500,000 for each occurrence of bodily injury liability and not less than $100,000 for each occurrence of property damage liability.

Should any such policy be cancelled or reduced, the solid waste administrator shall be notified of such cancellation or reduction by the insurance carrier in writing not less than 30 days prior to the effective date of such cancellation or reduction and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice. (Res. 76-28, Sec. 6.2.2; Res. 78-8)

10-605. APPLICATION FOR PERMIT. Each person required to have a permit to collect and/or transport solid waste in Douglas County shall file with the solid waste administrator an application for such permit in such form as shall be prescribed. (Res. 76-28, Sec. 6.2.3)

10-606. TERM OF PERMIT. The term of all permits to be issued hereunder shall be for a period of one year commencing on January 1st and expiring on December 31st of the same year. (Res. 76-28, Sec. 6.2.4)

10-607. PERMIT FEES. The following fees shall be paid in advance by the applicant for a permit to collect and/or transport solid waste within the county:

Each Vehicle	Fee
For a gross weight of 6,000 lbs. or less	$ 15

For a gross weight of 6,000 lbs. and not more than 12,000 lbs.	$30
For a gross weight of 12,000 lbs. and not more than 20,000 lbs.	$50
For a gross weight of 20,000 lbs. and not more than 30,000 lbs.	$70
For a gross weight of 30,000 lbs. and not more than 42,000 lbs.	$90
For a gross weight of 42,000 lbs. or more.	$125

(Res. 76-28, Sec. 6.2.5)

10-608. NEW APPLICATIONS AND REFUNDS. New applicants shall pay a prorated fee based on the number of months remaining in the permit year and the above fee schedules. Once a fee has been paid, no refunds shall be made. (Res. 76-28, Sec. 6.2.6)

10-609. DISPOSITION OF PERMIT FEE REVENUE. All revenue received from permit fees shall be credited to a fund for solid waste administration and enforcement of these regulations. (Res. 76-28, Sec. 6.2.7)

10-610. VEHICLE PERMIT NUMBERS. All motor vehicles operating under the permit required by this chapter shall display the county permit number so issued on each side of the vehicle in numerals two inches in height, in such a manner that the number shall be clearly visible at all times. (Res. 76-28, Sec. 6.2.8)

10-611. TRANSFERRING OF PERMIT. No permit issued hereunder shall be assigned or transferred by persons holding same as permit holder. Such permit holder may, however, change the registration of the vehicle operated under his or her permit upon the following conditions:

(a) Vehicle to be newly registered shall be inspected by a state licensed vehicle inspection station and approved by the solid waste administrator in the manner hereinbefore provided.

(b) The registration of the vehicle theretofore operated under such permit shall be surrendered.

(c) The sum of $10 shall be paid by the permit holder to Douglas County as a fee for the transfer of registration of such vehicle.

(d) If the vehicle to be registered is of greater gross weight than the vehicle originally registered, the permit holder shall pay an additional sum to equal the difference between the original and new fees.

(Res. 76-28, Sec. 6.2.9:6.2.9.4)

10-612. REVOCATION OF PERMIT; RIGHT OF APPEAL. In the event any permit holder shall fail to comply with written notice of a violation of any of the provisions of this article, the solid waste administrator may, upon two calendar days written notice to such permit holder, suspend or cancel such permit to collect and/or transport solid waste within the county and so notify the Board of County Commissioners of such action. The permit holder shall cease to collect and/or transport solid waste in the county upon receipt of such notice. Any permit holder feeling aggrieved at such revocation may appeal, within five

working days, the action of the solid waste administrator to the board. In no event will any portion of the permit fee be refunded to the holder upon revocation of such permit. (Res. 76-28, Sec. 6.2.10)

10-613. SANITARY LANDFILL PERMIT. No sanitary landfill may be established or operated in Douglas County unless that landfill has been designed and constructed in accordance with the Kansas Department of Health and Environment's solid waste guidelines and regulations and unless a valid permit has been issued by the department, and appropriate zoning regulations of Douglas County observed. (Res. 76-28, Sec. 6.3.1)

10-614. DEMOLITION LANDFILL PERMIT. Any person may establish and operate a private landfill for the disposal of construction and demolition wastes provided he or she shall first apply for and obtain a permit from the Kansas Department of Health and Environment to operate the sites as a landfill for construction and demolition wastes and may do so as long as the permit shall remain in force and the site is operated in accordance with the provisions of this article and the specific requirements of the permit. (Res. 76-28, Sec. 6.3.2)

ARTICLE 7. PENALTIES

10-701. VIOLATIONS. Any person violating any of the provisions of sections 10-101:614 or any lawful rules or regulations promulgated pursuant thereto, upon conviction, shall be punished by a fine of not less than $5 not more than $500; provided, that each day's violation thereof shall constitute a separate offense for the purpose hereof. (Res. 76-28, Sec. 7)

ARTICLE 8. DOUGLAS COUNTY SOLID WASTE MANAGEMENT PLAN

10-801. ADOPTION. The Douglas County Solid Waste Management Plan is hereby adopted for implementation according to law in Douglas County after such plan is duly approved by the Kansas Department of Health, Division of Environmental Health. (Res. 72-24)

ARTICLE 9. REFUSE VEHICLE COVERS

10-901. REFUSE VEHICLE COVERS; DEFINITIONS. The following words and phrases when used in this article shall have the meanings respectively ascribed to them in this section.

(a) Person means individual, partnership, firm, trust, company, association, corporation, institution, or political subdivision.

(b) Solid waste means garbage, refuse, trash, debris or other discarded materials including, but not limited to, solid, semisolid, sludges, liquid and

contained gaseous waste materials resulting from industrial, commercial (including construction activities), agricultural and domestic activities. Such term shall not include agricultural products of any kind or materials used in the construction, maintenance or improvements of highways and roads.

(c) Vehicle means every device in, upon or which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
(Res. 86-9-10, Sec. 1)

10-902. TRANSPORTATION OF SOLID WASTE WITHOUT COVER PROHIBITED. It shall be unlawful for any person to operate or cause to be operated a vehicle containing solid waste unless the solid waste contained in such vehicle is fully covered by a metal, wood, canvas, plastic or other cover material adequate to secure such solid waste to the vehicle to prevent spilling, leaking, blowing or other loss of the solid waste from the vehicle. (Res. 86-9-10, Sec. 2)

10-903. SAME; PENALTY. Any person convicted of violating section 10-902 shall be fined as follows:

(a) Upon a first conviction, the fine shall not be less than $25 nor more than $500; or

(b) Upon a second or subsequent conviction, the fine shall not be less than $50 nor more than $500.
(Res. 86-9-10, Sec. 3)

10-904. SAME; APPLICATION TO UNINCORPORATED AREAS AND CERTAIN CITIES. Article 10 shall be effective within the unincorporated areas of the county. The governing body of any city in Douglas County may consent to the operation of this article within the corporate limits of such city by adoption of a resolution. (Res. 86-9-10, Sec. 4)

SUBDIVISION REGULATIONS
for
Lawrence
and
the Unincorporated Areas
of Douglas County, KS

Regulations Governing Land Divisions in the City of Lawrence and the Unincorporated Areas of Douglas County, Kansas

Chapter 20, Article 8 of the Lawrence Development Code

AND

Chapter 11, Article 1 of the Douglas County Code

December 19, 2006 Edition

Amended: 09/11/07; 12/04/07; 03/25/08; 09/10/08;

January 6, 2009; December 8, 2010; January 10, 2012

Approval and Amendment Dates:

Original December 19, 2006 Edition
Ordinance 8064/Resolution 06-41, published December 31, 2006
Approved by Lawrence City Commission on December 19, 2006
Approved by the Board of Douglas County Commissioners on December 20, 2006

Amended September 11, 2007:
Joint Ordinance/Resolution No. 8193, published November 9, 2007
Approved by the Board of Douglas County Commissioners on September 10, 2007
Approved by the Lawrence City Commission on September 11, 2007

Amended December 4, 2007:
Joint Ordinance No. 8230/Resolution 08-03, published January 28, 2008
Approved by the Board of Douglas County Commissioners on November 14, 2007
Approved by the Lawrence City Commission on November 20, 2007 and December 4, 2007

Amended March 25, 2008:
Joint Ordinance No. 8255/Resolution 08-14, published April 25, 2008
Approved by the Board of Douglas County Commissioners on November 14, 2007
Approved by the Lawrence City Commission on March 25, 2008.

Amended September 10, 2008:
Joint Ordinance No. 8301/Resolution 08-41, published September 27, 2008
Approved by the Board of Douglas County Commissioners on September 3, 2008
Approved by the Lawrence City Commission on September 9, 2008.

Amended January 6, 2009:
Joint Ordinance No. 8364/Resolution 09-06, published February 28, 2009
Approved by the Board of Douglas County Commissioners on February 11, 2009
Approved by the Lawrence City Commission on February 10, 2009.

Amended December 8, 2010
Joint Ordinance No. 8317/Resolution 10-30, published December 28, 2010
Approved by the Board of Douglas County Commissioners on December 8, 2010.
Approved by the Lawrence City Commission on December 7, 2010.

Amended January 10, 2012
Joint Ordinance No. 8690/Resolution 12-01, published January 16, 2012
Approved by the Board of Douglas County Commissioners on January 4, 2012.
Approved by the Lawrence City Commission on January 3, 2012.

Official Copy as Adopted by Ordinance No. 8690 and Resolution 12-01.

_____	January 16, 2012
/s/ Jonathan Douglass, City Clerk	date of publication
_____	January 16, 2012
/s/ Jameson D. Shew, County Clerk	date of publication

Chapter 11. Subdivision Design and Improvements

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11-101. General

(a) Purpose and Intent

(1) The purpose of the Subdivision Regulations of this Article is to ensure that the division of land, which, in many instances, is an initial step in Urbanization, will serve the public interest and general welfare. Since the allocation and arrangement of Parcels of land for both private uses and public uses helps to influence the health, safety, economy, livability, and amenities of an area, these regulations are intended to:

(i) Provide for the harmonious and orderly development of land within the City and the Unincorporated Area of Douglas County by making provisions for adequate open space, continuity of the transportation network, recreation areas, drainage, utilities and related Easements, light and air, and other public needs;

(ii) Contribute to conditions conducive to health, safety, aesthetics, convenience, prosperity, and efficiency; and

(iii) Provide for the conservation and protection of human and natural resources.

(2) The Subdivision Regulations of this Article are designed, intended and should be administered to:

(i) Ensure that in the City and in the Unincorporated Area of Douglas County is in accordance with the Comprehensive Plan; any adopted watershed/sub-basin plans, sector or Neighborhood Plans covering the subject Subdivision; the applicable Zoning Regulations enacted to implement those plans; and the Lawrence-Douglas County MPO Transportation Plan;

(ii) Provide for the conservation of existing neighborhoods and facilitate the development of new neighborhoods;

(iii) Prevent the development of substandard Subdivisions and blighted areas that will be a detriment to the community;

(iv) Coordinate the development of each Parcel of land with the existing community and facilitate the proper of adjoining land;

(v) Provide adequate and accurate records of all land Divisions;

(vi) Ensure that the cost of Improvements, which benefit primarily the Tract of land being developed, be borne primarily by the Owners or Developers of the subject Tract, and that the cost of Improvements that provide benefits to the subject Tract and the community as a whole be shared by the Developer and the community;

(vii) Ensure that Subdivisions are designed and developed in a manner that is consistent with all applicable flood protection and storm

water management regulations and other applicable land use and development regulations of Lawrence and Douglas County;

(viii) Provide for the efficient arrangement and orderly location of Street/Roads;

(ix) Encourage the reduction of vehicular congestion and support multi-modal transportation design standards in a manner that supports multi-modal transportation;

(x) Provide for the reservation or Dedication of lands for open space and other community facilities;

(xi) Require the provisions of off-site and On-Site Public Improvements that are necessary to serve land being developed;

(xii) Provide for any other services, facilities and Improvements deemed necessary to serve land being developed; and

(xiii) Establish Building Envelope lines.

(b) Jurisdiction

(1) The Subdivision Regulations of this Article shall apply to all lands within the City of Lawrence and the Unincorporated Area of Douglas County.

(2) In some cases, different standards are established for lands within the City, the Urban Growth Areas and the Rural Area. Unless otherwise expressly stated, however, all regulations and standards of this Article shall apply with equal force to land located in incorporated and Unincorporated Areas.

(c) Applicability

(1) Unless expressly addressed as an exemption in Section 11-101(d) below, no Lot, Tract or Parcel of land shall be divided into two or more parts for the purpose of sale, transfer or Development, whether immediate or future, except through the procedures and in accordance with the standards set forth in this Article.

(2) For property within the incorporated city limits of Lawrence, no building permit shall be issued unless the property is Platted as a Lot of Record.

(3) If Subdivision or Platting of a property is required within the City of Lawrence in order to receive a building permit prior to development, the Subdivider shall preliminarily Plat all of their contiguously owned lands that are not Platted.

(d) Exemptions

(1) The purpose of this sub-section is to list specifically those divisions and transfers of land that are entirely exempt from regulation under this Article. This sub-section shall be strictly construed, so that any transaction failing in any way to meet one, or more, of the requirements for exemption shall be subject to the full effect of this Article.

(2) The following divisions and transfers of land are exempt from the requirement that divisions occur only in accordance with the standards and procedures set forth in this Article and may be accomplished by deed or other instrument of transfer without any reference to this Article:

(i) A division created exclusively for Agricultural Purposes, when that division does not involve the creation of any new Public Streets, public Roads, or public Easements or residential development;

(ii) A division occurring through the sale or transfer of any Lot that has been legally Platted in accordance with Subdivision Regulations in effect at the time of the Platting;

(iii) A division used exclusively for cemetery purposes and Accessory uses associated therewith;

(iv) A division occurring through the transfer of land for use as a Right-of-Way for widening a Road or railroad or as an Easement for public purposes or public utilities, when no new Street/Road or Easement of Access is involved;

(v) A division of unplatted land in the Unincorporated Area of the County [commonly utilized with Section 11-101(f)] for the purpose of combination with an existing Parcel so long as the remaining portion of the unplatted land retains the minimum dimensional requirements for a Certificate of Survey;

(vi) A division of 5 acres or greater within the Unincorporated Area of the County that occurred on or before June 1, 2005 and that was not lawfully created through the Exemptions section of the Subdivision Regulations in effect at the time of the division, provided said division meets the minimum Frontage requirements in the County's Access Management Standards or provided said division has a minimum Frontage of 250' on a Local or Minor Collector classified Road;

(vii) A correction of a description in a prior conveyance provided that the correcting instrument (commonly called a Correction Survey used to make a Boundary Line Adjustment between two existing Parcels) contains a reference to the original instrument of conveyance by date, book and page and other description. Within a reasonable time after receiving a correction instrument, the Register of Deeds shall deliver a copy of the correction instrument to the Planning Director; or

(viii) Within the City of Lawrence, the division of land to allow for the sale of individual attached or detached residential Dwellings in a townhouse development; provided that, the following conditions are met:

a. The land has been developed with and is occupied by an attached or detached Dwelling;

b. The land being divided or transferred under this exemption is covered by a recorded declaration of covenants subjecting the land and Improvements thereon to procedures and conditions regulating the manner in which Improvements may be expanded, reconstructed and maintained;

c. Prior to recording of the first division for a townhouse development, a development plan, or similar document, shall be recorded at the Register of Deeds showing at a minimum:

1. The entire townhouse development,
2. A legal description of the boundaries of the entire development,
3. Any Tracts for common Ownership, maintenance or use, ponds or drainage areas, and
4. The intended Tracts, Parcels or general building locations (along with building numbers or proposed addresses) for division into townhouse units.

d. If the declaration allows additional land to be submitted to the townhouse development, the location and description of the additional land shall also be shown.

(ix) Within the Unincorporated Area of the County, a division (commonly called a Homestead Exemption Survey) created to divide off a residential building that existed On-Site on December 31, 2006, provided that the following conditions are met:

a. The minimum size of the new Parcel upon which the residential building is located meets both the County's Sanitary Code requirements for Access to a Potable Water supply and the Height, Area and Bulk Requirements in of the Douglas County Zoning Regulations;

b. The On-Site Sewage Management System is located entirely on the new Parcel upon which the residential building it serves is located and is in compliance with the County's Sanitary Code requirements; and,

c. The new Parcel on which the residential building is located meets the minimum Frontage and entrance spacing requirements established in the County's Access Management Standards.

Such legally created Parcel of land on which the residential building is located shall not be subject to further review under this Article, unless or until this Parcel is further divided. The remaining Parcel is not eligible for a building permit until Subdivided in accordance with this Article.

(e) Vested Rights

(1) A division of land created in conformance with this Article, or created in conformance with the Exemption section of the previously adopted Subdivision Regulations that were in effect prior to December 20, 2006, and said division of land was filed and recorded as a Plat of survey, deed, or affidavit of equitable interest identifying the division as a separate Tract of real estate at the Register of Deeds office:

(i) On or before June 1, 2005; or

(ii) After June 1, 2005, and as of December 31, 2006, provided a division of land made after June 1, 2005, met the 10 acre requirement and other requirements for a residential building permit pursuant to Douglas County Resolution No. 05-6-5 and resolutions extending such Resolution, shall remain lawfully existing, retaining established rights to the issuance of a building permit, subject to additional regulatory authority of the Governing Body.

Such legally created Parcel shall not be subject to further review under this Article; unless or until it is further divided.

(2) Lot of Record or Non-Conforming Lots/Parcels

(i) In the City of Lawrence, a Lot of Record or Parcel created before the Effective Date of this Article that has been maintained in individual Ownership, may be used for residential purposes for a detached Dwelling or for another use that is allowed in the UR (Urban Reserve) District without further review under this Article, until such Lot of Record or Parcel is further Subdivided.

(ii) In the City of Lawrence, Nonconforming Lots/Parcels that meet the requirements of Section 20-1504 of the Land Development Code may be used in accordance with Article 15 without further review under this Article, until such Lot/Parcel is further Subdivided.

(iii) In the City of Lawrence, properties which include partial Lot descriptions or multiple Lot descriptions which were created prior to December 19, 2006, are not subject to review under this Article if the property meets the standards of either the zoning district that it was governed by when the property was created or the current zoning district in which it is located unless the development pattern of the property is altered.

(iv) For property in the Unincorporated Areas of Douglas County, a Lot of Record or a Parcel lawfully created within the A (Agricultural) District, A-1 (Suburban-Home Residential) District, or R-1 (Single-Family Residential) District in the Unincorporated Area of Douglas County on or before December 31, 2006, that has been maintained in individual Ownership, may be used for residential purposes for a single-family home or for another use allowed within the District the property is located in, without further review under this Article, until such Lot of Record or Parcel is further Subdivided.

(3) For property in the Unincorporated Areas of Douglas County, a Parcel created to divide off an existing residential building and grounds from a larger Parcel pursuant to Section 11-101(d)(2)(ix) through the recording of a Homestead Exemption Survey, when the principal building on the Parcel is for single-family residential purposes, shall have no further review under this Article until such Parcel is further Subdivided only when:

(i) The residential building existed on site on or before December 31, 2006;

(ii) It is served by a Potable Water source located on the Parcel that includes the existing residential building improvement;

(iii) The Parcel conforms with the County's Sanitary Code; and,

(iv) That Parcel is zoned either A (Agricultural), A-1 (Suburban Home Residential), VC (Valley Channel), or R-1 (Single-Family Residential).

Upon the recording of a Final Plat, development rights in land covered by that Plat shall vest in accordance with K.S.A. 12-764. This vesting shall be effective only so long as the same general category of residential uses is continued; any significant change of use shall subject the property to additional review and the applicability of additional regulations, which may affect some rights that are vested as to the particular use and the particular pattern of development. The development rights for a single-family residential Subdivision shall expire in accordance with K.S.A. 12-764.

(f) Combination of Unplatted Lands in Unincorporated Douglas County

(1) A vested Parcel may be combined with another unplatted Parcel and retain the right to a building permit for one principal building for residential purposes on the newly created Land Combination provided:

(i) A survey of the Land Combination is filed at the Register of Deeds; and

(ii) All land covered by the survey is owned by the same person or persons; and

(iii) The Owner requests in writing that the County Clerk combines the constituent Parcels for tax parcel purposes.

(2) A Land Combination does not increase the number of building permits a Parcel of land has a vested right to receive.

11-102. General Review and Approval Procedures

(a) Authority to File Applications

Unless otherwise expressly stated, applications for review and approval under this Article may be initiated by all the Owners of the property that is the subject of the application; or the Owners' authorized Agent.

(b) Form of Application

(1) Applications required under these Subdivision Regulations shall be submitted in a form and in the numbers of copies required by the Planning Director. All application materials must be submitted in both print and electronic format.

(2) The Planning Director shall develop checklists of application submittal requirements and make those checklists available to the public. The application also shall contain all materials required by:

(i) Section 11-107(d)&(e) for Certificate of Survey applications;

(ii) Section 11-108(e) for Minor Subdivision/Replat applications;

(iii) Section 11-109(f) for Preliminary Plat applications; or

(iv) Section 11-109(l) for Final Plat applications, whichever is applicable.

(c) Pre-application Meetings

All applicants submitting applications for approvals must attend a pre-application meeting with Planning Staff. Pre-application meetings shall be scheduled by the applicant to allow adequate time to review and respond to issues raised at the pre-application meeting. The meeting shall occur at least 7 working days before submitting an application.

(d) Notices

The notice provisions of this section apply to the Major Subdivision process except as otherwise expressly stated.

(1) Content

(i) Newspaper and Mailed Notice

All newspaper and Mailed notice shall:

a. Indicate the date, time and place of the public hearing or date of action that is the subject of the notice;

b. Describe the property involved in the application by Street or Road address or by general description;

c. Describe the nature, scope and purpose of the application or proposal; and

d. Indicate where additional information on the matter can be obtained.

(2) Newspaper Notice

When the provisions of these Subdivision Regulations require that “Newspaper Notice” be provided, the Planning Director is responsible for ensuring notice is published in the official newspaper of the City of Lawrence or Douglas County. The notices shall appear in the newspaper at least 20 days before the date of the public hearing.

(3) Mailed Notice

When the provisions of these Subdivision Regulations require that "Mailed Notice" be provided:

(i) Owner Notice; Radius

The official responsible for accepting the application shall mail notice to the record Owner of the subject property and all Owners of property located within 200 feet of the subject property if in the City of Lawrence and within 1,000 feet of the subject property if located in the Unincorporated Areas of Douglas County. If the subject property Abuts a City limits, the area of notification shall be extended to at least 200 feet inside the City or 1,000 feet into the Unincorporated Area.

(ii) Notice to Registered Neighborhood Associations

The official responsible for accepting the application shall mail or e-mail notice to any Registered Neighborhood Associations whose boundaries include or are contiguous to the subject property.

(iii) Ownership Information

The applicant is responsible for providing certified Ownership information. Current Ownership information shall be obtained from the Douglas County Clerk. Ownership information will be considered current if, at the time of submission, it is no more than 30 days old.

(iv) Timing of Notice

Required notices shall be deposited in the U.S. 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 properly addressed and deposited in the mail, failure of a party to receive such notice will not be grounds to invalidate any action taken.

(4) Administrative Processes

(i) Minor Subdivision/Replats and Final Plats

Subdivision or consolidation of property through the Minor Subdivision/Replat and Final Plat processes are administrative processes and do not require individual newspaper or mailed notice.

(ii) Certificates of Survey

Division of property through the Certificate of Survey process is an administrative process.

a. Mailed notice requirements for divisions within the Urban Growth Areas are provided in Section 11-104.

b. Mailed notice is not required for divisions located outside of the Urban Growth Areas.

c. The notice requirements for appeals to Certificates of Survey determinations are provided in Section 11-107(i).

(e) Application Processing Cycles

Officials responsible for accepting applications may, after consulting with review and decision-making bodies, publish processing cycles for applications. Processing cycles may establish:

(1) The official date upon which a completed application was submitted;

(2) Deadlines before consideration;

(3) Dates of regular meetings;

(4) The scheduling of staff reviews and staff reports on complete applications; and,

(5) Any required time frames for action by review and decision-making bodies.

(f) Application Review and Recording Fees

Applications shall be accompanied by the review has been established by the applicable Governing Body. Fees are not required for applications initiated by review or decision-making bodies. Application review fees are nonrefundable. Additional recording fees are required prior to recording approved documents at the Register of Deeds and will be collected at that time.

(g) Application Completeness, Accuracy and Sufficiency

(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 information; and, is accompanied by the required fees.

(2) Within 5 working days of application filing, the Planning Director shall determine whether the application includes all information required by these Subdivision Regulations. If an application does not include all of the required information, it will be deemed incomplete. If an application includes all of the required information, it will be deemed complete. Written notice of the incompleteness and the specific information lacking shall be provided to the applicant or the applicant's Agent.

(3) No processing of incomplete applications shall occur and incomplete applications will be removed from the processing cycle. When the deficiencies are corrected, the application will be placed in the next processing cycle. If the deficiencies are not corrected by the applicant within 60 days, the application will be considered withdrawn. No refund of a review fee shall be made for applications that are withdrawn.

(4) Applications deemed complete will be considered to be in the processing cycle and will be reviewed by Planning Staff and other review and decision-making bodies in accordance with the procedures of these Subdivision Regulations.

(h) Applications Containing Technical Deficiencies

(1) The Planning Director may require that applications be revised before being placed on the agenda of the Planning Commission or Governing Body, if the Planning Director determines that:

(i) The application contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of compliance with this Article;

(ii) The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of compliance with this Article;

(iii) The application cannot be approved without a Variance or some other change or modification that the decision-making body for that application does not have the authority to grant or approve. This determination shall be made in written form to the applicant. If the determination is based on this sub-section (iii), it shall include an explanation of what Variance, change or modification would be required to allow approval of the application.

(2) Applications that contain the aforementioned types of inaccuracies or that substantially fail to comply with this Article shall be revised before they will be placed on an agenda of the Planning Commission or Governing Body.

(3) Action or inaction by the Planning Director under this section may be appealed to the appropriate Governing Body in accordance with Section 11-107(h) or Section 11-113(f), whichever is applicable.

(i) Applicability

Unless expressly exempted under Section 11-101(d), no Subdivision or Residential Development Parcel may be created and no Certificate of Survey may be recorded with the Register of Deeds until the division has been approved in accordance with the applicable Review and Approval Procedures of this Article.

11-103. Property Divisions in Service Area 1, Lawrence Urban Growth Area

(a) Prerequisite to Development

No division of land in Service Area 1 of the Lawrence Urban Growth Area shall be approved until the land proposed for division has been annexed into the City.

(b) Procedure Required

Upon annexation of land originally located in Service Area 1 into the City of Lawrence, a proposed division of Platted or unplatted land shall be processed and considered in accordance with the Minor Subdivision/Replat or Major Subdivision provisions of this Article, whichever is applicable.

11-104. Cluster Developments in the Urban Growth Areas

(a) Purpose

The purpose of this Section is to allow an administrative approval procedure for divisions of land to accommodate rural residential development on land Parcels that are located within the Urban Growth Areas of cities in Douglas County. The procedure contemplates that forethought and design considerations will be employed to identify the future Urban Density residential development of the land Parcel prior to any division occurring, and that based on these considerations, 3 acre or larger Residential Development Parcels may be created when they allow for future divisions through a 'Build Out Plan' of the Residential Development Parcels, at some future time, to create Urban Blocks and connective Street networks in accordance with the Design Standards in the Subdivision Regulations for the city associated with the Urban Growth Area. These regulations will result in Residential Development Parcels that retain their rural character for the immediate future, but will also allow for more efficient transition to Urban Density development as subsequent circumstances dictate. The clustering of development Parcels within the Urban Growth Areas on Parcels that contain at least 20 acres is intended to mitigate the strain on Infrastructure and public services and to anticipate future development patterns for the remainder of the property after annexation.

(b) Applicability

(1) The division of a Parcel of land that contains at least 20 acres in area, and that is located in Service Areas 2-4, of Lawrence's Urban Growth Area or in another City's Urban Growth Area, may be approved according to the Cluster Development provisions of this Section.

(i) For purposes of determining compliance with the 20 acre minimum Parcel area, an entire half of a quarter-quarter section (e.g. West ½ of the Southeast ¼ of the Southeast ¼) shall be deemed to be a 20 acre Parcel.

(ii) In calculating the size of a Parcel, the Parcel size shall be deemed to include ½ of the adjoining Road Right(s)-of-Way if this inclusion is necessary for the Parcel to conform to the applicable minimum Parcel size.

(c) Immediate Development Acreage and Future Development Acreage

Lands divided pursuant to this Section shall be developed as a Cluster Development and shall be identified as either the Immediate Development Area or the Future Development Area in accordance with the following requirements.

(1) Immediate Development Area.

The Immediate Development Area of a Cluster Development shall not exceed 60% of the total acreage of the proposed development included in the Certificate of Survey. The Immediate Development Area may further be divided into Residential Development Parcels (RDPs) subject to the requirements of this Section. Residential Development Parcels shall be located only in the Immediate Development Area.

Individual Residential Development Parcels shall only take Access from a Cross Access Easement and shall be laid out in a manner that minimizes adverse impacts to the Future Development Area. Development of the Immediate Development Area, to the greatest extent practicable, shall conform to the following requirements:

(i) Minimum Parcel Acreage and dimensional standards

Residential Development Parcels shall be laid-out and designed to comply with all applicable zoning district regulations listed in the County Zoning Regulations. The minimum Residential Development Parcel size shall be 3 acres.

(ii) Location of Residential Development Parcels

Within the Cluster Development, each Residential Development Parcel shall be designed and developed in accordance with the requirements in this sub-section:

a. Clustered to take Access from Cross Access Easements to minimize Access points to the adjacent public Right(s)-of-Way.

1. Cross Access Easements shall be established by a separate legal instrument, acceptable to the legal counsel of the nearby city and the Easement shall be filed recorded at the Register of Deeds as a Restrictive Covenant of the Cluster Development that prohibits development of the Future Development Area until, upon annexation, the Cross Access Easement is dedicated to the annexing city as public Road Right-of-Way.

2. The Cross Access Easements shall be written so that, upon annexation by a city, the Cross Access Easement shall be in acceptable form and dimensions to be dedicated to the City as public Road Right(s)-of-Way, to allow for construction of Streets within the Cross Access Easements to meet the then current city Street standards.

b. Planned and laid out to allow for future Subdivision of the Residential Development Parcel s into Platted Lots at an Urban Density commensurate with the zoning and Subdivision Regulations of the annexing city.

(iii) Utility – Water

All Residential Development Parcels shall obtain Publicly Treated Water delivered through a water meter.

(iv) Utility – Wastewater

All Residential Development Parcels shall have an On-Site Sewage Management System approved by the Director of Lawrence-Douglas County Health Department or a connection to a wastewater disposal system approved by the Kansas Department of Health and Environment.

(v) County Health Code Restriction in Floodplain

On-Site Sewage Management Systems shall be located outside the FEMA designated regulatory Floodplain.

(vi) Building Envelopes

The buildable area for each Residential Development Parcel within the Immediate Development Area shall be defined by Building Envelopes and structure placement is governed by the setbacks established in the Douglas County Zoning Regulations.

a. Residential Development Parcels shall be planned and arranged to allow for the future Subdivision of these Parcels into Urban Streets and Blocks that conform to the development regulations of the city associated with the Urban Growth Area.

b. The buildable area for each Residential Development Parcel shall be defined by Building Envelopes which accommodate the future Block layout and exclude lands which have been identified for protection as Environmentally Sensitive Lands.

c. The Building Envelopes for each RDP shall be shown on the Certificate of Survey.

(vii) Access

a. When the Cluster Development is located within the Lawrence Urban Growth Area or in the Urban Growth Area of another city, the development shall have direct Access to a Road that meets or exceeds the County's Rock Road Standard.

b. When established as part of a Cluster Development in Lawrence's UGA, the service drive constructed within the Cross Access Easement shall be constructed, at a minimum, to meet the County's Rock Road Standard, and the minimum width of traveled-way plus shoulder shall be 20 feet.

1. As an alternative, when a Cross Access Easement provides Access to only one or two RDPs in the Immediate Development Area, a waiver from this construction standard may be permitted if approved by the County Engineer and when provisions for future improvement to Road standards are included in the Restrictive Covenants.

c. Only one Access point shall be allowed for the entire development unless a separate Access point is necessary to allow Access to prevent intrusion or damage to the Environmentally Sensitive Lands being conserved and protected.

(viii) Steep Slopes

The Building Envelopes of Residential Development Parcels shall not contain any slopes greater than 15%.

(ix) Minimum Road Right(s)-of-Way

a. If the Cluster Development is located adjacent to public Road Right-of-Way that does not meet the minimum width standards of Section 11-110(e)(5), approval of the application for division pursuant to this Section 11-104 shall be subject to a condition that the Subdivider dedicate, by separate instrument to the County, ½ the additional land necessary to bring the Road(s) adjoining the Cluster Development to the required Right-of-Way standard based on the Road's classification established in the County's Access Management Standards.

b. All necessary Dedications shall be by separate instrument, satisfactory to the County Counselor, and recorded with the Register of Deeds.

c. No final action may be taken on the Certificate of Survey until this additional Road Right-of-Way has been dedicated.

(x) Minimum Frontage and Entrance Spacing Requirements

a. The Cluster Development must meet the minimum Frontage and Entrance Spacing Requirements established in the County's Access Management Standards. The Frontage and Entrance Spacing Requirements are based on the classification of the Road upon which the Cross Access Easement is proposed to take Access.

b. Minimum RDP Frontage on the Cross Access Easement is not subject to the Frontage requirements in Section 12-318 of the Douglas County Zoning Regulations.

(xi) Drainage Easements

If any portion of the Residential Development Parcel lies in a FEMA designated regulatory Floodplain, or if drainage Channels or Swales exist on the Residential Development Parcel that carry runoff from adjacent property or Public Street/Roads, the FEMA designated regulatory Floodplain or drainage Channel or Swale shall be protected by grant of an Easement, or other similar device, evidenced by separate legal instrument, as may be required by the Planning Director and acceptable to the County Counselor.

(xii) Restrictive Covenants

Property in the Immediate Development Area shall be subject to a Restrictive Covenant as set forth in Section 11-104(d).

(2) Future Development Area

The Future Development Area shall meet the requirements set forth in this sub-section:

(i) Minimum Requirement.

A minimum of 40% of the total Cluster Development shall be designated as Future Development Area. To the extent practical, the Future Development Area should be one contiguous area of land for future planning purposes.

(3) Conservation of Natural Resources

No matter where located within the boundaries of the Certificate of Survey, land that is or contains Environmentally Sensitive Lands identified in Section 11-110(k), to the greatest extent reasonably practicable, shall be conserved and protected through the recording with the Register of Deeds of either a Temporary Set Aside Agreement or a permanent Conservation Easement.

(i) Temporary Set Aside Agreement

a. A Temporary Set Aside Agreement shall prohibit development, while the lands are located within the Urban Growth Area that would significantly impair or interfere with the environmental, geographical or historical characteristics of the identified natural resources.

b. The Temporary Set Aside Agreement shall be provided to the City and County by separate legal instrument, satisfactory to the County Counselor and City Manager or other appropriate city official.

c. The City will have regulatory authority over the Temporary Set Aside Agreement only after the property has been annexed into the City.

d. Within 2 years of the date of annexation into the City, the Temporary Set Aside Agreement will expire unless further action is taken by either the City or the property Owner to secure its continuance.

(ii) Conservation Easement

a. A permanent Conservation Easement may be established by an Owner that desires a more permanent and perpetual method of protecting and conserving natural resources. The areas of land that a permanent Conservation Easement may cover include those lands identified in Section 11-110(k), or similar sensitive lands.

b. A permanent Conservation Easement shall be established to retain the environmental, geographical or historical characteristics of the land.

c. It shall be conveyed to a public or nonprofit organization that protects and preserves lands of ecological, scenic, historic, agricultural, or recreational significance.

d. A permanent Conservation Easement created for protecting natural resources may or may not be sufficient to meet the requirements for re-evaluation by the county for land appraisal and taxation purposes.

(4) Restriction on Subsequent Divisions

Any further division for development purpose is prohibited until annexation or until an amended Certificate of Survey is approved and filed recorded with the Register of Deeds.

(5) Restrictive Covenant

The Immediate and Future Development Areas shall be subject to a Restrictive Covenant as set forth in Section 11-104(d).

(d) **Restrictive Covenant**

The Immediate Development Area and Future Development Area each shall be restricted by a separate instrument, satisfactory to the County Counselor, which shall:

(1) Incorporate by reference and have attached as an exhibit the Build Out Plan;

(2) Require future division of the Residential Development Parcel s to conform to the Build Out Plan or the Subdivision Regulations in place at that time;

(3) For the Immediate Development Area, limit each Residential Development Parcel to one principal Dwelling and accessory buildings until annexation into a city and municipal water and Sanitary Sewer service are extended to the property;

(4) For the Future Development Area, any further division for development purposes is prohibited until annexation or until an amended Certificate of Survey is approved and recorded with the Register of Deeds;

(5) Restrict the location of structures within the Immediate Development Area to Building Envelopes that have been created to allow for the future Subdivision of the Immediate Development Area into Blocks of an Urban Density that avoids interference with planned future Street/Roads, Easements and setbacks;

(6) Be binding upon the Owner and all of its successors and assigns, and shall constitute a covenant running with the land, expiring at the time the subject property is annexed by a city; and

(7) Be in a recordable form and be recorded with the Register of Deeds.

(e) Notice to Nearby Property Owners

(1) Written notice of the proposed division for rural residential purposes shall be mailed to the Owner of record of all property within ¼ mile of the subject property. The notice shall be sent by the applicant by regular mail, postage pre-paid. The mailing addresses for property Owners within the ¼ mile notification area shall be obtained from the Douglas County Clerk. The applicant shall submit a Certificate of Mailing, at the time of submission of the Certificate of Survey application. A Certificate of Survey application shall be considered incomplete without an executed Certificate of Mailing. The notice shall provide:

(i) A brief description of the location of the property proposed for division;

(ii) The projected date a Certificate of Survey application will be submitted to the Lawrence-Douglas County Planning Office;

(iii) A contact telephone number and address for the property Owner proposing the division for rural residential purposes; and,

(iv) The letter shall include the following statement and information:

> Notice of Proposal to divide land located at [road address or general description such as; ½ mile north of the intersection of x road and y road, on the east side] for rural residential development purposes.
>
> This letter is being sent to the Owner of property adjoining and within ¼ mile of the boundaries of the property proposed for division for rural residential Cluster Development. The purpose of this letter is to provide general information to the recipient and/or Owner of property of a proposed or potential change in land use.

(2) The failure of a property Owner within the ¼ mile mailing distance to receive the written notice will not affect the validity of the application for a Certificate of Survey.

(f) Cluster Developments – After Annexation

(1) Upon Annexation, development shall occur in accordance with the Build Out Plan or an approved plan meeting the Subdivision Regulations in place at the time. If, however, the appropriate city's plans or regulations for the area covered by the Build Out Plan recommend a different type of land use or scale of development, the property shall be Platted to conform to the city's current plans and regulations.

(2) Upon Annexation, all future divisions of land in the Immediate Development Area or Future Development Area shall be made in accordance with Section 11-109, Major Subdivisions for the City of Lawrence, or in accordance with the applicable procedures set forth in the annexing city's Subdivision Regulations.

(g) Application

Any person having legal or equitable interest in property that meets the criteria required by this Section may file, with the Planning Director, an application for a division of land in conformance with this Section. The completed application must:

(1) Satisfy the requirements of Section 11-102;

(2) Be submitted with an approved application form supplied by the Planning Department;

(3) Be submitted in both print and electronic format; and,

(4) Shall be accompanied by the application materials listed in 11-107(d).

(h) Administrative Review and Consideration Procedures

The Planning Director shall review all applications for Cluster Developments pursuant to this Section in accordance with the Certificate of Survey administrative review procedures set forth in Section 11-107.

11-105. (RESERVED)

11-106. Property Divisions in the Rural Area (Outside the UGAs)

(a) Purpose

Horizon 2020, the Comprehensive Land Use Plan, strongly encourages that residential development be located in the Lawrence Urban Growth Area or within the Urban Growth Areas of the other incorporated cities in the County. Horizon 2020 also recognizes the need for suitable residential development in the Rural Area of Douglas County.

(b) Definitions

When used in this Section 11-106, the following terms have the following meanings:

(1) Original Tract – shall be composed of a Parcel or a combination of all adjacent Parcels under a single Ownership [not separated by public Right(s)-of-Way] that share common boundary lines or two separate Ownerships that share a common boundary line, for the purpose of creating one Parent Parcel.

(2) Parent Parcel – an area of 20 acres or more surveyed solely for the purpose of creating one or more Residential Development Parcels.

(3) Residential Development Parcel – a Parcel created from the Parent Parcel through the administrative Certificate of Survey process to make the new land division eligible for a residential building permit.

(4) Rural Area – the area of Unincorporated Douglas County lying outside the Urban Growth Areas of Lawrence, Baldwin City, Eudora and Lecompton.

(c) Applicability

Residential Development Parcels may be created within the Rural Area according to the following requirements:

(1) The Owner of the land must identify a Tract of land, which shall be a minimum of 20 acres and take Access to a Full Maintenance Road, in accordance with this Section. The Tract containing the area for the proposed Residential Development Parcel(s) shall be known as the "Parent Parcel". The land from which the Parent Parcel is identified shall be known as the "Original Tract".

(i) For purposes of determining compliance with the 20 acre minimum Tract area, entire half of a quarter-quarter section (e.g. West ½ of the Southeast ¼ of the Southeast ¼) shall be deemed to be a 20 acre Tract.

(ii) In calculating the size of a Tract, the Tract size shall be deemed to include ½ of the adjoining Road Right(s)-of-Way or Easements if such inclusion is necessary for the Tract to conform to the applicable minimum Tract size.

(d) Residential Development Parcel (RDP)

(1) Up to 3 Residential Development Parcels (RDP) may be created by dividing a Parent Parcel, depending on the classification of the Full Maintenance Roads bounding the property.

(i) Up to 2 RDPs may be created by dividing the Parent Parcel if the Parent Parcel is bounded on only 1 side by a Road or the Parent Parcel is bounded on 2 or more sides by Roads and any of the Roads are classified as other than Local Roads.

(ii) Up to 3 RDPs may be created if the Parent Parcel is bounded on 2 or more sides by Local Roads.

(2) Residential Development Parcels can be created through the Certificate of Survey process only when the Planning Director finds: the property is being divided for single-family residential purposes; the division does not involve or result in the creation of any minimum maintenance or Full Maintenance new Roads or Road Rights-of-Way or Easements; and, the division is made in accordance with the following requirements:

(i) Minimum Residential Development Parcel Area and dimensional standards

Residential Development Parcels shall be laid-out and designed to comply with all applicable zoning district regulations listed in the County Zoning Regulations. Each Residential Development Parcel shall have the minimum area required in Section 12-318 in the County Zoning Regulations. The minimum Parcel area shall also meet the County Sanitary Code minimum requirements for residential development that has an On-Site Sewage Management System;

(ii) Development Access

Each Residential Development Parcel shall have direct Access to a Full Maintenance Road;

(iii) County Health Code Requirements

a. The applicant has provided evidence that each Residential Development Parcel will satisfy all applicable health and sanitation requirements of the Lawrence-Douglas County Health Department;

b. On-Site Sewage Management Systems shall be located outside the FEMA designated regulatory Floodplain.

(iv) Grouping Divisions

When a Parent Parcel has previously been identified and filed of record from an Original Tract, any subsequent Parent Parcel identified from that Original Tract shall, where practicable, be located with one boundary line adjacent to the previously created Parent Parcel to encourage the grouping of Residential Development Parcels to facilitate the efficient provision of Infrastructure and other public services.

(v) Minimum Frontage and Entrance Spacing Requirements.

Each Residential Development Parcel must meet the minimum Frontage and Entrance Spacing Requirements established in the County's Access Management Standards. The Frontage and Entrance Spacing Requirements are based on the classification of the Road upon which the Residential Development Parcel is proposed to take Access.

(vi) Minimum Road Right(s)-of-Way

a. If the Original Tract/Parent Parcel Division is located adjacent to public Road Right(s)-of-Way that does not meet the minimum width standards of Section 11-110(e)(5), approval of the application for division of land pursuant to this Section 11-106 will be subject to the condition that the Owner dedicate, by separate instrument to the County, ½ the additional land necessary to bring the Road(s) adjoining Original Tract/Parent Parcel to the required Right-of-Way standard based on the Road's classification established in the County's Access Management Standards.

b. All necessary Dedications shall be by separate instrument, satisfactory to the County Counselor, and recorded at the Register of Deeds.

c. No final action may be taken on the Certificate of Survey until this additional Road Right-of-Way has been dedicated.

(vii) Building Envelope

a. When a Residential Development Parcel includes lands identified for Protection of Environmentally Sensitive Lands in Section 11-110(k), a Building Envelope is required to be shown on the Parcel and it shall not include the areas and sites identified for resource preservation.

b. A Building Envelope is not required on a Residential Development Parcel that does not include lands within the categories identified for resource preservation in Section 11-110(k); however, structure placement is governed by the setbacks established in the Douglas County Zoning Regulations.

(viii) Conservation Easement

a. A permanent Conservation Easement may be established by an Owner that desires a more permanent and perpetual method of protecting and conserving natural resources. The areas of land that a permanent Conservation Easement may cover include those lands identified in Section 11-110(k), or similar sensitive lands.

b. A permanent Conservation Easement shall be established to retain the environmental, geographical or historical characteristics of the land.

c. It shall be conveyed to a public or nonprofit organization that protects and preserves lands of ecological, scenic, historic, agricultural, or recreational significance.

d. A permanent Conservation Easement created for protecting natural resources may or may not be sufficient to meet the requirements for re-evaluation by the county for land appraisal and taxation purposes.

(3) With respect to any division made according to this Section, the subsequent Residential Development Parcels shall be considered Parcels but shall not be considered Platted Lots created through a Major or Minor Subdivision/Replat process. Each Residential Development Parcel shall be eligible for the issuance of building permits for one single-family Dwelling and permitted accessory uses, buildings and structures. Use for any other purpose (other than agricultural use), construction of more than one single-family Dwelling, or further division of the Residential Development Parcel shall be prohibited. Development for any other use will require review through the Major Subdivision process.

11-107. Certificate of Survey, Administrative Review Procedures

(a) Purpose

The purpose of the Certificate of Survey review procedure is to provide an administrative process for creating an accurate record of the description and location of Residential Development Parcel divisions created in conformance with Sections 11-104 or 11-106, whichever is applicable, without requiring full compliance with the regulations of Section 11-109, Major Subdivisions.

(b) Authority

The Planning Director is authorized to review and approve applications for land divisions made in conformance with Sections 11-104 and 11-106, subject to the requirements of this Section. This review procedure allows for an administrative approval process with final action by the Planning Director.

(c) Applicability

An application for a division of land submitted with a complete Certificate of Survey shall be considered for approval in the following circumstances:

(1) The proposed division meets the criteria of one of the types of division authorized by Sections 11-104 or 11-106, for review in conformance with this Section.

(2) Residential Development Parcels are eligible for Certificate of Survey approval only one time within the Urban Growth Areas of the cities in Douglas County.

However, an amended Certificate of Survey may be recorded for property in the Urban Growth Areas, or within the Rural Area when it:

(i) Includes the same land area as the original Certificate of Survey; and,

(ii) When it meets the applicable requirements in Sections 11-104 or 11-106.

(3) For the purpose of interpreting the applicability of the Certificate of Survey administrative review procedure, any proposed development or division of land, which the Planning Director determines is intended to evade the Major Subdivision procedures of Section 11-109 because it would result in a de facto Major Subdivision through the combination of previous contiguous Certificates of Survey, is not eligible to use the Certificate of Survey review procedure.

(d) Application

Applications for a Certificate of Survey review procedure shall be submitted to the Planning Director in conformance with the general requirements of Section 11-102; be submitted in both print and electronic format; and be accompanied by:

(1) The applicable review and recording fees;

(2) Proof of legal or equitable interest in the property;

(3) Proof that there are no unpaid taxes on the subject property in the form of a certificate that all taxes and special assessments due and payable have been paid; and

(4) One paper and one electronic copy of a Certificate of Survey that complies with the requirements of Section 11-107(e).

(5) In addition, for Cluster Developments in an Urban Growth Area:

(i) A certificate of mailing for letters mailed to property Owners within ¼ mile of the property proposed for the Cluster Development for rural residential development purposes;

(ii) A Build Out Plan illustrating the following with respect to both the Immediate Development Area and Future Development Area:

a. A realistic future Urban Block layout designed consistent with the Comprehensive Land Use Plan of the applicable city and the Subdivision Design Standards and Public Improvement Standards set forth in Sections 11-110 and 11-111 for the City of Lawrence or in the Subdivision Regulations set forth in the annexing city's regulations;

b. The layout of future Streets/Roads; provided that, Local Streets/Roads shall be planned to provide Street/Road connections to adjoining Parcels, neighborhoods, or future development open spaces, at a spacing of 600' to 800' as a means of discouraging the reliance on County and State Roads or highways for local trips;

c. Block level Easement locations for utilities and storm water drainage;

d. Locations of Building Envelopes for each Residential Development Parcel that are respective of the future Urban Street and Block layout; and,

e. Supplemental written information that demonstrates how public utilities may be extended to the Subdivision to accommodate future Urban Density development.

(6) For applications within Urban Growth Areas, an executed annexation agreement allowing annexation by the city that's Urban Growth Area the development is located within based on the adopted annexation policies of that city, when the city requires such an agreement.

(7) For properties including Environmentally Sensitive Lands identified in Section 11-110(k), a proposed Temporary Set Aside Agreement or permanent Conservation Easement and a copy of proposed Restrictive Covenants as identified in Section 11-104(c)(3).

(e) Requirements and Material to be Included

A Certificate of Survey shall comply with the following requirements:

(1) The Certificate of Survey shall be legibly drawn on Mylar with permanent ink or printed or reproduced by a process guaranteeing a permanent record and shall be a minimum size of 11 inches by 17 inches;

(2) The Certificate of Survey shall show or contain on its face the following information; provided, however, that the licensed Land Surveyor may, at his or her discretion, provide additional information regarding the survey:

(i) A title or title block including the quarter-section, section, township, range and principal meridian in which the surveyed land is located. A Certificate of Survey shall not bear the title "Plat," "Subdivision" or any title other than "Certificate of Survey;"

(ii) A note stating "This Certificate of Survey was not prepared for the purpose of the Platting of land. No further divisions of the Parcels created by this survey shall occur until the property is Subdivided in accordance with all applicable Subdivision Regulations of Douglas County or the city into which it is annexed or until an Amended Certificate of Survey is approved and recorded with the Register of Deeds.";

(iii) The name(s) of the person(s) who own the land and who commissioned the survey and the names of any adjoining Platted Subdivisions;

(iv) The date the survey was completed;

(v) A north arrow;

(vi) A written and graphic scale.

(vii) A narrative legal description of the property surveyed, including a Benchmark or other vertical reference point tied to the United States Geological Survey;

(viii) A location map showing the property surveyed in relation to property Ownership lines within the same section and the nearest existing public Right(s)-of-Way;

(ix) The dimensions and locations of all of the Parcels indicated on the survey, including dashed lines to depict the future Urban Street and Block layout in the Build Out Plan. This requirement is not applicable to a Certificate of Survey prepared in accordance with Section 11-106;

(x) A numbering system or other clear and simple method of identifying each Parcel within the Certificate of Survey;

(xi) The location and width of public Right(s)-of-Way, existing and proposed;

(xii) The location of any Easements, existing and proposed;

(xiii) The dimensions of all existing structures in relation to existing and proposed Parcel lines, and based on the future Urban Street and Block layout shown in the Build Out Plan, if applicable;

(xiv) Building Envelopes, when required, shall be shown for every Residential Development Parcel and shall not include lands identified as Environmentally Sensitive Lands as identified in Section 11-110(k);

(xv) Except for divisions made in conformance with Section 11-106, Building Envelopes shall be designed to allow for the placement of rural residences on Parcels that will facilitate future further Subdivision of the Residential Development Parcel into Urban Streets and Blocks;

(xvi) A note stating the specific Section [11-104 or 11-106] pursuant to which the division is being made;

(xvii) Restrictive Covenants, Temporary Set Aside Agreements, or Conservation Easements required by the proposed division shall be noted with book and page number in which the covenants, Temporary Set Aside Agreements, or Conservation Easement are recorded;

(xviii) The signature of the Owner, properly acknowledged;

(xix) The dated signature and seal of the Kansas licensed Land Surveyor responsible for the survey along with a note stating: “This survey complies with the Kansas Minimum Standards for Boundary Surveys”;

(xx) A line on the survey for the review date and signature of the County Surveyor beneath a note stating: “Reviewed in compliance with K.S.A. 58-2005”;

(xxi) A line for the approval date and signature of the Planning Director under a note stating: "Approved as a Certificate of Survey under the Subdivision Regulations of the City of Lawrence & the Unincorporated Area of Douglas County"; or the Subdivision Regulations of the appropriate City; and

(xxii) A line for identification of book and page of the Register of Deeds recording information.

(3) Before approval of a Certificate of Survey in the Lawrence Urban Growth Area that will not be served by City of Lawrence utilities, the property Owner shall provide written documentation to the Lawrence-Douglas County Health Officer and the Lawrence-Douglas County Planning Director that Publicly Treated Water, delivered through a water meter, is available to and will be provided for all Residential Development Parcels.

(f) Criteria for Review

An application for a division requiring an approved Certificate of Survey shall be approved if, and only if, it meets all of the following criteria:

(1) The proposed division meets the requirements for a division of land under Sections 11-104 or 11-106, as applicable;

(2) The Certificate of Survey meets all of the requirements of Section 11-107;

(3) The proposed Residential Development Parcels and all other aspects of the proposed Certificate of Survey conform with the current Comprehensive Plan of Lawrence and Douglas County or, where applicable, the Comprehensive Plan of another city in Douglas County;

(4) The Certificate of Survey conforms to the County's Access Management Standards and does not preclude or interfere with the subsequent logical continuation of any Street/Roads shown thereon affecting the land included in the proposed Certificate of Survey. If additional Right-of-Way is needed to meet the minimum required for the classification of Road Accessed by the development in the Certificate of Survey, the Certificate of Survey review process shall be suspended for up to 90 days to allow for Dedication by separate instrument of the necessary Right-of-Way. If the criteria for review are not met by the end of the suspension period, this shall be sufficient cause for rejecting an application for a Certificate of Survey;

(5) The proposed Certificate of Survey is consistent with any conditions imposed on any previous division of any part of the same land; and

(6) The proposed Certificate of Survey complies with the Kansas Minimum Standards for Boundary Surveys.

(g) Review and Action by the Planning Director

(1) The General Review and Approval Procedures set forth in Section 11-102 shall apply to all applications under this Section.

(2) Upon receipt of a complete application, the Planning Director shall review the application for conformance with applicable regulations.

(3) The Planning Director shall conduct the review of the application within 30 days of receipt of the complete application. If the Planning Director finds that the Certificate of Survey conforms to all of the standards set forth in this Article, the Director shall sign and indicate on an original copy of the Survey "Approved as a Certificate of Survey under the Subdivision Regulations of the City of Lawrence & the Unincorporated Area of Douglas County" with the date of approval.

(4) If the Planning Director finds that the Certificate of Survey fails in any way to conform to the standards set forth in this Article or that the proposed division is not eligible for administrative approval pursuant to this Section, the Planning Director shall refuse to approve the proposed Certificate of Survey and shall notify the applicant by letter, within the 30 day review period, of the reason(s) for that refusal. If the deficiency or other reason for denial can be cured through action of the applicant, the applicant may submit a revised application and Certificate of Survey within 45 days after receipt of the letter and shall not be required to pay an additional fee.

(5) If approved, the Certificate of Survey shall be recorded by the Planning Director with the Douglas County Register of Deeds. A copy shall be kept by the Planning Director, and a copy shall be furnished to the applicant and to the County Zoning & Codes office.

(h) Amending an Approved Certificate of Survey

An approved Certificate of Survey may be amended for a Parent Parcel created in accordance with Section 11-106 or, prior to annexation by a city, in accordance with Section 11-104 for Lawrence's or another city's Urban Growth Area. The amendment may occur when there is an application to revise an area designated as a Residential Development Parcel, Immediate Development Area, Future Development Area, or the layout of Residential Development Parcels and future Streets or Blocks on the Build Out Plan. The Future Development Area cannot be revised for those portions that include Environmentally Sensitive Lands identified in Section 11-110(k), permanent Conservation Easement(s), or Temporary Set Aside Agreement(s). A revision to approved Access to the development (location of Cross Access Easement or individual Driveway Access) from public Road Right-of-Way shall be permitted only upon written recommendation from the County Engineer that revising the point of Access to the public Road is desirable for public safety.

(1) An amendment to an approved Certificate of Survey shall:

(i) Include the entire land area of the original Certificate of Survey and be signed by all of the current Owners of land within the entire land area of the original Certificate of Survey;

(ii) Be submitted in the same form as an original Certificate of Survey and meet the requirements in Section 11-107(d) through (g);

(iii) Be eligible for the same appeals procedure identified in Section 11-107(i) as the original Certificate of Survey;

(iv) Comply with the Subdivision Regulations in effect at the time the amended Certificate of Survey application is submitted for review; and

(v) For each amended Certificate of Survey, the creation of new Residential Development Parcel s in addition to those created originally shall only be permitted if an additional Residential Development Parcel is permitted according to Sections 11-104 and 11-106 and/or by the County's Access Management Standards.

(2) An amendment of a Certificate of Survey shall not alter future Street layouts that would conflict with a Build Out Plan approved for an adjacent property.

(i) Appeals Process for Sections 11-104 and 11-106

(1) Upon the approval or denial of an application for a division of land under Sections 11-104 or 11-106, a party aggrieved by the Planning Director's decision may appeal that decision to the Board of County Commissioners. To have standing to make an appeal, the party must have been the applicant or an Owner of property within ¼ mile of the land that is the subject of the decision.

(2) The Planning Director shall provide written notice of the filing of an appeal setting forth the subject of the appeal, the time and place and when the appeal shall be heard. The notice shall explain that there will be an opportunity to present evidence to the Board of County Commissioners and it shall be mailed to the applicant and all Owners of property within ¼ mile of the land that is the subject of the appeal.

(3) The County Commission shall set a hearing date for the appeal that is at least 15 days after written notice is sent to the appellant. The appellant shall have the burden of establishing by clear and convincing evidence that the Planning Director's decision was incorrect.

(j) Certificate of Survey Expiration

(1) If an approved Certificate of Survey has not been recorded at the Register of Deeds office, the approval of a Certificate of Survey shall be effective for no more than 24 months from the date of approval unless all conditions of approval have been completed or an extension has been granted by the Planning Director for good cause.

(2) Such request for extension must be submitted to the Planning Director prior to the expiration of the original 24 month approval period.

11-108. Minor Subdivisions/Replats

(a) Purpose

The purpose of this administrative process is to provide an economical and efficient procedure for the adjustment of Platted Lot Lines in developed areas through a Resubdivision or Replat procedure, where an adjustment involves little or no expansion of the public Infrastructure. The Minor Subdivision/Replat process allows for a one-step Resubdivision approval process with final action by the Planning Director.

(b) Authority

The Planning Director is hereby authorized to review and approve Minor Subdivisions/Replats in accordance with the procedures of this Section.

(c) Applicability

(1) Within the City of Lawrence, a Platted Lot may be divided into 4 or fewer Platted Lots by using the Minor Subdivision/Replat procedures of this section; provided, that:

(i) No new Street or extension of an existing Street is created, or

(ii) A Vacation of Streets, Alleys, Setback Lines, Access Control or Easements is required or proposed.

(iii) As an alternative, if Right-of-Way or Easements are proposed to be dedicated or vacated, the Minor Subdivision/Replat shall be placed on the Governing Body's agenda for approval of the subject Vacation or acceptance of additional Dedications after mailed notice to surrounding property Owners and prior to final administrative approval of the Minor Subdivision/Replat.

(2) Within the Unincorporated Area of the County, a Platted Lot may be divided into 2 Platted Lots by using the Minor Subdivision/Replat procedures of this section, provided that:

(i) Each resulting Lot has a minimum Lot area that conforms to the County Sanitation Requirements for minimum Lot area;

(ii) The Platted Lot takes Access from a Hard Surfaced Road or from a Road that meets or exceeds the County's Rock Road Standard;

(iii) No new Road or extension of an existing improved Road is created, or

(iv) A Vacation of Roads, Setback Lines, Access Control or Easements is required or proposed; and,

(v) The Minor Subdivision/Replat is not prohibited by any other Section of this Article.

(vi) As an alternative, if Right-of-Way or Easements are proposed to be dedicated or vacated, the Minor Subdivision/Replat shall first be placed

on the Governing Body's agenda for approval of the subject Vacation or acceptance of additional Dedications after mailed notice to surrounding property Owners and prior to final administrative approval of the Minor Subdivision/Replat.

(3) The merger or consolidation of full Lots or full Lots with portions of Platted Lots into a fewer number of Lots shall be processed as a Minor Subdivision/Replat;

(4) For the purpose of interpreting the Minor Subdivision/Replat eligibility criteria of this sub-section, any proposed Subdivision that the Planning Director determines is designed, intended, or by proximity to a previous Minor Subdivision or Replat would evade the Major Subdivision procedures of this section by resulting in a de facto Major Subdivision, shall not be eligible for the Minor Subdivision/Replat process;

(5) Lots are eligible only one time for approval of a division or consolidation through the Minor Subdivision/Replat process and any further divisions or consolidations of the originally Platted or newly created Lots shall be processed as Major Subdivisions; however,

(i) Lot Line adjustments or mergers that do not increase the total number of Lots may be accomplished through the Minor Subdivision/Replat process even if the property had previously been part of a Minor Subdivision or Replat.

(d) Criteria for Review

A Lot or group of Lots submitted as a Minor Subdivision/Replat shall be approved if all of the following criteria are met:

(1) The proposed division(s) or consolidation(s) meets the criteria of one of the types of divisions or consolidations eligible for review through the Minor Subdivision/Replat process under Section 11-108(c);

(2) All Lots created through the Minor Subdivision/Replat process conform to the Lot size requirements of the underlying zoning district;

(3) Each Lot resulting from the division or consolidation will have direct Access to an existing Public Street/Road that meets current adopted Access and Public Improvement Standards or will meet such standards as a result of Improvements required as a condition of approval of the Minor Subdivision/ Replat;

(4) If the property is located adjacent to a Public Street/Road Right-of-Way that does not meet the minimum Right-of-Way standard of Section 11-110(e)(5), approval of the Minor Subdivision/Replat will be subject to the condition that the Subdivider dedicate to the City or County, as applicable, one-half the additional land necessary to bring the Road(s) adjoining the land to be divided to the required minimum Right-of-Way standards.

(i) All necessary off-site Dedications shall be recorded by separate instrument with the Register of Deeds and proof of these Dedications shall be provided to the Planning Director. No final action shall be taken on the Minor Subdivision/Replat until this additional Right-of-Way Dedication has been recorded.

(ii) All necessary On-Site Dedications may be recorded by separate instrument with the Register of Deeds office or may be provided on the Minor Subdivision/Replat; however, the Minor Subdivision/Replat shall be placed on the Governing Body's agenda for acceptance of the additional Right-of-Way after mailed notice and prior to final approval of the Minor Subdivision/Replat.

(5) Any additional public Easements necessary to serve the property shall be Dedicated prior to final approval of the Minor Subdivision/Replat, either by:

(i) Separate instrument, or

(ii) The Minor Subdivision/Replat is placed on the Governing Body's agenda for acceptance of the additional Easements after mailed notice and prior to final approval of the Minor Subdivision/Replat.

(6) If any portion of the property within the Minor Subdivision/Replat lies in a FEMA designated regulatory Floodplain, or if drainage Channels or Swales exist on the property that carry runoff from adjacent property or Public Street/Roads, the FEMA designated regulatory Floodplain or drainage Channel or Swale shall be protected by grant of Easement, Dedication or other similar device as may be required by the Planning Director. No final action shall be taken on the Minor Subdivision/Replat until this Dedication has been recorded, either by:

(i) Separate instrument, or

(ii) The Minor Subdivision/Replat is placed on the Governing Body's agenda for acceptance of the additional Right-of-Way or Easements after mailed notice and prior to final approval of the Minor Subdivision/Replat.

(7) The Owner shall provide written documentation for divisions or combination of Lots in the Unincorporated Area of the County to the Planning Director providing proof that the proposed Lots will have:

(i) Access to Publicly Treated Water delivered through a water meter; and,

(ii) Test holes for an On-Site Sewage Management System have been reviewed and approved by the Director of Lawrence-Douglas County Health Department.

(8) The proposed Lots and all other aspects of the proposed Minor Subdivision/Replat conforms with the current Comprehensive Plan of Lawrence and Douglas County;

(9) The Minor Subdivision/Replat conforms with the adopted Major Thoroughfares Map referenced in the Comprehensive Plan and does not preclude or interfere with the subsequent logical continuation of any Street/Roads shown thereon affecting the land included in the proposed Minor Subdivision/Replat or the original Platted Subdivision;

(10) The proposed Minor Subdivision/Replat is consistent with any conditions imposed on the original Platted Subdivision from which the Lots being divided or consolidated were originally Platted; and,

(11) The Minor Subdivision/Replat conforms to the Kansas Minimum Standards for Boundary Surveys.

(e) Application

(1) Requests for Minor Subdivision/Replat approval shall be submitted to the Planning Director.

(2) Each application shall be submitted on a form provided by the Planning Director; be submitted in both print and electronic format; and shall be accompanied by:

(i) The applicable review and recording fees;

(ii) Copies of scaled drawings of a Minor Subdivision/Replat as required by the Planning Director, certified by a licensed Land Surveyor; and

(iii) A certificate that all taxes and special assessments due and payable have been paid.

a. Any unpaid special assessments shall be noted with the application submittal and a proposed redistribution plan for these unpaid special assessments, which meets the City Clerk and City Engineer requirements for Lots within the City of Lawrence or with the County Clerk and County Engineer requirements for Lots within the Unincorporated Area of Douglas County, also shall be submitted with the application.

(iv) If Dedication or Vacation of Easements or Rights-of-Way is proposed, a certified copy of a property Ownership list to provide mailed notice in accordance with 11-102(d)(3).

(f) Contents

(1) The Minor Subdivision/Replat shall contain the following information:

(i) A title that includes the original Lot numbers and Subdivision name and an indication that this is a Minor Subdivision/Replat of said Lots in the Subdivision;

(ii) Legal description of the property, including a Benchmark or other vertical reference point tied to the United States Geological Survey;

(iii) Location map identifying community features and the nearest existing public Right(s)-of Way within a one mile radius of the site;

(iv) Location and dimensions of existing and/or proposed Easements and utilities;

(v) Dimensions and locations of the new Lots to be created through the division or consolidation;

(vi) Location and width of Driveways, existing and proposed;

(vii) Dimensions of all existing structures in relation to existing and proposed Lot Lines;

(viii) Signature of the Owner, properly attested;

(ix) A signature and date line for approval by the Planning Director, stating "Approved as a Minor Subdivision/Replat under the Subdivision Regulations of the City of Lawrence and the Unincorporated Area of Douglas County";

(x) A signature and date line for the appropriate Governing Body Chair indicating acceptance or approval, if the Minor Subdivision/Replat proposes either the Dedication or Vacation of Easements or Right-of-Way;

(xi) A line on the survey for the review date and signature of the County Surveyor beneath a note stating: "Reviewed in compliance with K.S.A. 58-2005";

(xii) A dated signature and seal of the licensed Land Surveyor responsible for the survey and a note stating: "This survey conforms to the Kansas Minimum Standards for Boundary Surveys."; and,

(xiii) A note on the face of the Minor Subdivision/Replat which states: "Further division or consolidation of any Lots contained in this Minor Subdivision/Replat is prohibited, and shall be processed as a Major Subdivision, unless the action meets the exception noted in Section 11-108(c)(5)(i)."

(g) Review and Action by the Planning Director

(1) Upon receipt of a complete application, the Planning Director shall review the application for conformance with applicable regulations.

(2) The Planning Director shall conduct the review of the application within 30 days of receipt of the complete application. If the Planning Director finds that the Minor Subdivision/Replat conforms to all of the standards set forth in this Section, the Director shall sign and date an original Mylar copy of the Minor Subdivision/Replat.

(3) If the Minor Subdivision/Replat proposes either the Dedication or Vacation of Easements or Rights-of-Way, the Planning Director shall:

(i) Provide mailed notice to surrounding property Owners as established in Section 11-102(d); and

(ii) Place the Minor Subdivision/Replat on the Governing Body's agenda for either acceptance of Dedications or approval of proposed Vacations.

(4) If the Planning Director finds that the Minor Subdivision/Replat fails in any way to conform to the standards set forth in this Section or that the proposed division or consolidation is not eligible for consideration as an Minor Subdivision/Replat, the Planning Director shall refuse to approve the proposed

Minor Subdivision/Replat and shall notify the applicant by letter of the reason(s) for such refusal. If the deficiency or other reason for denial can be cured through action of the applicant, the applicant may submit a revised application and map within 45 days after receipt of such letter and shall not be required to pay an additional fee. If the reason for denial is that the proposed division or consolidation is not eligible for consideration as a Minor Subdivision/Replat because the Replat does not meet all of the criteria in Section 11-108(d), the Subdivider may submit an application for Major Subdivision approval at any time.

(5) The Planning Director shall forward a signed, original Mylar copy of the Minor Subdivision/Replat to the Register of Deeds for recording.

(6) Appeals of the Planning Director's decision on a Minor Subdivision/Replat shall be subject to Section 11-113(f)(1).

(h) Review and Action by the Governing Body

If the Planning Director determines that the Minor Subdivision/Replat includes a proposal to dedicate or vacate Easements and/or Rights-of-Way, the Minor Subdivision/Replat shall be placed on the Governing Body's agenda for acceptance or Vacation of Easements and/or Rights-of-Way following the appropriate review process, mailed notice and prior to the Planning Director's final approval of the application.

(i) Signatures on Minor Subdivision/Replat following Action by the Governing Body

If the Minor Subdivision/Replat includes the Dedication or Vacation of Easements and/or Rights-of-Way and the Governing Body has accepted the Dedication or approved the Vacation, the Planning Director shall submit the Minor Subdivision/Replat to the Mayor or Chairperson of the Board of County Commissioners, as applicable, for signatures.

(j) Processing after Approval of Minor Subdivision/Replat

(1) Prior to the Minor Subdivision/Replat being recorded with the Register of Deeds, a digital version of the Minor Subdivision/Replat shall be submitted to the Planning Director in a format approved by the Planning Director as identified in the application packet.

(2) Errors found in closure or internal dimensions shall be corrected prior to filing recording the Minor Subdivision/Replat.

(k) Minor Subdivision/Replat Expiration

(1) Approval of a Minor Subdivision/Replat by the Planning Director and acceptance of Dedications by the appropriate Governing Body shall be effective for no more than 24 months from the date of acceptance unless all conditions of approval have been completed or an extension has been granted by the Planning Director for good cause.

(2) Such request for extension must be submitted to the Planning Director prior to the expiration of the original 24 month approval period.

11-109. Major Subdivisions

(a) Purpose

The Major Subdivision procedures of this Section are intended to provide a standardized review process for Preliminary and Final Plats. The Major Subdivision process requires a two-step review process with Preliminary Plat approval by the Planning Commission, and Final Plat approval by the Planning Director. In addition, Final Plats that include Dedication or Vacation of Easements and/or Rights-of-Way, require action by the appropriate Governing Body.

(b) Applicability

(1) The Major Subdivision procedures of this section apply to all land divisions or consolidations that are not eligible for review in conformance with the Certificate of Survey Administrative Review Procedures or the Minor Subdivision/Replat process.

(2) New Residential Subdivisions are not permitted in the Unincorporated Area of Douglas County, except on property zoned A-1 or R-1 prior to January 1, 2007.

(3) Non-Residential Subdivisions are permitted in the Unincorporated Area of Douglas County.

(c) Applications and Procedures

(1) The General Review and Approval Procedures set forth in Section 11-102 shall apply to all applications under this Section.

(2) Specific application and Preliminary Plat contents are provided in Section 11-109(e) & (f).

(3) Specific application and Final Plat contents are provided in Section 11-109(l) & (m).

(d) Criteria for Review

Approval or disapproval of Major Subdivisions shall be based on the following criteria:

(1) Each Lot resulting from the division will have direct Access to a Public Street/Road that has been accepted by the county or city or a Private Street that has been approved as part of a Planned Development;

(2) Each Lot resulting from the division will conform with the minimum Lot size and other dimensional requirements applicable to the property through the Zoning District regulations;

(3) The proposed Major Subdivision and all Lots within it conform fully with the standards set forth in Section 11-110;

(4) The proposed Lots and all other aspects of the proposed Major Subdivision conforms with the current Comprehensive Plan of Lawrence and Douglas County; and watershed/sub-basin plans, sector or Neighborhood Plans;

(5) The proposed Major Subdivision conforms with any adopted Major Thoroughfares Map and provides for the logical continuation of any Street/Roads shown thereon affecting the land included in the proposed Major Subdivision;

(6) The proposed Major Subdivision shall provide for a logical connection of Streets between adjacent Subdivisions taking into consideration constraints from steep Topography and other natural features that may limit Street connectivity but allow for pedestrian connectivity, shall conform with adopted watershed/sub-basin plans, sector or Neighborhood Plans for Street layout;

(7) The proposed Major Subdivision conforms to the adopted master plans for the water and wastewater systems and conforms to the overall drainage basin master plan; and

(8) The Major Subdivision Plat conforms to the Kansas Minimum Standards for Boundary Surveys.

(e) Preliminary Plat – Application

A Subdivider shall apply for Preliminary Plat approval by submitting an application to the Planning Director.

(1) Each application shall be accompanied by:

(i) The applicable filing fee;

(ii) A completed Major Subdivision-Preliminary Plat application form;

(iii) The required number of paper copies and an electronic copy of a complete submission of a Preliminary Plat;

(iv) A certified copy of a property Ownership list to provide Mailed Notice in accordance with 11-102(d)(3); and

(v) A drainage plan for Major Subdivisions if within the City limits, or for Major Non-Residential Subdivisions that are located within an Urban Growth Area.

(f) Preliminary Plat Contents

The Preliminary Plat shall be drawn to a scale where all features presented are readable.

(1) Materials to be Included

The Preliminary Plat shall:

(i) State the name of the proposed Subdivision;

(ii) List names and addresses of the Subdivider, the land planner or Subdivision designer (if any) and the licensed Land Surveyor;

(iii) Show date of preparation, north arrow and graphic scale;

(iv) Identify the Plat as a Preliminary Plat;

(v) Give a legal description of the proposed Subdivision complete with section, township, range, principal meridian, county, and acreage. Show the location of the nearest section and/or quarter-section corner on the Plat, with a description tying it to the point of beginning for the Subdivision.

(vi) A Replat shall not be required to be referenced to a section and/or quarter-section corner, provided the original Plat for the subject Replat is tied to at least one of these corner monuments;

(vii) Include location, description and elevation of all Benchmarks established or source used for vertical control. There must be at least one established vertical control point as the basis for the topographic survey included with the application;

(viii) Show names of adjoining Subdivisions or, in the case of unplatted land, the names of the Owner or Owners of adjoining property;

(ix) Show Topography (contour interval not greater than 2 feet) of the site. Topography shall be consistent with City of Lawrence and/or Douglas County aerial Topography. Where Land Disturbance, Grading or development has occurred on a site or within 100 feet of the subject site since the date the City of Lawrence and/or Douglas County, whichever is applicable, obtained aerial Topography, an actual field survey shall be required for the topographic data in the vicinity of the disturbed area;

(x) Show on the face of the Plat or on a separate sheet, a general location of the proposed Subdivision. The general location map shall be drawn to an appropriate scale and shall show the relationship of the proposed Subdivision to the following:

a. The nearest Intersection of Public Streets;

b. If not in the City, any state highway located within one-half mile of the property;

c. If in the City, any public school or park located within one-quarter mile of the property. If in the County, any public school located within one mile of the property;

d. If in the Urban Growth Area, the nearest City Limits, and the nearest boundary of the Urban Growth Area;

e. The zoning of the property and any other Zoning Districts located within one-quarter mile (if in the City or within the Urban Growth Area) or within one-half mile (if in the Rural Area).

(2) Existing Conditions

The Preliminary Plat shall also show the following existing conditions:

(i) Location of any area designated as Floodplain, location and direction of the flow of existing water courses; and the surface elevation of the regulatory flood.

(ii) Location of any area in the Floodplain Overlay District, location and direction of flow of all water courses; and base flood elevation at water course entrances to and exits from the proposed Subdivision;

(iii) Location of section lines, private or Public Streets, Alleys, Easements, and city boundaries within and immediately adjacent to the proposed Subdivision;

(iv) Location of natural features such as unique topographic features, lakes, Stream Corridors, and insofar as can reasonably be shown, natural features to be removed;

(v) Boundaries of Stands of Mature Trees, Jurisdictional Wetlands, historic sites and archaeological sites on the property proposed for Subdivision as identified on the GIS Baseline Environmentally Sensitive Lands Map maintained by the Planning Director;

(vi) Existing use of the property, including the location of all existing buildings, indicating those that will be removed and those that will remain on the property after the Final Plat is recorded;

(vii) Horizontal location and vertical elevation (if available) of existing Sanitary Sewers, storm water sewers, and Culverts within and adjacent to the proposed Subdivision, and the location of existing water mains, underground wiring, pipelines, and gas lines;

(viii) Zoning of all land within and adjacent to the Tract;

(ix) Location, description and elevation of all Benchmarks established or source used for vertical control;

(x) Types of soil, with the soil types generally indicated on the Preliminary Plat or a supplemental sheet; and,

(xi) For a Subdivision that will rely on the use of On-Site Sewage Management Systems, a summary of available information on the subsurface Water Table, including the depth of the Water Table at the highest, lowest and typical locations within the Subdivision.

(3) Proposed Improvements

The Preliminary Plat shall further show the following:

(i) Proposed Streets (including location, width, names, approximate grades), and their relation to Platted Streets or to proposed Streets as shown on any Watershed/Sub-basin Plan, sector or Neighborhood Plan of adjacent property;

(ii) Easements, showing width and general purpose;

(iii) Layout of all new municipal utilities proposed to serve the Subdivision;

(iv) Blocks and Lots, showing approximate dimensions and proposed Block and Lot numbers;

(v) Sites designated for other than single-family use by the adopted comprehensive or appropriately adopted Watershed/Sub-basin Plan, Sector or Neighborhood Plan. (Such plan shall be referenced on the face of the Plat);

(vi) Sites proposed for Dedication as drainageway, park, school, or other public purposes;

(vii) Sites proposed by the applicant for land uses not in conformance with adopted comprehensive or Neighborhood Plans accompanied by a note on the face of the Plat stating that approval of the Preliminary Plat does not certify approval of these proposed land uses.

(viii) If requested by Planning Staff, the Building Envelope for proposed Lots.

a. Lots that are not rectangular or that have a single dimension of less than 55 feet shall include the Building Envelope permitted under the current Zoning District regulations. A typical Building Envelope diagram may be provided where the majority of Lots are the same size.

b. A note referring to such Building Envelope shall be included on the face of the Preliminary Plat regarding the applicable Zoning District and the date of the Zoning provisions on which the preparer has relied in designating the Building Envelope.

(4) Supplemental Data

The following supplementary data and information shall be submitted with the Preliminary Plat or be included thereon:

(i) A table, shown on the face of the Plat, including this data:

a. Gross acreage of the Subdivision;

b. Acreage within each Zoning District;

c. Acreage to be dedicated for Streets or Roads, if any;

d. Acreage to be dedicated for public uses other than Roads, if any;

e. Total number of building Lots;

f. Maximum, minimum, and average Lot size; and

g. Phasing schedule if proposing phasing of Final Platting.

(ii) A statement on the face of the Plat, stating the method to be used for financing Public Improvements in the Subdivision and providing

references to statutes, covenants or other sources for further information on the details of such financing. Such statement shall contain a heading saying "Provision and Financing of Roads, Sewer, Water and Other Public Services". At a minimum such statement shall indicate:

a. Whether the Subdivision will have Public Streets and Roads, Private Streets and Roads or a combination thereof;

b. Whether the Subdivision will provide connections to a public water source (naming the source);

c. Whether the Subdivision will provide connections to a public system for wastewater treatment (naming the system) or will rely on On-Site Sewage Management Systems or other On-Site wastewater treatment systems;

d. Whether purchasers of Lots in the Subdivision will be subject to special assessments or other costs or fees specific to the Subdivision to pay for the capital costs of Streets, Roads, water lines and treatment, and/or wastewater lines and treatment; and

e. Whether the provision of improved Roads, water service and/or wastewater service will depend in any way on a vote, petition or other collective action of property Owners in the Subdivision.

(iii) A separate narrative, explaining in detail the general nature and type of Public Improvements proposed for the Subdivision, and the manner by which the Subdivider intends to provide for their installation, as for example, by Public Improvement Petition, actual construction, escrow deposit, or performance bond. If other than by Public Improvement Petition, the approximate time for completion of such Improvements should be indicated.

(iv) Notation on the face of the Plat that all new telephone, cable television and electrical lines (except high voltage lines) must be located underground when in the City of Lawrence or in Lawrence Urban Growth Area.

(v) Notation on the face of the Plat that the Developer is responsible for the cost of any relocation of existing utilities, if necessary to serve the proposed Subdivision.

(5) Stormwater Drainage – City of Lawrence

(i) Supplemental Data

The Preliminary Plat shall contain data, information and supplemental maps of surrounding property in sufficient detail regarding storm water drainage issues, as determined by the Planning Director or the Planning Commission. The Planning Director or the Planning Commission may request additional data, information and

supplemental maps from the applicant regarding storm water drainage, as appropriate.

(ii) Minimum Floor Elevations

On Lots adjacent to all drainage Easements and on drainageways that are designated by the Director of Public Works or his or her designee, the Preliminary Plat shall indicate:

a. The required minimum habitable floor elevations for structures on Lots; or,

b. The minimum elevation for a foundation opening(s) which shall be certified by a licensed Land Surveyor or Engineer.

c. A note that states: If a basement is built on a Lot where a minimum elevation has been established, the building design is encouraged to incorporate a sump pump.

(g) Review and Action by the Planning Commission

(1) The Planning Commission shall conduct the review of the application at the meeting at which it is scheduled by the Planning Director, unless the Subdivider requests deferral to a future meeting. The Planning Commission shall determine if the Preliminary Plat conforms to the requirements of the Subdivision Regulations and such determination shall be made within 60 days after the first meeting the Planning Director has placed the submitted Plat on a Planning Commission agenda for action.

(2) If the Planning Commission finds that the proposed Preliminary Plat conforms to all of the criteria set forth in Section 11-109(d) the Planning Commission shall approve the Preliminary Plat.

(3) If the Planning Commission finds that the proposed Preliminary Plat fails in any way to conform to the standards set forth in Section 11-109(d), the Planning Commission shall, by motion, deny approval to the proposed Preliminary Plat and shall state in the motion the reason(s) for that denial.

(4) The Planning Director shall give written notice to the Subdivider of the action of the Planning Commission. If the Preliminary Plat has been disapproved, or conditionally approved, the notice shall specifically state the ways in which the Preliminary Plat fails to conform to these Subdivision Regulations.

(5) If the deficiency or other reason for denial can be cured through action of the applicant, the applicant may submit a revised application and Preliminary Plat within 60 days after receipt of the written notice and shall not be required to pay a further fee. In case of a resubmission, the Planning Commission shall consider the resubmitted application at the next meeting occurring at least 21 days after receipt of the complete resubmission by the Subdivider.

(6) If the Planning Commission fails to act on the Preliminary Plat within 60 days of the date of their first meeting occurring after the receipt of a Preliminary Plat on their agenda, the Subdivider may, by letter, apply to the Planning

Director for a "Certificate of Deemed Approval". If the Planning Director finds that a complete application was received at least 60 days before the date of the letter and placed on a Planning Commission agenda, and that no action has been taken by the Planning Commission, the Planning Director shall issue a "Certificate of Deemed Approval" indicating that "this Preliminary Plat shall be deemed approved due to a failure of the Planning Commission to take timely action in accordance with K.S.A. 12-752(b)."

(h) Phasing for Final Plats

(1) A Preliminary Plat may, at the option of the applicant, contain a proposed schedule for submitting Final Plat applications in phases. The Planning Commission may approve the proposed phasing plan if it finds that:

(i) The area represented by each proposed phase is of sufficient size to permit the economical installation of Public Improvements;

(ii) All parts of the necessary public and private Improvements Plans to serve the Subdivision will be provided concurrently with the phase which will first be served by those Improvements or part thereof, or with an earlier phase; and

(iii) All perimeter Rights-of-Way shall be dedicated for the entire Preliminary Plat with the first Final Plat phase of the approved Preliminary Plat.

(i) Effects of Approval by the Planning Commission

(1) Approval of the Preliminary Plat by the Planning Commission shall constitute approval of "the Plat" for purposes of K.S.A. 12-752, subject only to the following:

(i) Submission of a Final Plat, in the form and containing all of the information required by Section 11-109(k). The Final Plat shall be in substantial compliance with the Planning Commission's approval of the Preliminary Plat, including satisfying any conditions imposed on that approval; and

(ii) Completion of Street/Roads, Roads and Public Improvements required by the terms of the approval of the Preliminary Plat, or provision of satisfactory Guarantees of Completion of Improvements, in accordance with Section 11-111(h)(2).

(j) Preliminary Plat Expiration

(1) Approval of a Preliminary Plat by the Planning Commission shall expire:

(i) Twenty four months from the date approval was granted, unless a complete application for Final Plat is submitted by that approval date.

(2) Upon application by the Subdivider, the Planning Commission may, if the cause of failure of the Subdivider to submit a Final Plat is beyond the Subdivider's control, grant an extension of the time beyond this period, for a 24 month

period for good cause shown. Such request for extension must be submitted to the Planning Director prior to the expiration of the 24 month approval period.

(i) The Planning Director shall place such request, with any recommendation, on the next available Planning Commission agenda based on the adopted submittal schedule.

(ii) The Planning Director shall notify the applicant by mail of the date of the proposed consideration by the Planning Commission. Mailed notice of the extension request shall also be provided by the Planning Office in accordance with Section 11-102(d). On that date, the Planning Commission shall hear from the applicant and the Planning Director and may hear from other interested parties.

(3) If a Final Plat has not been submitted, approved, and recorded within this 24 month period, or within an extension period, a Preliminary Plat must be resubmitted to the Planning Commission, reviewed and considered by the Planning Commission in accordance with the procedures set forth herein.

(k) Final Plat – Application

The Subdivider may initiate review of the Final Plat at any time after approval of the Preliminary Plat by the Planning Commission, including satisfaction of all conditions of Preliminary Plat approval. The Final Plat shall be processed in accordance with the provisions of Section 11-109(m).

(1) Each application shall be accompanied by:

(i) The applicable filing fee;

(ii) A completed Major Subdivision-Final Plat application form;

(iii) The required number of paper copies and an electronic copy of a complete submission of a Final Plat; and

(iv) All of the materials required by Section 11-109(l), as well as any additional materials required by the application form provided by the Planning Director.

(2) The Final Plat application shall be accompanied by all required fees; however, the fees necessary for recording the Final Plat at the Register of Deeds office may be submitted after approval;

(3) The Final Plat shall be in the format and contain the information required by Section 11-109(l), except that the Subdivider, at the Subdivider's discretion, may delay submission of the final recording and electronic copies of the Final Plat until final action on the Final Plat by the Planning Director and, if applicable, by the Governing Body; and

(4) For Final Plats which represent only a phase of an approved Preliminary Plat and include minor revisions from the approved Preliminary Plat, as reflected in 11-109(m)(2)(i), a revised Preliminary Plat that includes the proposed revisions shall be submitted with the Final Plat application for record keeping purposes.

(l) Final Plat Contents

(1) Format

The Final Plat shall be prepared by a licensed Land Surveyor with black ink on permanent reproducible material meeting the current standards provided by the Register of Deeds. All drawings and signatures of certification shall be in waterproof ink. The overall sheet size shall be 24 inches by 36 inches.

(2) Material to be Included

The Final Plat shall show:

(i) Descriptive information, which shall:

a. State the name of the proposed Subdivision;

b. Show date of preparation, north arrow and graphic scale;

c. Give a legal description of the proposed Subdivision complete with section, township, range, principal meridian, county, and acreage. Show the location of the nearest section and/or quarter-section corner on the Plat, with a description tying it to the point of beginning for the Subdivision.

d. A Replat shall not be required to be referenced to a section and/or quarter-section corner, provided the original Plat for the subject Replat is tied to at least one of these corner monuments;

e. Show names of adjoining Subdivisions or, in the case of unplatted land, the names of the Owner or Owners of adjoining property;

f. Easements, showing width and general purpose;

g. Sites proposed for Dedication as drainageway, park, school, or other public purposes;

(ii) In addition, the following information is required which is similarly required on the Preliminary Plat:

a. Location of any area within a Floodplain Overlay District zoning district;

b. Boundaries of significant Stands of Mature Trees, Jurisdictional Wetlands, historic sites and archaeological sites on the property proposed for Subdivision; protected environmentally sensitive lands as shown on the Preliminary Plat.

c. For properties within the City, the environmentally sensitive lands shall be located within a Tract or Easement and the Plat shall contain information regarding Ownership and

maintenance of the Tract or Easement as well as the protection measures for the environmentally sensitive lands.

d. For properties within the unincorporated portions of the County, the Plat shall include a Building Envelope which excludes the environmentally sensitive lands and one of the following: a note that a Temporary Set Aside Agreement or permanent Conservation Easement which contains use restrictions and maintenance and protection measures has been recorded for the environmentally sensitive lands and the Book and Page Number for the recorded Temporary Set Aside Agreement or permanent Conservation Easement; or the protected environmentally sensitive lands shall be placed within Easements or Tracts and the Plat shall note the Ownership, maintenance responsibility and protection measures of the protected lands.

e. Proposed Streets (including location and proposed names), and their relation to Platted Streets or to proposed Streets as shown on any adopted general development plan of adjacent property; and,

f. Block and Lot numbers and dimensions of Blocks and Lots.

(iii) Accurate dimensions for all lines, angles, and curves used to describe boundaries, Streets, Easements and areas to be reserved for public use. Data for all curves shall include radius, arc length, chord length, and central angle;

(iv) For land located in a Floodplain, as defined and regulated under Chapter 20, Article 12 of the City Code and Section 12-328 of the Zoning Regulations for the Unincorporated Area of Douglas County, the following:

a. The total area of each Lot located in the designated Floodplain;

b. The Minimum Building Elevation and Minimum Elevation of Building Opening, as determined from Chapter 20, Article 12 of the City Code or Section 12-328 of the Zoning Regulations for the Unincorporated Area of Douglas County.

(v) On Lots adjacent to all drainage Easements and on drainageways that are designated by the Director of Public Works or his or her designee, the Final Plat shall indicate:

a. The required minimum habitable floor elevations for structures on Lots; or,

b. The minimum elevation for a foundation opening(s) which shall be certified by a licensed Land Surveyor or Engineer.

c. A note that states: If a basement is built on a Lot where a minimum elevation has been established, the building design is encouraged to incorporate a sump pump.

(vi) For any Lot including or adjacent to a Lot including environmentally sensitive lands as defined in Section 11-110(k) [County Code Section 11-110(k)] designation of a Building Envelope within which a building may be built after compliance with all applicable setback, Floodplain and sensitive land standards;

(vii) The dated signature and seal of the licensed Land Surveyor responsible for the survey and a note stating: "This survey conforms to the Kansas Minimum Standards for Boundary Surveys";

(viii) Acknowledged certifications on the face of the Final Plat as listed below (may be combined where appropriate):

a. A certificate signed by all parties having any record, title or interest of record in the land Subdivided, showing their consent to the preparation and recording of the Plat;

b. A certificate, signed by the Owner or Owners, dedicating all Parcels of land which are intended for public use;

(ix) The endorsement of the Planning Commission as evidenced by the signature of its Chairperson;

(x) Acceptance of Dedication by the appropriate Governing Body, as indicated by the signature of the Chairperson of the Board of County Commissioners, the Mayor or another Person authorized to sign on behalf of either;

(xi) As a separate document, a certificate that all taxes and special assessments due and payable have been paid.

a. In the case of unpaid special assessments, a proposed redistribution of such unpaid special assessments which meets the county or city's requirements and is acceptable to the County or City Clerk and County or City's Public Works Director.

(xii) A note shall be placed on the Final Plat indicating that additional information concerning drainage and structural elevations are placed on the Preliminary Plat, if such requirement has been placed on the Preliminary Plat.

(xiii) A line shall be provided on the Plat for the review date and signature of the County Surveyor beneath a note stating: "Reviewed in compliance with K.S.A. 58-2005".

(xiv) A reference line shall be provided on the Plat indicating the book and page where the Master Street Tree Plan is recorded at the Register of Deeds.

(xv) A note shall be placed on the Final Plat designating any Lots Abutting a Half-Street and that take sole Access from that Public Right-of-Way as non-buildable in accordance with Section 11-110(e)(9)(ii).

(xvi) Evidence shall be submitted with the Final Plat providing one or more of the means of ensuring completion of required Public Improvements identified in Section 11-111(h).

(m) Final Plat – Review and Action by Planning Director

(1) After approval or approval with conditions of a Preliminary Plat by the Planning Commission and prior to final approval of Public Improvement Plans, the Subdivider shall have prepared for recording a Final Plat, which is consistent with the action of the Planning Commission and with the formatting and content requirements of Section 11-109(l).

(2) If the Planning Director finds that the submitted Final Plat conforms with the content requirements of Section 11-109(l) and in substantial compliance with the Preliminary Plat approved by the Planning Commission, including satisfying any conditions incorporated in that approval, the Planning Director shall approve the Final Plat and attach to it a formal certification that the submitted Final Plat:

(i) Is in substantial compliance with the Preliminary Plat approved by the Planning Commission. The Final Plat shall be deemed to be in substantial compliance with the previously approved Preliminary Plat if one or more of the following criteria are met, as applicable:

a. No change.

b. Increase or reduction, less than or equal to ten percent, of the number of approved Lots, Parcels or Tracts shown within the approved phase of the Preliminary Plat.

c. Minor adjustments to Rights-of-Way lines, Easement lines and/or property lines to account for technical changes related to the proposed Public Improvement Plans.

d. Modifications to Easements and Rights-of-Way when the general form of the approved Preliminary Plat with regard to overall layout, public and/or private vehicular and pedestrian connection, area set aside for public space and/or open space, and required utility corridors is maintained.

(ii) Satisfies any conditions of approval imposed by the Planning Commission;

(iii) Includes the same proposed Dedications subject to minor technical adjustments as described in Section 11-109(m)(2)(i)(a) through (d), above;

(iv) Represents a Plat for which all required Public Improvements have been completed, or for which adequate Guarantee of Improvements has been provided as identified in Section 11-111(h); and

(v) Is otherwise consistent with the requirements of this Article for a Final Plat.

(3) If the Planning Director finds that the submitted Final Plat is deficient as to format or content or otherwise technically deficient, the Planning Director shall notify the Subdivider of the deficiency(ies) within 5 working days.

(4) If the Planning Director finds that the submitted Final Plat does not substantially comply with the approved Preliminary Plat, including any conditions incorporated in such approval, and with the proposed Dedications shown on the Preliminary Plat, subject to Section 11-109(m)(2)(i)(a) through (d), the Planning Director shall place the Final Plat on the agenda of the next Planning Commission meeting following the notice provisions of Section 11-102(d), for further consideration in accordance with the Preliminary Plat review and action provisions of Section 11-109(g).

(5) The Planning Commission approval of the Preliminary Plat combined with the Planning Director's approval as to form and substantial compliance with the approved Preliminary Plat shall constitute Planning Commission approval of the Final Plat. No further action by the Planning Commission shall be necessary or required.

(n) Final Plat – Review and Action by Governing Body

(1) A Final Plat that has been approved by the Planning Director shall be submitted to the Governing Body, as applicable, for its consideration of acceptance of the Dedication of Street/Roads and other public Rights-of-Ways, service, and utility Easements and any land dedicated for public purposes.

(2) The Governing Body shall accept or refuse the Dedication of land for public purposes within 30 days after the first meeting of the Governing Body following the date of the Final Plat's submission to the Clerk of the appropriate Governing Body. The Governing Body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the Governing Body. No additional review and recording fees shall be assessed during that period.

(3) If the Governing Body defers or refuses these Dedications, it shall advise the Planning Director of the reasons thereof.

(4) Failure of the Governing Body of the city or of the county to accept affirmatively a Dedication shown on the Final Plat shall be deemed to be a refusal of the proposed Dedication.

(5) The respective Governing Bodies maintain full legislative discretion to reject any proposed Dedication, regardless of the approval of the Final Plat. If the Governing Body rejects part or all of a proposed Dedication, the Subdivider may amend the Final Plat and resubmit it for consideration by the Planning Director without the rejected Dedication; if the Subdivider takes no action within 60 days of the rejection of any proposed Dedication, it shall constitute failure of a material condition of the approval of the Final Plat and the Final Plat shall be deemed to have been rejected.

(o) Signatures on Final Plat

If the Planning Director has approved and certified the Final Plat in accordance with Section 11-109(m), the Planning Director within 5 working days of receipt of the recordable copies of the Final Plat, shall submit the Final Plat to the Chair of the Planning Commission and to the Mayor or Chairperson of the Board of County Commissioners, as applicable, for signatures. Each of these persons shall, if he or she accepts the certification of the Planning Director, sign the Final Plat, including the "Acceptance of Dedications" certificate; if any of these persons refuse to sign the Final Plat, he or she shall refer the Final Plat to the Planning Commission for consideration at its next meeting in accordance with the requirements of Section 11-109(g), together with a memorandum explaining the reasons why such person refused to sign it.

(p) Processing after Approval of Final Plat

(1) After all signatures have been obtained and all other requirements of this Article have been completed, the Planning Director shall forward the recordable copy of the Final Plat to the Register of Deeds for recording. The recorded version of the Plat shall bear the endorsements provided in Section 11-109(l) including the endorsement by the Governing Body accepting the Dedications.

(2) Upon approval and acceptance of all Final Plats that create new Street/Roads or other Public Improvements, detailed Street/Road and/or utility plans shall be submitted to and approved by either the County Engineer or City Engineer, as applicable, prior to recording of the Final Plat, and these plans shall include the following:

(i) Plan, profile, ditch grades, and cross-sections of all Street/Roads, Alleys and other public ways; and,

(ii) Drainage areas and size and length of cross-Road drainage structures.

(3) Prior to the Final Plat being recorded with the Register of Deeds, a digital version of the Plat shall be submitted to the Planning Director in a format approved by the Planning Director. The digital file shall be registered to the State Plane Coordinate Grid System used by the city and county.

(4) Errors found in closure or internal dimensions shall be corrected prior to recording the Final Plat at the Register of Deeds.

(q) Final Plat Expiration

(1) Approval of a Final Plat by the Planning Director and acceptance of Dedications by the appropriate Governing Body shall be effective for no more than 24 months from the date of acceptance unless all conditions of approval have been completed, unless an extension has been granted by the Planning Director for good cause.

(2) Such request for extension must be submitted to the Planning Director prior to the expiration of the original 24 month approval period.

11-110. Subdivision Design Standards

(a) General

(1) Applicability

All Subdivisions shall comply with the Design Standards of this Section and the Public Improvement Standards of Section 11-111.

(2) Design of Lots

(i) Lots shall be laid-out and designed to comply with all applicable zoning district regulations. The size, width, depth, shape, and orientation of each Lot in a Subdivision shall also take into consideration Topography (steepness of slope and gradient), physical features, type of use contemplated and effect on adjacent Lots.

(ii) Lots for commercial and industrial use shall be of size and arrangement to allow for off-Street/Road parking and loading facilities.

(iii) Double-Frontage and Reverse-Frontage Lots shall be avoided except where they are necessary to provide for the separation of residential development from Collector and Arterial Street/Roads or to overcome challenges of steep Topography and orientation.

(iv) A planting screen Easement of a minimum 20 feet, with or without a berm, shall be provided along the portion of the Lots Abutting such an Arterial Street/Road if required by the Planning Commission.

(v) Corner Lots shall be a minimum of 20% wider than the minimum Lot Width required in the applicable zoning district to allow for appropriate building setbacks and sufficient yard space.

(3) Plans for Resubdivision

(i) Whenever an area is divided into residential Lots with a Lot area of one acre or greater, and there is a possibility that such Lots may eventually be re-subdivided into smaller Lots, consideration shall be given to the Street, and Lot arrangement of the original Subdivision so that additional Streets can be opened later to permit a logical arrangement of smaller Lots.

(ii) Provision of Easements or Right-of-Way for the future opening and extension of such Streets and for gravity sewers and stormwater drainage shall be made a condition of Preliminary Plat approval.

(b) Frontage

All Lots shall have Frontage on a Public Street unless Lot Frontage is approved on a Private Street as part of a Planned Development.

(c) Access

(1) City of Lawrence

For Lots located within the City, Access shall be provided directly from a Street or as follows:

(i) An Alley may provide the primary vehicular Access to one or more Lots in a Subdivision, provided that each such Lot shall have Street Frontage on a Public Street unless designed as part of a Planned Development.

(ii) Alley Access is particularly appropriate where the Street Frontage for the Lot is on a Collector or Arterial Street.

(iii) Residential shared Driveways are permitted when a recorded Access Easement is provided.

(iv) Joint-Use Driveways in Lawrence with a minimum paved width of 24 feet may be approved as part of the Subdivision approval process for non-residential developments (e.g., shopping centers, industrial/business parks), if there is a city approved Easement of record ensuring perpetual Access to the Joint-Use Driveway by all Lots with Frontage and providing for the perpetual Ownership, continuance and maintenance of the Joint-Use Driveway.

(v) Joint-Use Driveways shall not be considered as parking or loading space or as an aisle for Access to individual parking spaces in computing conformance with the parking requirements of the Development Code.

(vi) Joint use Access points may be approved within Lawrence when located wholly within the dedicated Public Street Right-of-Way.

(2) Unincorporated Area of the County

For Lots located within the Unincorporated Areas of the County, Access shall be directly from a Road or as follows:

(i) Joint-Use Drivewaysare not permitted in the Unincorporated Area of the County.

(ii) Shared Driveway Approaches serving residential uses may only be approved with the filing of an instrument for joint maintenance of the Driveway Approach area and only when individual Driveways are separately maintained beyond the Road Easement or Right-of-Way line.

(iii) Joint use Access points may be approved when located wholly within the dedicated or public Road Easement.

(d) Blocks

(1) General

The lengths, widths, and shapes of Blocks shall be determined with due regard to:

(i) Limitations and opportunities of Topography and other physical features such as utilities, Floodplains, Jurisdictional Wetlands and natural storm drainage patterns;

(ii) Provision of building sites adequate for the uses contemplated;

(iii) Zoning requirements as to Lot sizes and dimensions; and

(iv) Need for convenient Access, circulation, and control of Street traffic for safety.

(2) Length

(i) City of Lawrence

Block length for Local Streets within the City of Lawrence shall not exceed 800 feet in length (centerline to centerline of Streets) unless the Subdivider demonstrates to the satisfaction of the Planning Commission that:

a. There are Pedestrian Ways at intervals of 700 feet or less, replacing the connection that would exist as a Sidewalk along the Street; and

b. The proposed Block must be greater than 800 feet in length because physical conditions preclude a Block length of less than 800 feet. Such conditions may include, but are not be limited to, Topography or the existence of natural resource areas such as Jurisdictional Wetlands, Floodplains, wildlife habitat areas, steep slopes or Woodlands.

(ii) Unincorporated Area of the County [Reserved]

(3) Width

A residential Block shall have sufficient width to allow for two tiers of Lots of appropriate depth unless it adjoins a limited-Access, Collector, or Arterial Street, railroad or other nonresidential use, in which case it may have a single tier of Lots that exceed the minimum Lot area required in the zoning district.

(4) Shape

Blocks may be irregular in shape, provided their design meets the requirements of Lot standards, traffic flow and control considerations and any adopted watershed/ sub-basin plans, Sector or Neighborhood Plan.

(e) Streets

(1) General

(i) Local Streets within the City of Lawrence should be less than 1,320 feet in length.

a. Local Streets exceeding 800 feet in length shall include Traffic Calming Devices, shown in an adopted City of Lawrence Traffic Calming Policy document as maintained by the Public Works Director.

(ii) All Streets within Subdivisions shall be laid-out, arranged and designed in accordance with any adopted watershed/sub-basin plans, Sector or Neighborhood Plan or, in the absence of such a plan, with all applicable standards of this Article.

(iii) Arterial and Collector Streets shall be laid-out, arranged and designed in accordance with any adopted Major Thoroughfares Map or corridor plan.

(iv) Subdivisions shall provide a logical Street layout in relation to topographical conditions, public convenience, safety and the proposed use of the land to be served by such Streets.

(v) At time of Preliminary Plat approval, the full Right-of-Way for all boundary line and Full Maintenance Roads under the applicant's Ownership control shall be annexed to the City.

(2) Connections

(i) Street connections shall provide Access to adjoining lands, existing and proposed Streets.

(ii) Every Subdivision shall provide for at least one Street connection to each adjacent Subdivision or future adjacent Subdivision.

a. Any existing or Platted Street that terminates at the boundary line of a proposed Subdivision shall be continued into the proposed Subdivision in such a manner as to provide Street connections to adjoining lands and Streets within the proposed Subdivision or,

b. Local Streets may terminate in a Cul-de-sac if an existing environmental feature dictates the design.

(iii) Streets shall provide connections to adjacent undeveloped land in accordance with the adopted Major Thoroughfares Map.

(iv) Proposed Subdivisions that have Access to the public Road system via a Single Outlet must comply with the currently adopted International Fire Code. IFC requirements may limit the total number of Lots or residential Dwelling units permitted; total amount of square feet constructed; or the type of construction allowed.

(v) Residential Collector Streets shall provide connections to nonresidential uses within the neighborhood and shall not typically intersect with Arterial Streets.

a. Bicycle & pedestrian facilities are strongly recommended for Residential Collectors.

b. Various traffic-calming treatments may be used to reduce travel speeds.

c. Residential Collector Streets with adjacent residential land uses should, in most cases, be limited to two lanes.

d. Residential Collector Streets that connect neighborhoods to shopping areas shall be designed to have indirect connections to Arterial Streets.

(vi) Streets longer than one Lot that terminate at the property boundaries of undeveloped land shall provide an improved temporary Turn-around.

(3) Intersecting Streets

(i) Local Streets generally should not intersect Arterial Streets. The Planning Commission, with the City Engineer's recommendation, may approve a new connection of a Local Street to an Arterial Street:

a. Where it finds that such connection is part of the best traffic solution for the new Subdivision; and

b. Where the Subdivider will add turn lanes or other Improvements recommended by the City Engineer to the Arterial Street to minimize the impact of the connection on the functioning of the Arterial Street.

(ii) Local Streets intersecting opposite sides of another Local or Collector Street when offset shall be offset 300 feet or more.

(iii) Streets shall intersect as nearly as possible at right angles.

(iv) Not more than two Streets shall intersect at any one point.

(4) Requirements When Access Barriers Exist

Wherever a proposed Subdivision contains or is adjacent to a Marginal Access Street or Road; an Arterial Street or a railroad Right-of-Way; the Planning Commission, as part of the Preliminary Plat approval, shall require the following for the protection for the integrity and subsequent safety, efficiency and economy of the Marginal Access, Arterial, or railroad Right-of-Way:

(i) Dedication of a Local Street or Road to provide ingress and egress to and from such Blocks or Lots;

(ii) A Street or Road approximately parallel to and on each side (where applicable) of such Marginal Access Street or Road, Arterial Street or railroad Right-of-Way at a distance suitable for the appropriate use of the land between such Streets or Roads;

(iii) Reverse Frontage Lots with Access Control provisions along the rear property line; or

(iv) Adequate distance between such parallel Streets or Roads and the Arterial, Marginal Access Street or Road, or railroad so as to provide for proper approach grades and future grade separation.

(5) Cross-Sections

(i) City of Lawrence

All Platted Subdivisions lying within the City of Lawrence shall comply with the following cross-section standards:

Street Type	Right-of-Way Min. Width (feet)
Principal Arterial	150
Minor Arterial (3 lane)	100
Collector	80
Residential Collector	60
Local	60
Limited Local	50
Cul-de-sac	60
Marginal Access (Frontage Road)	60

a. Pavement width constructed according to City standards.
b. Additional r-o-w may be necessary at Intersections.
c. Paved bulb with 50' radius is required/60' minimum r-o-w radii required.

(ii) Unincorporated Area of the County

All residential developments and nonresidential Subdivisions within the Unincorporated Area shall comply with the following minimum cross-section standards:

Street Type	Right-of-Way Min. Width (feet)
Principal Arterial (w/ median)	150
Principal Arterial (w/o median)	120
Minor Arterial	100
Major Collector	80
Minor Collector	70
Local	70

a. Right-of-Way shall be sufficient to include top of ditch back slopes; may be variable
b. Road design shall meet design standards contained in KDOT's "Project development Manual for Non-National Highway System Local Government Road and Street Projects" and/or AASHTO Green Book standards.

(6) Grades

The finished grade for all Streets and Roads shall be at or above the base flood elevation. The grades of Streets and Roads shall comply with the following standards:

Street Type	Maximum Grade (%)	Minimum Grade (%)
Arterials (Principal and Minor):		
City or Urban Growth Area	5	1.0
Rural Area	5	1.0
Collector (Major or Minor)	8	1.0
Marginal Access	10	1.0
Local	10	1.0

(i) The City or County Engineer, as applicable, shall be authorized to approve minor deviations for short distances from these grade standards when it is determined that compliance with these standards is impracticable.

(ii) Within the City of Lawrence, maximum grade of Streets serving industrial areas shall be 5% regardless of Street classification.

(7) Radii of Curvature

The minimum radius of curvature of the centerline of Arterial and Collector Street shall meet design standards contained in KDOT's "Project development Manual for Non-National Highway System Local Government Road and Street Projects" and/or AASHTO Green Book standards.

(8) Cul-de-sacs

(i) Cul-de-sac lengths shall not exceed 10 times the required minimum Lot Width of the base zoning district or 1,000 feet (1,320 feet in Unincorporated Area), whichever is less.

a. A Cul-de-sac's length shall be measured from the center point of the Cul-de-sac bulb or Turn-around to the centerline of the Right-of-Way of the nearest intersecting through Street.

(ii) Maximum Cul-de-sac length may be increased by up to 25% above the maximum allowed by Section 11-110(e)(8)(i) during the Preliminary Plat approval process if the Planning Commission determines that the proposal meets all of the following criteria:

a. It is impracticable to connect the Street to another Street or to provide a looped Street or other means of Access that would avoid the Cul-de-sac or allow the Cul-de-sac to meet the length limit because:

1. The area is separated from other parts of the Subdivision or a possible Street connection by Floodplains, Jurisdictional Wetlands, or steep slopes greater than 10% or other natural resource areas; and

2. Other properties adjoining the area have already been Subdivided or developed in a manner that precludes connecting the Cul-de-sac to an existing or proposed Street.

b. Use of Cluster Housing provisions of this Development Code would not reasonably allow compliance with the Cul-de-sac length limit of Section 11-110(e)(8) and realization of at least 75% of the maximum Lot density allowed by the site's base zoning; and

c. The degree of increase in allowable Cul-de-sac length is the minimum necessary to allow the above findings.

d. The Subdivider bears the burden of demonstrating that all criteria have been met.

(iii) In Subdivisions with Cul-de-sacs, Easements may be required to ensure that the water supply system is looped.

(iv) If a Cul-de-sac is longer than 600 feet, the Subdivision shall include Pedestrian Easements at the terminus of the Cul-de-sac to provide pedestrian connections to and from the Cul-de-sac, in accordance with 11-110(h)(4)(iii).

(9) Half-Streets

(i) Whenever Right-of-Way for one-half of a Street has been dedicated to bring that Street to then-current standards, regardless of whether that half of the Street has been improved, and a Subdivision of land adjoining the other half of the Street is proposed, the remainder of the Right-of-Way shall be dedicated and improved by the Subdivider.

(ii) No building permits shall be issued for Lots with Access only to a Half-Street until the entire remainder of the Street Right-of-Way between the two nearest intersecting Streets and passing in front of the subject Lot(s) is dedicated and improved.

(10) Private Streets and Roads

(i) Unincorporated Area of the County

a. Private Roads are prohibited in the Unincorporated Area of Douglas County, except for those that were approved prior to December 15, 1998.

b. Before Douglas County will consider a request to assume maintenance of any existing Private Road, by Dedication or otherwise, the Road must be brought into compliance with all applicable Road and Right-of-Way standards.

(ii) City of Lawrence

a. New Private Streets in the City are permitted only in Planned Developments approved by the Planning Commission and City Commission.

b. Private Streets shall be built to City Street construction standards and maintained by the Landowner.

(11) Alleys

(i) Alleys shall be provided in commercial and industrial districts, except that the Planning Director may waive this requirement where other definite or assured provisions are made for service Access, off-Street loading and unloading and parking spaces consistent with and adequate for the uses proposed.

(ii) Alleys shall have a minimum unobstructed Right-of-Way width of 20 feet.

(iii) Alleys shall comply with the construction standards of the city and/or county, as determined by the City or County Engineer.

(iv) Intersecting Alleys shall be prohibited except when no feasible alternative exists. When Alley Intersections are unavoidable, a turning radius shall be provided to permit safe vehicular movement.

(v) Alleys that serve dock areas shall be designed with adequate Turn-around facilities.

(f) Street and Road Names and Lot and Block Numbering

(1) City of Lawrence

(i) Street names shall be proposed by the Subdivider, reviewed by the Public Works Director, and approved by the City Commission. The approval of Street names shall be within the legislative discretion of City Commission, subject to the following standards:

a. Compass directions shall not be used as part of Street names;

b. The identifiers "Court and "Circle" shall be used as follows:

1. A Court identifies a Dead-End or Cul-de-sac; and

2. A Circle identifies a Street where both ends terminate at the same Roadway.

c. Streets that run in an east – west direction shall be named as numbered Streets;

(ii) Existing Street names shall be used where the Street to be named is, or would be, a logical extension of an existing Street even though separated by undeveloped land, natural physical barriers or man-made obstructions; and

(iii) Where a proposed Street is shown on an adopted Major Thoroughfares Map and such map indicates a name for that Street, that name shall be used.

(2) Unincorporated Area of the County

Road names in the unincorporated County shall be named in accordance with the E911 Emergency Management System.

(g) Lot and Block Numbering

Lot numbers shall be assigned by starting in the northeast corner of each Block and proceeding in a counterclockwise direction. When a Street or Road separates a group of Lots, a new Block shall be identified, and the Lots within the new Block shall be numbered as herein specified.

(h) Easements

(1) Permanent Utility Easements

Permanent utility Easements shall be provided where necessary to accommodate utilities that will serve the Subdivision. Permanent utility Easements shall be provided where necessary to allow for utility service in and through the proposed Subdivision. Where such an Easement is necessary, it shall be centered on rear or side Lot Lines, as applicable, and shall be at least

30 feet and 15 feet wide respectively, except that Easements for Street lighting purposes only need not exceed 10 feet in width.

(2) Temporary Utility Easements

Temporary utility Easements shall be provided where necessary to accommodate the installation of utilities that will serve the Subdivision. Temporary utility Easements shall be centered on rear or side Lot Lines and shall be at least 30 feet and 25 feet wide respectively. The temporary utility Easement shall expire after the initial installation of the required utilities. After the expiration of a temporary utility Easement, the permanent utility Easement will govern.

(3) Drainage Easements

Drainage Easements for water courses, drainage Swales or streams which traverse a Subdivision may be required. Drainage Easements shall be exclusively for that use and separate from the Dedication of other utility Easements. Upon the request of the Planning Director, the City or County Engineer, as applicable, shall make recommendation to the Planning Commission regarding the desired width of the Drainage Easement. Such study and report shall be based on the 100-year flood depth (if known), or the regulatory flood elevation when provided by the Federal Insurance Administration.

(4) Pedestrian Easements

(i) Pedestrian Easements shall be required when Block lengths for Local Streets exceed 800 feet in length. Such Easements shall extend entirely across the width of the Block at approximately the midpoint of the Block.

(ii) Additional Pedestrian Easements should be required within the City and Urban Growth Area to provide pedestrian connections from a Subdivision to schools, parks, shopping, employment or other nearby uses and to link pedestrian routes in adjacent Subdivisions or neighborhoods, including a pedestrian connection at the terminus of each Cul-de-sac.

(iii) Easements for Pedestrian Ways shall have a minimum width of 12 feet.

(iv) The Planning Commission may waive this requirement where, due to Topography or physical barriers, the Pedestrian Easement would not form a logical part of the larger pedestrian circulation system through the approval of the Preliminary Plat.

(i) Parks, Open Space Schools and Other Public Facilities

The Planning Commission shall encourage the donation, reservation, or Dedication of sites for parks, open space, schools and other public facilities in accordance with the Lawrence Parks and Recreation Comprehensive Master Plan.

(j) Land In Floodplain Overlay Districts

Land within a Floodplain Overlay District shall be subject to the Flood Protection Standards of Article 12, Chapter 20, City Code and to the Flood Protection Standards of Section 12-328 of the Zoning Regulations for the Unincorporated Area of Douglas County.

(k) Protection of Environmentally Sensitive Lands

(1) Definition of Environmentally Sensitive Lands

Certificates of Survey land divisions and Platted Subdivisions shall be designed to protect environmentally sensitive lands which contain natural resources and environmentally sensitive areas. Environmentally sensitive lands are listed below in a priority order for protection:

(i) Regulatory floodway, designated on the FEMA Flood Insurance Rate Map for Douglas County and identified on the GIS Baseline Environmentally Sensitive Lands Map;

(ii) Regulatory floodway fringe, designated on the FEMA Flood Insurance Rate Map for Douglas County based on the 100 year storm and identified on the GIS Baseline Environmentally Sensitive Lands Map;

(iii) Jurisdictional Wetlands, as determined by the Army Corps of Engineers;

(iv) Stream Corridors as defined in these regulations and identified on the GIS Baseline Environmentally Sensitive Lands Map;

(v) Stands of Mature Trees, as defined in these Regulations and identified on the GIS Baseline Environmentally Sensitive Lands Map; and

(vi) Archaeological or historic sites listed on local, state, or federal registers and identified on the GIS Baseline Environmentally Sensitive Lands Map.

(2) Determination of environmentally sensitive lands.

The presence of environmentally sensitive lands shall be determined from an examination of the site and the following resources:

(i) FEMA Flood Insurance Rate Map for Douglas County, most current adopted map;

(ii) US Fish and Wildlife Service National Wetland Inventory Maps;

(iii) GIS Baseline Environmentally Sensitive Lands Map;

(iv) Kansas State Historical Society Archeological and Historic Resources Inventory; and

(v) Other resources which may be appropriate.

(3) Protection Standards for Environmentally Sensitive Lands – City of Lawrence

(i) Section 20-1101(d)(2)(i) of the Land Development Code limits the required protection of environmentally sensitive lands to a maximum protection area of 20% of the total land area of residentially zoned property.

(ii) Section 20-1101(d)(2(ii)(b) requires that when Platting, environmentally sensitive lands to be protected shall be placed within Tracts or Easements and information regarding Ownership and maintenance responsibility of the Tract or Easement, as well as protection measures, shall be included on the Preliminary and Final Plat.

(iii) Section 20-1101(e) contains information on density bonuses which may be possible when environmentally sensitive lands are protected in greater amounts than required.

(iv) Section 20-1101(d)(2)(ii)(a) requires that a Sensitive Areas Site Plan be submitted prior to, or concurrent with, all Subdivision applications for properties containing environmentally sensitive lands. The requirements of a Sensitive Areas Site Plan are found in Section 20-1101(f).

(4) Protection Standards for Environmentally Sensitive Lands – Unincorporated Area of the County

(i) Per Sections 11-104(c)(3) [County Code Sections 11-104(c)(3)], Certificates of Survey land divisions within the UGA shall protect environmentally sensitive lands through the filing of a Temporary Set Aside Agreement or a permanent Conservation Easement with the Register of Deeds.

(ii) Per Section 11-106(d)(2)(vii) [County Code Section 11-106(d)(2)(vii)] Certificates of Survey outside the UGA for properties which contain environmentally sensitive lands shall designate Building Envelopes which exclude the protected environmentally sensitive lands.

(iii) All Plats which include environmentally sensitive lands shall protect them through one of the following methods:

(iv) The filing of a Temporary Set Aside Agreement or permanent Conservation Easement with the Register of Deeds.

(v) Placement of the environmentally sensitive lands within Tracts or Easements. Information regarding Ownership and maintenance responsibility of the Tract or Easement, as well as protection measures shall be included on the Preliminary and Final Plat.

(vi) Protection of environmentally sensitive lands is encouraged to the maximum amount possible, but required protection is limited to 40% of the site included in the Certificate of Survey and 20% of the total site for Platted properties.

(l) Soils and Soil Testing – City of Lawrence

Soils shall be identified based on the Soil Conservation Survey soils categories and characteristics. Soils test shall be obtained to verify sub-surface soil characteristics for rocky or unstable soil types, when requested by the City Engineer, for areas proposed to be dedicated for City of Lawrence public Rights-of-Way and public Easements.

(m) Soils and Soil Testing – Unincorporated Area of the County

Soils shall be identified based on the Soil Conservation Survey soils categories and characteristics. Soils test holes shall be conducted in accordance with the Douglas County Sanitary Code.

11-111. Public Improvements Standards

(a) General Public Improvement Construction Standards

(1) Standards

All Public Improvements, including but not limited to water, sanitary sewer, Streets, curbs, gutters, storm sewers and storm drainage, roundabouts, pedestrian facilities, Traffic Calming Devices or traffic control devices shall comply with the construction standards established by the City Engineer or County Engineer, as applicable. Such standards are incorporated herein by reference.

(2) Administration and Fees

(i) Compliance with the items listed in Section 11-111(a)(1) and use of appropriate construction methods shall be determined by the County or City Engineer, as applicable.

(ii) A permit shall be issued by the County or City Engineer, as applicable for the construction of a future Public Improvement prior to commencement of any work activity associated with the improvement.

(iii) A fee in an amount determined by resolution of the Governing Body shall be charged for the permit.

(3) Pre-Pinning in the Unincorporated Area of the County

In the Unincorporated Area of Douglas County, at or before the time of construction of Public Improvements, sufficient grade and alignment stakes shall be set by a licensed Land Surveyor, engaged by the Subdivider to assure compliance with plan, profile and drainage of Streets and such other Public Improvements as are proposed and submitted with the Final Plat and approved by the County Engineer.

(i) Compliance with the items listed above and use of appropriate construction methods shall be determined by the County Engineer.

(ii) A permit shall be issued by the County Engineer for the construction of a future Public Improvement prior to commencement of any work activity associated with the improvement.

(iii) A fee in an amount set by Resolution of the County Commission shall be charged for the permit.

(iv) This sub-section shall apply only to Subdivisions in which the complete Lot pinning required by Section 11-111(k) has not been completed at the time that the first Public Improvements are installed.

(b) Streets or Roads

(1) City of Lawrence

Subdivision Streets located within the incorporated city limits shall be constructed to comply with standards adopted by the City of Lawrence.

(2) Urban Growth Areas

Subdivision Streets and Roads located within the Urban Growth Areas shall be constructed to the Street and Road standards of the City that established the Urban Growth Area.

(3) Rural Area

Subdivision Roads located within the Rural Area shall be constructed to the higher of the following standards:

(i) Road standards adopted by the Township(s) in which the Road is located;

(ii) Standards for the Road classification specified on Exhibit 9-506 of the County's Access Management Regulations, Chapter IX of the County Code.

(iii) Other adopted County standards applicable to a Road of the classification and/or location of the proposed Road; or

(iv) At a minimum, adopted Douglas County Rock Roadway Standard.

(c) Sidewalks and Pedestrian Ways

(1) City of Lawrence and Urban Growth Areas

Sidewalks and Pedestrian Ways shall be provided in the City of Lawrence in accordance with the standards of this sub-section:

(i) Public Sidewalks shall be installed on both sides of all Streets, as follows:

Street Type	Minimum Sidewalk Width (feet)
Local	5; Minimum width of 4 feet allowed in the Original Townsite Area.
Collector	5
Arterial	6; A designated 10' Bicycle/Recreation Path on one side of the Street and a 6' Sidewalk on the other side.

(ii) Sidewalks shall be constructed in accordance with standards and specifications adopted by the applicable Governing Body.

(iii) Variances

a. The applicant for a Subdivision may request a Variance for the requirement to construct part of or all of the Sidewalks in the Subdivision as part of the Preliminary Plat review in accordance with the Variance procedures outlined in Section 11-113(g).

b. If the Planning Commission takes no specific action on a proposed Variance for part or all of a Sidewalk requirement, the Variance shall be deemed to be denied. In reviewing Variance requests from the standard Sidewalk width, special consideration shall be given to walks adjacent to Collector or Arterial Streets located in historic districts and areas with severe site Topography which would make it impractical or difficult to build a Sidewalk in accordance with the above standards.

(iv) Sidewalks required to be constructed within the same Right-of-Way as the Street being paved shall be constructed concurrently with the paving of the adjacent Roadway or with the first phase of development of a multiple-lot Subdivision, adjacent to any improved Street.

(v) Pedestrian Ways

a. Where an approved Preliminary Plat shows a Pedestrian Way other than a Sidewalk, an improved Pedestrian Way not less than five feet wide in the Easement space dedicated for that purpose shall be provided by the Subdivider.

b. Pedestrian Way Easements shall be improved in accordance with adopted City construction standards for Sidewalks and shall conform to all accessibility requirements of the Americans with Disabilities Act.

c. Completion of such Improvements shall be guaranteed in accordance with Section 11-111(h)(2) or subject to site plan review or non-residential development standards.

d. The responsibility for paving the Pedestrian Way shall be the Developer's, and these Pedestrian Ways shall be constructed concurrent with the paving of the most adjacent Roadway, unless otherwise provided by the Planning Director in acting on the Final Plat.

e. The responsibility for maintenance of the Pedestrian Way shall be that of adjacent property Owners or the Home Owners Association for the Subdivision.

(vi) Public Improvement Petitions shall include the construction of Sidewalks or Pedestrian Ways, except where the Planning Commission has specifically waived the installation as provided in Section 11-111(c)(1)(iii) above. The total cost of all Sidewalks or Pedestrian Way Improvements shall be borne by the property benefited in the improvement district.

(2) **Urban Growth Areas**

An Agreement Not to Protest the Formation of a Future Benefit District for the construction of Sidewalks may be required as a condition of approval for Platted Subdivisions in the Urban Growth Areas in accordance with the standards of Section 11-111(c)(1) for the Lawrence UGA or the standards of the applicable city's UGA.

(3) **Rural Area**

The Planning Commission may recommend and the Board of County Commissioners shall be authorized to require Sidewalks in other Major Subdivisions when deemed necessary to provide for safe pedestrian connections to nearby schools, parks, shopping, employment or other uses or activities.

(d) Wastewater Disposal Systems

(1) **City of Lawrence and Urban Growth Areas**

(i) The approval of any Subdivision requiring connection to the City of Lawrence wastewater system is contingent upon the availability and adequacy of the City to provide wastewater services to the area being Subdivided.

a. It is the applicant's responsibility to ensure their proposed development takes into consideration the City's long-range plans, studies, reports, and similar documents for wastewater services, including submission of a Downstream Sanitary Sewer Study in accordance with Administrative Policy No. 76.

b. Failure to conform to these provisions warrant denial of the Subdivision Plat.

(ii) On-Site Sewage Management Systems are prohibited on any land which is Platted under these regulations and is located in the City of Lawrence or in Service Area 1 of the Urban Growth Area of Lawrence.

(2) **Urban Growth Area and Rural Area**

(i) On-Site Sewage Management Systems may be permitted in Subdivisions in Service Areas 2-4 of Lawrence's Urban Growth Area, other City's Urban Growth Areas, or in Subdivisions in the Rural Area, subject to the following minimum Lot area standards:

a. For Lots that use well water as the primary Potable Water source, the minimum Lot area for an On-Site Sewage

Management System is 5 acres. Any land located within the Floodplain shall not be counted in calculating Lot area for the purpose of meeting minimum Lot area requirements for On-Site Sewage Management System use;

b. For all other Lots, the minimum Lot area requirement for an On-Site Sewage Management System is 3 acres. Any land located within the Floodplain shall not be counted in calculating Lot area for the purpose of meeting minimum Lot area requirements On-Site Sewage Management System;

c. No portion of an On-Site Sewage Management System shall be located within the FEMA designated Floodplain; and,

d. Calculation shall not include land dedicated for Rights-of-Way or exclusive Easements.

(ii) Community Sewage collection and treatment facilities (including lagoons) may be provided for Subdivided or newly created Lots in the Urban Growth Areas or for any other newly created Lots not suitable for an On-Site Sewage Management System.

a. Such systems shall be subject to approval by the Kansas Department of Health and Environment and shall be designed to allow for future connection to a public sewer system.

b. Maintenance of such facilities shall be provided by a Home or Property Owners Association, benefit district (if then permitted under Kansas law), or other appropriate entity. Evidence shall be submitted at the time of Subdivision approval showing the establishment of such an entity to be responsible for maintenance and management of the system.

(iii) In situations in which an On-Site Sewage Management System has been proposed, no Subdivision shall receive final approval until the Subdivider has presented evidence that the On-Site Sewage Management System, as a method of Sewage disposal for the Subdivision, has been approved by the Director of the Lawrence-Douglas County Health Department.

(3) **On-Site Sewage Management Systems** shall be constructed in accordance with the Douglas County Sanitary Code, Resolution 09-44, as amended.

(e) Water Supply

(1) City of Lawrence and Urban Growth Areas

(i) The approval of any Subdivision requiring connection to the City of Lawrence municipal water system is contingent upon the availability and adequacy of the City to provide water services to the area being Subdivided.

a. It is the applicant's responsibility to ensure their proposed development takes into consideration the City's long-range plans, studies, reports, and similar documents for water services in accordance with Administrative Policy No. 52.

b. Failure to conform to these provisions warrant denial of the Subdivision Plat.

(ii) Before approval of a Final Plat within Lawrence's Urban Growth Area that will not be served by the City of Lawrence utilities, the Subdivider shall provide written documentation to the Lawrence-Douglas County Health Department Director and the Lawrence-Douglas County Metropolitan Planning Director that Publicly Treated Water, delivered through a water meter is available to and will be provided for all Lots.

(iii) Before approval of a Final Plat for land located within the City of Lawrence or Lawrence's Urban Growth Area, the Subdivider must sign an agreement to connect to a municipal water system when public water lines are within 1,000 feet of any planned development on the property and such connection is feasible.

(2) **Urban Growth Area and Rural Area**

(i) In the Unincorporated County, Subdividers are required to consult with the applicable Fire Department and Rural Water District to determine if the provision of fire hydrants as part of the Public Water Supply system is feasible.

(ii) Where determined by the Fire Department and Rural Water District to be feasible, fire hydrants must be provided.

(iii) Where existing water pressure is insufficient for fire hydrants as part of the Public Water Supply, or where there is no Publicly Treated Water supply, the Subdivider must install dry hydrants adjacent to a pond or other water storage device with sufficient capacity, and in an appropriate location, to support firefighting needs as determined by the applicable Fire Department.

(f) Telephone, Cable Television Electrical Lines

(1) Telephone, cable television and electrical lines must be located underground when located in the City of Lawrence or Subdivisions in Lawrence's Urban Growth Area. This provision shall not apply to high voltage electrical lines.

(2) The Developer is responsible for the cost of any relocation of existing utilities, if necessary to serve the proposed Subdivision.

(g) Street Trees

All Subdivisions within the City of Lawrence or Lawrence's Urban Growth Area shall be required to provide a Master Street Tree Plan that meets the standards of this sub-section.

(1) **Minimum Tree Requirements**

Street trees shall consist of canopy shade and/or ornamental trees, as defined below and meeting the following minimum requirements:

(i) Size

Medium or large trees, as defined by Section 18-103(e) of the Code of the City of Lawrence, Kansas, and amendments thereto, which can reach a mature height of 45 feet or greater are required except that ornamental trees planted pursuant to Section 11-111(g)(2)(iv) are not subject to the 45 feet height requirement. The minimum trunk Caliper of Street trees, at the time of planting, measured six inches above the ground in accordance with the American Nurseryman Standards shall be as follows:

Street Tree Type	Minimum Trunk Caliper (inches)	Mature Height (feet)
Canopy Shade	2 (ball and burlap or equivalent)	At least 45
Ornamental	2 (ball and burlap or equivalent)	No more than 20

(ii) Number

One tree shall be provided for every 40 feet of Street Frontage. The Planning Director may approve a Master Street Tree Plan that varies from this requirement to allow for Driveways, utilities, and Intersection visibility requirements.

(iii) Minimum Species Diversity

The following minimum requirements shall apply to all Master Street Tree Plans. To prevent uniform insect or disease susceptibility, a mix of species shall be provided. The City Parks and Recreation Director shall, upon request, provide a list of trees that are acceptable to satisfy the requirements for Master Street Tree Plans. To promote diversity in the Urban forest, the number of trees required to be planted shall be in accordance with the following requirements:

Number of Trees per Plat	Minimum Number of Species
1–10	1
11–20	2
21–30	3
31–40	4
41+	6

(2) **Planting Location and Spacing**

(i) Location in RS and RM12D Zoning Districts

a. Street trees shall be located in the front yard, building setback and/or adjacent to the Right-of-Way at a distance not greater than 10 feet from the boundary line of the Right-of-Way; where practical.

b. Street trees shall be planted after planned utilities have been installed.

c. Trees shall be planted no closer than 8 feet from existing underground utility lines, where practical and approved by the Planning Director.

d. On corner Lots, no tree shall be planted nearer than 50 feet from the intersecting curb lines of the two Streets.

e. No tree shall be planted between the curb and the Sidewalk if the clear space is less than 3 feet wide.

(ii) Location in all Other Zoning Districts

a. Street trees shall be located either within the Street Right-of-Way or within the required front yard building setback, PROVIDED,

b. No tree is located farther than 30 feet from the back of the curb, with the exception of Lots on the radius of a Cul-de-sac which shall be located not greater than 45 feet from the back of the curb, where practical.

c. Street trees shall be planted after planned utilities have been installed.

d. Trees shall be planted no closer than 8 feet from existing utility lines, where practical and approved by the Planning Director.

e. On corner Lots, no tree shall be planted nearer than 50 feet from the intersecting curb lines of the two Streets.

f. No tree shall be planted between the curb and the Sidewalk if the clear space is less than 3 feet wide.

(iii) Spacing

a. Street trees shall be evenly spaced along the Street Frontage.

b. As alternative, Street trees may be clustered, if based on Planning Director evaluation, conditions exist which dictate building location and Driveway placement which interrupts the even spacing of Street trees. Such conditions include:

1. The Lot is on a corner;
2. The presence of existing trees, which qualify for credit under Section 11-111(g)(5);and/or
3. Topographic conditions (i.e. steep gradient, rock outcroppings).

(iv) Overhead Lines and Fixtures

If the planting site will prevent the growth of canopy shade trees due to overhead utility lines, ornamental trees shall be permitted as a substitution for the canopy shade trees in accordance with the Location and Spacing requirements of this Section and shall be subject to the following requirements:

a. The canopy of the ornamental tree(s) shall be no closer than 10 feet from the overhead lines and its mature height shall not exceed 20 feet; and

b. The ornamental tree(s) shall be planted at least 15 feet away from any Street light.

(v) Cul-de-sac Lots

Lots on Cul-de-sacs that have a Street Frontage of 45' or less shall be required to provide only one Street tree per Lot.

(3) **Master Street Tree Plan**

(i) A proposed written and graphic Master Street Tree Plan shall be submitted at the time a Final Plat is submitted to the Planning Department for review.

(ii) Prior to recording the Final Plat with the Register of Deeds, the applicant shall provide a Master Street Tree Plan that is signed and properly acknowledged by the property Owner(s). The Master Street Tree Plan shall be written to be binding on present and future property Owners. A reference line shall be provided on the Final Plat indicating the book and page where the Master Street Tree Plan is filed which shall be completed at the time the Final Plat is recorded at the Register of Deeds.

(iii) The Master Street Tree Plan shall be prepared in a format established by the Planning Director and shall include the following information:

a. A list of acceptable Street tree types;

b. The number of trees to be provided for each Lot;

c. The number, location and size of existing trees proposed to be saved and applied to the fulfillment of this requirement;

d. The provisions to be taken pursuant to Section 18-107 of the Code of the City of Lawrence, Kansas during construction for the protection of existing trees to be saved (if any);

e. If trees are proposed in Street medians, provisions for maintenance (including how water line extensions will be paid); and

f. The identification of power line locations.

(4) Provision of Right of Entry

(i) Each Final Plat for detached or attached single Dwelling residential structures to be built on individual Platted Lots in a City residential Subdivision in RS and RM12D zoning districts shall contain the following note on the face of the Final Plat: "The City is hereby granted a temporary right of entry to plant the required Street trees pursuant to Section 11-111(g) of the City Subdivision Regulations."

(ii) For Final Plats filed before January 1, 2002, for detached or attached single Dwelling residential structures to be built on individual Platted Lots in a City residential Subdivision in RS and RM12D zoning districts, the property Owner of undeveloped Lots for which a city building permit has not been issued shall sign a consent form and submit it with the building permit application granting the City of Lawrence temporary right of entry to plant the required Street trees pursuant Section 11-111(g) of the City Subdivision Regulations.

(5) Credits for Existing Trees

Existing trees may be applied toward the fulfillment of this Street tree requirement when:

(i) All of the following conditions exist:

a. The tree is healthy and of a species the Director of the Parks and Recreation Department or his/her designee determines to be desirable as a Street tree;

b. The existing tree is within the Street Right-of-Way or within 30 feet of the back of the curb or proposed curb line;

c. The tree(s) Caliper of a canopy shade tree is at least four inches measured six inches from the ground, or in the case of an ornamental tree, the tree Caliper is at least two inches, measured six inches from the ground, in accordance with the American Nurseryman Standards;

d. The applicant has submitted a tree protection plan that conforms with the requirements of Section 18-107 of the Code of the City of Lawrence, Kansas, and amendments thereto, and

e. The existing or proposed location of overhead utility lines along the Street Right(s)-of-Way will not prevent the full growth of the Street tree.

(6) Timing of Landscape Placement

(i) The timing of, and manner in which the Street trees shall be planted for detached or attached single Dwelling residential structures to be built on individual Platted Lots in city residential Subdivisions in RS and RM12D Zoning Districts shall be in accordance with City Administrative Policy No. 83.

(ii) For all other required Street trees not covered by (i) above, and/or developments requiring a site plan or development plan:

a. Trees shall be installed, after other Public Improvements, if water is available for their care and maintenance. The property Owner or his designee shall be required to guarantee planting of the tree at the time a building permit application is submitted.

b. Street trees shall be planted prior to final building inspection or the issuance of an occupancy permit. Consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of tree planting PROVIDED, the guarantee for planting is extended to the date of completion of tree planting.

c. Guarantee shall be provided in the following form:

1. A cash escrow deposit in a financial institution authorized to do business in Kansas in an amount set forth in the City of Lawrence Administrative Policy No. 83. This escrow deposit shall be invested and reinvested by such bank or savings and loan, the interest or discount from which shall be paid to the Subdivider upon final release of such escrow deposit as determined by Section 11-111(i). Money will be withdrawn to pay the Developer or a designated nursery after the installation of said trees and prior to the issuance of a final certificate of inspection; or

2. The appropriate Governing Body, at its discretion, may accept an irrevocable letter of credit from a financial institution or a corporate surety performance bond in lieu of a cash escrow deposit to insure the planting of the required Street trees.

(7) Continuing Maintenance

(i) Continuing maintenance of trees planted by the City shall be in accordance with the maintenance provisions set forth in City of Lawrence Administrative Policy No. 83.

(ii) For all other required Street trees not covered by Section 11-111(g) and/or developments requiring a site plan or development plan, the on-going maintenance of trees, once planted, shall be the responsibility of the property Owner adjacent to the public Right-of-Way or Private Street. If a Street tree dies or fails to be planted

within one calendar year of issuance of an occupancy permit, the City shall notify the property Owner of the need to plant or replace the tree(s) as applicable. Should the property Owner fail to plant or replace the tree within 30 days of notification, the City shall reserve the right to cause the required trees to be installed and the cost of the tree(s), plus the cost of installation of the tree(s), shall be assessed to the property Owner.

(h) Completion of Public Improvements

Before a Final Plat or Minor Subdivision/Replat may be recorded, the Subdivider shall:

(1) Provide written certification from the City or County Engineer, as applicable, that all required Public Improvements in that portion of a Subdivision authorized for development have been completed in accordance with applicable Design and Public Improvement Standards of this Article; or

(2) Provide for one or more of the following means of ensuring completion of required Public Improvements:

(i) A Public Improvement Petition for construction and installation of all or a portion of the required Public Improvements.

(ii) A cash escrow deposit in an amount estimated by the appropriate Engineer to be sufficient to assure the appropriate Governing Body of the construction and installation of the uncompleted portion of the required Public Improvements in accordance with applicable improvement standards;

(iii) An irrevocable letter of credit from a financial institution qualified to do business in Kansas, in a form satisfactory to the appropriate Governing Body, in an amount estimated by the appropriate Engineer to be sufficient to assure the appropriate Governing Body of the construction and installation of required Public Improvements in accordance with applicable improvement standards; or

(iv) Approval subject to conditions:

a. The Planning Director may approve the Final Plat subject to the condition that it not be recorded until the City Engineer or County Engineer, as applicable, has determined that all required Public Improvements have been completed in accordance with the standards of this Article and related design standards of the applicable local government.

b. If the required Improvements are not timely completed, the City Engineer or County Engineer with the Planning Director may submit the Final Plat to the appropriate Governing Body for further consideration; after giving the Subdivider an opportunity to be heard, the appropriate Governing Body may:

c. Authorize the Planning Director to rescind the approval of the Plat, require additional assurance for completion of the Public Improvements,

d. Authorize the recording of the Final Plat without further Improvements, or

e. Extend the timeline for completion of the Public Improvements.

(v) The appropriate Governing Body may, at its discretion, determine which of such methods for ensuring completion of required Public Improvements shall be required.

(i) Escrow Deposit

(1) The amount of the cash escrow deposit determined in accordance with Section 11-111(h)(2)(ii) shall be deposited by the appropriate Governing Body in a special escrow account in the commercial bank in which the funds of such appropriate Governing Body are then deposited.

(2) This escrow deposit shall be invested and reinvested by such bank in short-term government securities, the interest or discount from which shall be paid to the Subdivider upon final release of such escrow deposit as hereinafter provided.

(3) Upon written certification from the City or County Engineer, as applicable, that the required Improvements have been 30% completed, the appropriate Governing Body shall release 30% of such escrow deposit to the Subdivider.

(4) Upon a like certification that the required Public Improvements have been 50% and thereafter, 75% completed, the appropriate Governing Body shall release 20% and 25% respectively, of the original escrow deposit to the Subdivider.

(5) Upon written certification from the appropriate Engineer that the required Public Improvements have been completed in accordance with applicable improvement standards, the balance of such escrow deposit, together with all earnings accrued thereon, shall be released to the Subdivider.

(j) Irrevocable Letter of Credit

(1) The amount of an irrevocable letter of credit determined in accordance with Section 11-111(h)(2)(iii) shall be submitted by the Subdivider to the City or County Engineer, City or County Public Works Director or other designated representative.

(2) By the 10th of each month, the City or County Engineer or other designated representative shall certify to an Agent of the financial institution, estimates of the amount of work completed by the contractor.

(3) The financial institution may submit a new letter of credit, which would reflect the balance of work remaining to be completed as determined by the City or County Engineer to replace the previous letter of credit.

(4) Ten percent of the total project cost shall be retained until the City Engineer or County Engineer, whichever is appropriate, has accepted all of the Public Improvements in that phase of the Subdivision.

(k) Lot Pinning

(1) Pins for all corners of the Subdivision and for all Lot corners shall be set and the completion of the setting certified by the responsible Land Surveyor before a Final Plat or Replat is recorded.

(2) As an alternative to Section 11-111(k)(1), before the recording of a Final Plat or Minor Subdivision/Replat with the Register of Deeds, the Developer or Owner shall provide certification to the Planning Director that the Subdivision's boundaries are pinned and there is a contract with a licensed Land Surveyor to pin the Lots after completion of Street and Public Improvements.

(3) A Major Subdivision can be pinned or staked in phases that are coincident with:

(i) The Street construction and development phase;

(ii) The placement of utilities within the designated utility Easements phase; and

(iii) The pouring of building foundations for slabs for building construction (issuance of a building permit phase).

(4) At the time the Public Improvement Plans are submitted to the Public Works Director for approval, the center lines of Right(s)-of-Way shall be identified by establishing the following control points:

(i) Points of Intersection (PI);

(ii) Points of Tangency (PT); and,

(iii) Points of Curvature (PC).

(5) Simultaneously with the construction of Public Improvements, staking or pinning of the Subdivision boundary corners and key points along the Easement(s) shall be completed to provide the following information:

(i) The Intersection of four or more Lots;

(ii) Points of curvature; and

(iii) Points of Intersection with other Easements.

(6) At the time of application for a building permit, the Developer or builder of the Lot shall present certification (letter stamped by a licensed Land Surveyor) to the Building Safety Manager to assure Lot corners are pinned and pins are found or set.

11-112. **(Reserved)**

11-113. Administration and Enforcement

(a) Planning Director Powers and Duties

The Planning Director shall have the following powers and duties under this Article:

(1) Maintain permanent and current records with respect to these regulations, including amendments thereto;

(2) Receive all pre-applications together with other necessary information;

(3) Distribute copies of applications and other necessary information to other appropriate governmental agencies and departments for their review and recommendations;

(4) Review applications of land division for compliance with these regulations;

(5) Present reports and recommendations to the Planning Commission and Governing Bodies;

(6) File approved Final Plats, Minor Subdivision/Replats, and Certificates of Surveys with the Register of Deeds;

(7) Make such other determinations and decisions as may be required by these regulations or by the Planning Commission.

(b) Planning Commission Powers and Duties

The Planning Commission shall have the following powers and duties under this Article:

(1) Review and approve, conditionally approve, or disapprove Preliminary Plats;

(2) Grant or deny Variances to the Design Standards of this Article as per Section 11-113(g);

(3) Make such other determinations and decisions as may from time to time be required by these regulations, or by applicable state law.

(c) Dedications or Vacations

The applicable Governing Bodies shall be responsible for accepting the Dedication or approving the Vacation of Rights-of-Way for Public Streets, Roads and public Easements.

(d) Building Permits in the Unincorporated Area of Douglas County

No building permit shall be issued for any building or structure in the Unincorporated Area of the County unless the Douglas County Zoning & Codes Director finds that:

(1) The proposed building or structure shall be located:

(i) On a Platted Lot shown on an approved and recorded Final Plat for a Subdivision or on a Residential Development Parcel shown on an approved and recorded Certificate of Survey;

(ii) On a Platted Lot or land division in existence on the Effective Date of these regulations that has a vested right under these requirements pursuant to Section 11-101(e);

(iii) On a Platted Lot or land division, created through a valid Exemption to these regulations or to the Subdivision Regulations that were in effect at the time when the Lot or land division was created as identified in Section 11-101(d); or

(iv) On a recorded Land Combination, created pursuant to Section 11-101(f).

(2) A building permit may be issued for improvement of an existing residential building in the Unincorporated Area of the County if the Douglas County Zoning & Codes Director finds that the existing residential building:

(i) Was built on the site prior to the Effective Date of these regulations; and,

(ii) Is located on a land Parcel of sufficient size to meet the County's Sanitary Code requirements.

(3) All Public Improvements required as a condition of approval of the Final Plat on which the Lot is shown have been completed or the Subdivider has provided security for the completion of such Improvements, in accordance with Section 11-111(h)(2);

(4) A certification, signed by a licensed Land Surveyor, has been presented as proof of pinning for each of the Lots for which building permits are requested; and,

(5) There has been compliance with any conditions of Final Plat or Certificate of Survey approval.

(e) Building Permits in the City of Lawrence

No building permit shall be issued for any building or structure in the City of Lawrence unless the Planning Director finds that:

(1) All Public Improvements required as a condition of approval of the Final Plat on which the Lot is shown have been completed or the Subdivider has provided security for the completion of such Improvements, in accordance with Section 11-111(h)(2);

(2) A certification, signed by a licensed Land Surveyor, has been presented as proof of pinning for each of the Lots for which building permits are requested; and

(3) There has been compliance with:

(i) All applicable Design Standards and Public Improvement requirements of this Article;

(ii) All applicable Review and Approval Procedures of Section 11-102; and

(iii) Any conditions of Final Plat approval.; or

(4) The property is determined by the Planning Director to be a Lot of Record or a nonconforming Lot as defined in Section 20-1504 of the Land Development Code.

(f) Appeals

(1) From Decision of the Planning Director

Unless otherwise provided, a person aggrieved by a decision of the Planning Director under these Subdivision Regulations may appeal the decision to the Lawrence Board of Zoning Appeals in accordance with Section 20-1311 of the City Code or the Douglas County Board of Zoning Appeals in accordance with Section 12-323 of the County Code, as applicable. Such appeal shall be filed within 30 days of the date of the letter, memo, staff report or other written representation of the decision of the Planning Director which was reasonably available to the person aggrieved. An appeal not timely filed is barred.

(2) From Decision of the Douglas County Zoning and Codes Director

Unless otherwise provided, a person aggrieved by a decision of the Douglas County Zoning & Codes Director under these Subdivision Regulations may appeal the decision to the Douglas County Board of Zoning Appeals in accordance with Section 12-323 of the Douglas County Zoning Regulations. Such appeal shall be filed within 30 days of the date of the letter, memo, staff report or other written representation of the decision of the Zoning and Codes Director which was reasonably available to the person aggrieved. An appeal not timely filed is barred.

(3) From Decision of Planning Commission

A person aggrieved by a decision of the Planning Commission under these Subdivision Regulations may appeal the decision to the City Commission (in the case of a matter involving land in the City) or to the Board of County Commissioners (in the case of a matter involving land in an unincorporated part of the County). Such appeal shall be filed within 30 days of the date of the meeting of the Planning Commission at which the action appealed from was taken. An appeal not timely filed is barred.

(4) From Decision of Governing Body

A person aggrieved by a decision of the Board of County Commissioners or the Lawrence City Commission under these Subdivision Regulations may pursue any available cause of action in a court of competent jurisdiction, subject to the rules of civil procedure then in effect and subject to any limitations imposed by Kansas law.

(g) Variances

In cases where there is hardship in carrying out the literal provisions of the Design Standards of these regulations (such as Design Standards for Lot Width, Lot area, Block depth, etc.) or Public Improvement Standards of these regulations, the Planning Commission may grant a Variance from such provisions, except that in cases where there is hardship in carrying out the literal provisions found in Section 11-

111(d) regarding wastewater disposal systems, the appropriate Governing Body may grant a Variance from such provisions.

(1) An application for a Variance shall be made to the Planning Director. The Planning Commission shall give the applicant and any other interested persons an opportunity to be heard with respect to the proposed application for a Variance from the provisions of the regulations.

(2) A Variance shall not be granted unless all of the following apply:

(i) Strict application of these regulations will create an unnecessary hardship upon the Subdivider;

(ii) The proposed Variance is in harmony with the intended purpose of these regulations; and,

(iii) The public health, safety and welfare will be protected.

(h) Design Variances for Planned Development

When a Plat is presented which includes land for which a Planned Development plan has been approved, the Planning Commission may vary the Design Standards in these regulations as necessary to conform to such approved Preliminary and Final Development Plans.

(i) Enforcement and Penalties

It shall be the duty of the Douglas County Zoning & Codes Director, the City Codes Enforcement Manager, and the Planning Director to enforce the Subdivision Regulations of this Article.

(j) Violations

The following shall constitute violations of these Subdivision Regulations:

(1) To submit for recording, any Subdivision Plat, land division or other Development Plan that has not been approved in accordance with the procedures of these Subdivision Regulations or that does not qualify for an exemption under these Subdivision Regulations;

(2) To engage in the construction of a building or development or division of land, requiring one or more approvals under these Subdivision Regulations without obtaining all such required approvals;

(3) To engage in the construction of a building or development or division of land, requiring one or more approvals under these Subdivision Regulations in any way inconsistent with any such approval or any conditions imposed thereon;

(4) To violate the terms of any approval granted under these Subdivision Regulations or any condition imposed on such approval; or

(5) To violate any lawful order issued by any person or entity under these Subdivision Regulations.

(k) Penalties; Remedies

The following penalties and remedies shall be available to the City and County in enforcing these Subdivision Regulations:

(1) The City or County may seek an injunction or other equitable relief in the District Court to stop any violation of these Subdivision Regulations or of a permit, certificate or other form of authorization granted hereunder.

(2) The City or County may seek a Court order from the District Court in the nature of mandamus, abatement or other action or proceeding to abate or remove a violation or to restore otherwise the premises in question to the condition in which they existed prior to the violation.

(3) The City or County may seek such criminal or civil penalties as are provided by Kansas law, City or County Code. For purposes of these penalties, each day's violation shall constitute a separate offense.

(4) The City's Building Safety Manager or the Douglas County Zoning & Codes Director may deny or withhold all permits, certificates or other forms of authorization on any land, or structure or Improvements thereon:

(i) Which has been divided or Subdivided other than in accordance with the requirements of these Subdivision Regulations; or

(ii) On which there is an uncorrected violation of these Subdivision Regulations.

(5) Any permit or other form of authorization required under these Subdivision Regulations may be revoked by the City's Building Safety Manager, the Douglas County Zoning & Codes Director, the Planning Director, or by any City or County official with authority to issue such permit when the official determines:

(i) That there is departure from the plans, specifications, or conditions as required under terms of the Subdivision approval;

(ii) That the Subdivision approval was procured by false representation or was issued by mistake; or

(iii) That any of the provisions of these Subdivision Regulations are being violated.

(6) Written notice of revocation shall be served upon the Owner, the Owner's Agent or contractor, or upon any person employed on the building or structure for which such permit was issued, or shall be posted in a prominent location, and thereafter construction shall stop.

(7) Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of these Subdivision Regulations, the City's Building Safety Manager or the Douglas County Zoning & Codes Director may order the work to be immediately stopped.

(i) The stop-work order shall be in writing and directed to 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.

(ii) Violation of a stop-work order constitutes a misdemeanor.

(8) Where a violation of these Subdivision Regulations involves a failure to comply with approved plans, or conditions to which the approval of such plans was made subject, the Planning Commission may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected):

(i) Revoke the plan or other approval or

(ii) Condition its continuance on:

a. Strict compliance with these Subdivision Regulations,

b. The provision of financial security to ensure that construction is completed in compliance with approved plans, or

c. Such other conditions as the city may reasonably impose.

(iii) Any required financial security shall be in a form approved by the City or County, as applicable.

11-114. Building Setbacks, Enforcement, Exceptions

(a) Building or Setback Lines On Major Streets or Highways

(1) Purpose

As part of the Comprehensive Plan, the City and County have identified major entrances or gateways to the City and the Urban Growth Area around it. To enhance the appearance of those gateways, it is the intent of the City and the County to create a greenway effect along the major corridors through those gateways.

(2) Building and parking Setback Lines are hereby established on certain major Streets or highways as follows:

(i) West Sixth Street from K10 (South Lawrence Trafficway) to Wakarusa Drive and West Sixth Street from Monterey Way to Folks Road: a Setback Line of 50 feet.

(3) Building and parking setback limits on West Sixth Street from Wakarusa Drive to Folks Road shall be based on the approved zoning for each Tract of land.

(b) Exceptions

(1) In the event that a governmental taking or acquisition for Right-of-Way, Easement or other governmental use would reduce a setback that previously complied with this Section, that reduction in setback shall not be deemed to constitute a violation of this Section.

(2) Any non-conforming residential building or structure located within the 50 foot building and parking setback, which is damaged by fire, flood, explosion, wind,

earthquake, war, riot, or other calamity or Act of God, may be restored or reconstructed provided; said restoration or reconstruction occurs on the original foundation. The building or structure may not be rebuilt to a greater density or intensity than existed before the damage.

(c) Appeal – Setback

Notwithstanding Section 11-113, any appeal of the building and parking Setback Line established for major Streets or highways shall be to the Board of Zoning Appeals of the applicable jurisdiction, provided that no appeal shall be required in the instance of the reduction in a setback resulting from a governmental taking or acquisition for Right-of-Way, Easement, or other governmental use, as provided in Section 11-114(b) (1). The Board of Zoning Appeals shall have the power to modify or vary the building and parking Setback Line in specific cases in order that unwarranted hardship, which constitutes a complete deprivation of use as distinguished from merely granting a privilege, may be avoided. In the absence of such a hardship, the intended purpose of the building and parking Setback Line shall be strictly observed.

(d) Enforcement

No building or occupancy permit shall be issued for any new building within the Plat approval jurisdiction of the City of Lawrence, or the Unincorporated Area of Douglas County, which fails to comply with the requirements of Section 11-114.

(e) Interpretation

The provisions of Section 11-114 shall not be interpreted to deprive the Owner of any existing property or of its use or maintenance for the purpose to which such property is then lawfully devoted.

11-115. Interpretations, Rules of Construction and Definitions

(a) Interpretation and Rules of Construction

(1) Where the conditions imposed by the provisions of these regulations are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of any other applicable law, ordinance, resolution, rule, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

(2) The provisions of these regulations are not intended to abrogate any Easement, covenant, or other private agreement; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such Easement, covenant, or other private agreement, the requirements of these regulations shall govern.

(3) A division of land, which was not lawful at the time of the adoption of these regulations on December 31, 2006, shall not become or be made lawful solely by reason of adoption of these regulations.

(4) The provisions of these regulations are cumulative and are additional limitations upon all other laws and ordinances heretofore passed or which may be passed hereafter governing any subject matter in the provisions of these regulations.

(b) Definitions

(1) Words used in this Article have the standard dictionary definition unless they are defined in this section. Words defined in this section shall have the specific meaning assigned, unless the context expressly indicates another meaning.

(2) Words or terms that are specifically defined in the Subdivision Regulations, and specifically used in the context of these regulations, are distinguished by being in Title Case and in Blue Text in the original code document.

(3) The words “shall”, “will”, “shall not”, and “may not” are mandatory.

(4) The word “may” is permissive.

(5) The word “and” indicates that all connected items or provisions apply.

(6) The word “or” indicates that the connected items or provisions may apply singularly and in combination.

(7) Floodplain terms referenced in this Article are defined in Section 20-1205 of the Land Development Code of the City of Lawrence and Section 12-303 of the Zoning Regulations for Douglas County.

Term	Definition
Abut	To physically touch or border upon; or to share a common property line.
Access	A way or means of approach to provide vehicular or pedestrian physical entrance to a property.
Access Control	Access Control is the limitation of public Access rights to and from properties Abutting Streets or highways. Access Control is used on Arterial Streets and higher functional classes of Streets to preserve traffic service levels and safety.
Agent (of Owner or Applicant)	Any person who can show certified written proof that he or she is acting for the LandOwner or applicant.
Agricultural Purposes	A purpose that is directly related to the agricultural activity on the land which shall include: (a) the cultivation and tillage of the soil; (b) dairying; (c) the production, cultivation, growing or harvesting of any agricultural or horticultural commodity; (d) the raising or training of livestock, bees, fur-bearing animals, or poultry; or (e) any practices performed by a farmer or on a farm, incident to or in connection with such farming operations. The term "agriculture purpose" does not mean the processing for sale or handling for sale a commodity or product grown or produced by a person other than the farmer or the farmer's employees. In all cases, an agricultural purpose does not include a structure used as a residential Dwelling or an On-Site Sewage Management System.
Alley	A public or private way not more than 20 feet wide primarily designed to serve as a secondary means of Access to Abutting property.
Benchmark	Surveying mark made in some object which is permanently fixed in the ground, showing the height of that point in relation to National Geodetic Vertical Datum (NGVD) and City or County Datum.
Block	A Parcel of land entirely surrounded by Public Streets, highways, railroad rights-of-way, public walks, parks or green strips, or drainage Channels or a combination thereof.

Term	Definition
Bore Hole or Soil Boring	Soil test(s) conducted by drilling or auguring a hole through the native soil and logging the descriptions of the soil stratification, characteristics, moisture content, presence of Groundwater, and other relevant observations in accordance with the Unified Soil Classification System, USDA's Soil Textural Triangle, or other professional soil description system as approved by the applicable local health department.
Boundary Line Adjustment	A change in the boundary between adjoining lands that does not create an additional building site and that, when completed, will result in Tracts/Parcels of land that meet minimum Road Frontage requirements OR Lots that comply with the Lot Design Standards of Section 11-110(a)(2) and with the Zoning District regulations that apply to the subject property.
Boundary Line Street (or Road)	A Street or Road that forms a part of the boundary line of a City.
Build Out Plan	A future Subdivision layout that has been planned and designed to the Urban Street and Block level based on existing Topography and the Design Standards in the Subdivision Regulations of the city associated with the Urban Growth Area. The Build Out Plan identifies an internal Street network that has connectivity to existing and planned Collector and/or Arterial Streets, including Blocks for future Urban development, and the general location of utility and drainage Easements.
Buildable Lot	A Lot for which a building permit can be obtained. Property that is designated as a "Tract" of land is not a Buildable Lot, unless the Tract is identified for specific uses, such as signs, area markers or public utilities, as part of the Subdivision process.
Building Envelope	The buildable area of a Lot or a Residential Development Parcel defined by the minimum required setbacks of the applicable Zoning Regulations and excluding lands identified to be protected per Section 11-110(k) [County Code Section 11-110(k)].
Caliper	The American Association of Nurserymen standard for trunk measurement of nursery stock, as measured at 6 inches above the ground for trees up to and including 4 inch Caliper size, and as measured at 12 inches above the ground for larger sizes.
Certificate of Survey	A legal instrument approved pursuant to Section 11-107; this is a narrowly used term and this instrument is not considered a "Plat" or a 'Subdivision" as defined herein.

Term	Definition
Channel	A watercourse with a definite bed and banks which confine and conduct the normal continuous or intermittent flow of water.
Cluster Development	A form of residential development permitted in the Urban Growth Areas that requires Residential Development Parcel s to take Access from a common Cross Access Easement and to set aside common areas and to plan for the conservation of natural resources.
Comprehensive Plan	The Comprehensive Plan for the city or county, officially approved or adopted to provide long-range Development policies, and which may include, among other things, the plan for land use, land Subdivision, circulation, and community facilities.
County's Access Management Standards	Access and minimum Frontage standards in the Douglas County Code, Chapter 9, Article 5.
County's Rock Road Standard	Standards as delineated in Chapter 9, Section 203 of the Douglas County Code.
Cul-de-sac	A Street that has one outlet and is permanently terminated by a vehicle Turn-around at the other end. This is a sub-category of Streets with a Single Outlet.
Culvert	A drain, ditch or conduit not incorporated in a closed system, which carries drainage water under a Driveway, Roadway, railroad, pedestrian walk or public way.
Curb Cut	The opening along the curb line at which point vehicles may enter or leave a Roadway.
Datum, City	A reference point from which heights or depths are calculated within the City of Lawrence. All reference marks using City Datum are required to also denote NGVD elevation.
Dedication	Gift or donation of property by the Owner to a governmental unit. The transfer is conveyed by a Plat or a written separate instrument. The act of dedicating is completed with a formal acceptance by the Governing Body.
Design Standards, Subdivision	All requirements and regulations relating to design and layout of Subdivisions contained in Section 11-110.

Term	Definition
Detention Pond	A facility for the temporary storage of stormwater runoff. The stormwater may be released to downstream facilities at a designed rate of flow.
Developer	The legal or beneficial Owner or Owners of a Lot or of land proposed to be Subdivided including the holder of an option or contract to purchase, or other person having enforceable proprietary interests in the land.
Double Frontage Lot (or Through Lot)	A Lot with two opposite Lot Lines Abutting upon Streets or Roads which are substantially parallel.
Douglas County Zoning & Codes Director	The director of the Douglas County Zoning and Codes Department or such Person's designee with primary responsibility for enforcement and administration of the Zoning and Building Code Regulations of Douglas County.
Drainage System	Pipes, waterways, natural features and man-made Improvements designed to carry stormwater drainage.
Driveway	A privately owned means of providing direct vehicle Access to Streets.
Driveway Apron or Driveway Approach	For property within the City of Lawrence: The Driveway area located between the Sidewalk and the curb. When there is no Sidewalk, the apron or approach shall be defined as extending a minimum of six (6) feet from the back of the curb toward the Lot Line. For property in the Unincorporated Areas: The improved surface located between existing edge of Road surface and the existing Right-of-Way line and installed in accordance with Douglas County Public Works Department standards.
Driveway, Joint-Use	A privately owned Driveway that provides Access to 2 or more Lots in a non-residential Development, such as in a shopping center (with outlots) or a business or industrial park.
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 recreational vehicle.

Term	Definition
Easement	A grant by a property Owner to the public, a corporation, or persons for the use of land for specific purposes.
Easement, Access	An Easement created for the purpose of providing vehicular or pedestrian Access to a property.
Easement, Conservation	A non-possessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open-space values of real property, assuring its availability for agricultural, forest, recreational or open-space use, protecting natural resources, maintaining or enhancing air or water quality or preserving the historical, architectural, archaeological or cultural aspects of real property. In case of any conflict between this definition and K.S.A. 58-3810, as it may be amended from time to time, the amended statute shall control and shall be used in the construction and interpretation of these regulations.
Easement, Cross Access	An Easement between two or more adjacent Parcels creating rights to utilize a service drive providing vehicular Access among those Parcels so the driver need not enter the Public Street system, except at a limited Access point.
Effective Date	December 31, 2006, the date Joint Ordinance No. 8064/ Resolution No. 06-41 adopting this Article 8, Chapter 20, Code of the City of Lawrence and Chapter 11, of the Douglas County Code took effect.
Floodplain	The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or based on an approved Hydrologic and Hydraulic Study.
Force Main	A sanitary sewer line through which wastewater is pumped rather than carried by gravity flow.
Frontage Road	A “Street, Marginal Access” located in front of the properties that it Abuts.
Frontage	The boundary of a Lot or Residential Development Parcel that Abuts a Street or a Road Right-of-Way.
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.

Term	Definition
Governing Body	The respective City Commission or City Council within the incorporated limits of the City of Lawrence, Baldwin City, Eudora, or Lecompton and the Board of County Commissioners within the Unincorporated Area of Douglas County.
Grading	The act of excavation or filling or a combination of both or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.
Groundwater	Any subsurface water in the zone of saturation, including but not limited to spring water, perched Water Tables, seasonal Water Tables and aquifers.
Half-Street	The Right-of-Way for a Street bordering one or more property lines of a Subdivision to which the Subdivider has allocated only a portion of the required Street Right-of-Way width.
Hard Surfaced Road	A properly constructed and maintained Road surface with asphaltic concrete, Portland cement concrete or with chip sealed aggregate base.
Home Owners Association	A community association, other than a condominium association, which is organized in a Development in which individual Owners share common interests in open space or facilities. The Home Owners Association usually holds title to reserves, manages and maintains the common property, and enforces certain covenants and restrictions. Condominium associations differ from Home Owners Associations in that condominium associations do not have title to the common property.
Homestead Exemption Survey	A boundary survey creating a new Parcel from the division of a vested Parcel, for a residence that existed on the vested Parcel on 12/31/2006, which was made in accordance with Section 11-101(d)(2)(ix). The vested rights from the original Parcel remain with the existing residence, transferring to the new residential Parcel when the survey is recorded at the Register of Deeds.
Improvements	All facilities constructed or erected by a Subdivider to permit and facilitate the use of Lots and Blocks for residential, institutional, business or manufacturing purpose. Improvements include all facilities listed in Section 11-111.
Infrastructure	Facilities and services under the control of a governmental agency needed to sustain all land uses or activities in a

Term	Definition
	community. Infrastructure includes water lines, sewer lines, and other utilities, Streets and Roads, communications, and public facilities, such as fire stations, parks, schools, and other similar type uses.
Intersection	Where two or more Streets cross at-grade.
Jurisdictional Wetland	Wetlands which are regulated by Section 404 of the Clean Water Act and are under the regulatory jurisdiction of the Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA).
Land Combination	The combination of a vested division of land in the Unincorporated Area with additional acreage to increase the overall acreage of an individual residential Parcel.
Land Disturbance	Any activity involving the clearing, cutting, excavating, filling, or Grading of land or any other activity that alters land Topography or vegetative cover.
Land Surveyor	One who is licensed by the State of Kansas as a Land Surveyor and is qualified to make accurate field measurements and to mark, describe, and define land boundaries.
Lot	A designated area of land established by Plat or Subdivision to be used, transferred, developed or built upon as a unit.
Lot, Reverse Frontage	A Through Lot that is not Accessible from one of the parallel or non-intersecting Streets upon which it fronts.
Lot Depth	The distance between the midpoint of the front Lot Line and the mid-point of the rear Lot Line.
Lot Line, "or Residential Development Parcel Line"	The perimeter of a Lot or a Residential Development Parcel.
Lot Width, "or Residential Development Parcel Width"	The distance between the side Lot Lines of a Lot, or the side lines of a Residential Development Parcel measured at the required front Setback Line
Lot of Record	A legally created Lot recorded at the Register of Deeds as part of a Plat or Subdivision.

Term	Definition
Major Thoroughfares Map(s)	A plan adopted by the Metropolitan Planning Organization, the Planning Commission and the Governing Body(ies) identifying and classifying the major Streets and Roads in the community.
Metes and Bounds	A method of describing the boundaries of land by directions and distances from a known point of reference.
Minimum Elevation of Building Opening	The minimum elevation above sea level at which a building located in the Floodplain may have a door, window, or other opening.
Minor Subdivision	See "Subdivision, Minor/Replat"
Neighborhood Plan	See "Sector Plan"
Off-Site Improvements	Improvements located on property outside the perimeter of the Subdivision that are determined by the Planning Commission to be necessary because of the proposed Subdivision, e.g., construction of Streets, signalization of Intersections, drainage Channels, extension of public utilities, etc.
On-Site Sewage Management System	A conventional, alternative, experimental, or innovative Sewage disposal system which serves a single family residential building or a single non-residential building.
On-Site	Located within the perimeter of the property that is subject to an application for Subdivision or a Certificate of Survey approval.
Open Space, Common	Land within a Subdivision, which is designed and intended for the common use or enjoyment of the residents of the Development and may include such complementary structures and Improvements as are necessary and appropriate. Common Open Space may be Platted as a Tract which is owned and maintained by a Home Owners Association or a property Owners association.
Original Townsite Area	The original Townsite of the City of Lawrence, as shown on the "Original Townsite Map" available for public inspection from the Planning Director.
Original Tract	A Parcel or a combination of all adjacent Parcels under a single Ownership [not separated by public Right(s)-of-Way] that share common boundary lines or two separate Ownerships that share a common boundary line, for the purpose of creating one Parent Parcel.

Term	Definition
Outlet, Single	A single connection between the Street or Road system in a particular Subdivision or other development and the Street system shown on the Major Thoroughfare Map; a Cul-de-sac is a sub-category of Streets with Single Outlets, but a loop Road or more complex system within a development may also have Access to the Street system through a Single Outlet.
Overlay District	A special zoning district that has been "overlaid" on a base zoning classification to alter some or all the base district Zoning Regulations.
Owner	An individual, association, partnership or corporation having legal or equitable title to land other than legal title held only for the purpose of security. For the purpose of notice, the Owner may be determined using the latest Douglas County Appraiser's assessment roll.
Package Plant	A prefabricated or pre-built wastewater treatment plant.
Parcel	A Lot or contiguous Tracts owned and recorded as the property of the same persons or controlled by a single entity.
Parent Parcel	An area of 20 acres or more surveyed solely for the purpose of creating one or more Residential Development Parcel s.
Pedestrian Easement	A strip of land dedicated for public use which is dedicated across a Block for the purpose of providing pedestrian Access to adjacent areas.
Pedestrian Way	A public walk dedicated entirely through a Block, from Street to Street, or providing Access to a school, park, recreation area, employment or shopping center.
Percolation Test	A test designed to determine the ability of ground to absorb water and used in determining the suitability of a soil for drainage or for the use of a septic system.
Percolation	Downward flow or infiltration of water through the pores or spaces of rock or soil.
Planning Area	The area considered in the development of a Comprehensive Plan for cities in Douglas County.

Term	Definition
Planning Commission	The Lawrence-Douglas County Metropolitan Planning Commission.
Planning Director	The Lawrence-Douglas County Metropolitan Planning Director.
Plat (or Subdivision Plat)	A complete and exact map representing a Tract of land, showing the boundaries and location of individual Lots, Easements, and Streets which has been approved by the Planning Commission and recorded in the office of the County Register of Deeds. The term includes a Replat. (To Plat as an action) – To Subdivide a property in accordance with these regulations.
Plat, Preliminary	A map of proposed land Subdivision showing the character and proposed layout of the Parcel in sufficient detail to indicate its' its suitability for the proposed Subdivision.
Plat, Final	A map of a land Subdivision prepared in a form suitable for filing of record with necessary affidavits, Dedications, restrictions, and acceptances, and with complete bearings and dimensions of all lines defining Lots and Blocks, Streets, Alleys, Easements, public areas and other dimensions of land.
Potable Water	Water suitable for drinking or cooking purposes.
Public Improvement Petition	A legal instrument which serves as the basis for initiation of a Public Improvement project by the Governing Body. A Public Improvement Petition is frequently used during the Subdivision Platting process to guarantee the construction of certain Improvements that are required as conditions of Plat approval, such as Street paving, Sidewalks, water and sewer lines, and stormwater and drainage Improvements.
Public Improvements	Any Infrastructure constructed for which a municipality may ultimately assume responsibility for maintenance and operation or which may affect an improvement for which a municipality is responsible.
Public Improvement Plans	The engineering plans and specifications necessary to construct all Infrastructure Improvements needed to serve a proposed Subdivision or development.
Public Utility Facilities	Telephone, electric and cable television lines, poles, equipment and structures; water lines, holding towers or gas pipes, mains, valves or structures; sewer pipes, valves or structures; Pumping

Term	Definition
	Stations; telephone exchanges and repeater stations; and all other facilities, equipment and Structures necessary for conducting a service by a government, public or private utility provider.
Public Water Supply	A system outside of incorporated cities 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.
Publicly Treated Water	Water supplied for domestic purposes by a municipality or by a Rural Water District and approved by the Kansas State Department of Health.
Pumping Station	A pumping facility that transports wastewater between two gravity flow sewer lines. A Pumping Station is used when topographic conditions do not allow a continuous gravity flow system.
Replat (or Resubdivision)	The further division of a Tract of land which has previously been lawfully Subdivided and for which a Plat of such prior Subdivision has been duly recorded. A Replat is processed as an administrative review in accordance with the Minor Subdivision/Replat procedures in Section 11-108.
Residential Development Parcel	A Parcel created from the Parent Parcel through the administrative Certificate of Survey process to make the new land division eligible for a residential building permit.
Restrictive Covenant	A restriction on the use of land traditionally set forth in a deed. Restrictions are also placed of record by separate instruments including Home Owners Association agreements. The Restrictive Covenant usually runs with the land.
Right-of-Way	An area dedicated to public use for pedestrian and vehicular movement, which may also accommodate public utilities.
Road or Roads	Same as “Street” or “Streets”.
Road, Stub	A short section of public Road or Road Easement dedicated to provide future Access to an adjacent unplatted Tract of property.

Term	Definition
Roadway	The paved or improved area of a Street Right-of-Way, exclusive of Sidewalks, Driveways, or related uses.
Rural Area	The area of Unincorporated Douglas County lying outside the Urban Growth Areas of Lawrence, Baldwin City, Eudora and Lecompton.
Sanitary Sewers	Pipes that carry only domestic, industrial or commercial Sewage and into which storm, surface and ground waters are not intentionally admitted.
Sector Plans	Plans that encompass one or more sections of land with the purpose being to use geographic and demographic information to develop a detailed land use vision of future development or redevelopment of a study area.
Setback Line	The line that is the required minimum distance from the Street right- of-way line or any other Lot Line that establishes the area within which the principal Structure must be erected or placed.
Sewage Lagoon	An artificial pond designed to exclude surface water and receive raw Sewage through a submerged sewer for biological decomposition.
Sewage	The total of organic waste and waste water generated by residential, industrial and commercial establishments.
Sidewalk	A paved, surfaced, or leveled area, paralleling and usually separated from the Street, used as a pedestrian walkway.
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; City/County GIS aerials; and field surveys.)
Stormwater Detention	Any storm drainage technique that retards or detains runoff, such as a detention or retention basin.
Stream Corridor	A strip of land 100 feet wide, of which the centerline shall be the

Term	Definition
	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.
Street or Streets (or Roads)	Any vehicular way(s) which: (1) is an existing state, county or municipal Roadway; or (2) is shown upon a Plat approved pursuant to law; or (3) is approved by other official action.
Street, Arterial	Arterial Streets are the highest level of Street classification, generally providing for longer distance trips with relatively high traffic volumes and high speeds for the context. Principal Arterials permit traffic flow through the Urban area and between major destinations. Minor Arterials collect and distribute traffic from principal Arterials and expressways to Streets of lower classification, and, in some cases, allow traffic to directly Access destinations.
Street, Collector	A Collector Street provides for land Access and traffic circulation within and between residential neighborhoods and commercial and industrial areas. They distribute traffic movements from these areas to the Arterial Streets. Collectors do not typically accommodate long through trips and are not continuous for long distances.
Street, Cul-de-sac	A Street having only one outlet and being permanently terminated by a vehicle Turn-around at the other end.
Street, Dead-End	A Street having only one outlet and which does not benefit from a Turn-around at its end.
Street, Expressway	Any divided Street or highway with no Access from Abutting property and which has either separated or at-grade Access from other Public Streets and highways.
Street, Freeway	Any divided Street or highway with complete Access Control and grade separated interchanges with all other Public Streets and highways.
Street, Limited Local	A Local Street providing Access to not more than eight Abutting single-family residential Lots.

Term	Definition
Street, Local	Local Streets provide direct Access to adjacent land uses. Direct Access from a Local Street to an Arterial Street is typically discouraged.
Street, Marginal Access	A Street that is generally parallel and adjacent to an Arterial Street or other limited-Access Street and that is designated to provide direct Access to adjacent property. Marginal Access Streets are commonly known as "Frontage Roads".
Street, Private (City)	Any Tract of land or Access Easement set aside to provide vehicular Access within a Planned Development that is not dedicated or intended to be dedicated to the City and is not maintained by the City. Owners of a Private Street may choose to gate Access to this type of Street from the general public.
Street, Private (County)	Private Roads in the Unincorporated County are Roads not dedicated for public use that were approved by the County Commission prior to December 15, 1998.
Street, Public	A way for vehicular traffic, whether designated as a Local, Collector, Arterial, Freeway or other designation, which is improved to City standards, dedicated for general public use, and maintained by the City. The term shall also include Alleys.
Street, Residential	Same as "Local Street".
Street, Residential Collector	Residential collector is a special category of Collector Street characterized by lower speeds & the residential nature of land uses along the corridor. These Streets are designed to connect residential areas in neighborhoods to non-residential uses but do not connect to Arterial Streets.
Street, Stub	A short section of Street Right-of-Way Platted to provide future Access to an adjacent unplatted Tract of property.
Subdivide	The act or process of creating a Subdivision.
Subdivider	The Owner, or any other person, firm or corporation, authorized by the Owner, undertaking proceedings under the provisions of these regulations for the purpose of subdividing and Platting land.
Subdivision	Any land, vacant or improved, which is divided or proposed to be divided into two or more Lots, Parcels, or Tracts for the purpose, whether immediate or future, of sale or building development, including ReSubdivision, but not including property described through the "Certificate of Survey" Administrative Procedure as is

Term	Definition
	separately defined.
Subdivision, Major	A two-step review process including Planning Commission approval of a Preliminary Plat and administrative approval of a Final Plat to create a Subdivision in accordance with Section 11-109.
Subdivision, Minor	A one-step administrative review process that provides for ReSubdivision of previously Platted property where little or no expansion of Public Infrastructure is involved. The Minor Subdivision/Replat is completed in accordance with Section 11-108.
Subdivision Regulations	For the City of Lawrence, Article 8 in Chapter 20 of the City Code, as adopted and amended from time to time by Ordinance adopted by the City Commission. For Douglas County, Chapter 11 in the County Code, as adopted and amended from time to time by Resolution adopted by the Board of County Commissioners.
Swale	A shallow ditch lined with grass or other vegetation for the purpose of carrying stormwater from one location to another and filtering sediments and other pollutants from stormwater runoff.
Temporary Set Aside Agreement	An agreement relating to land located within the Urban Growth Area that contains the resources identified in Section 11-110(k) that, as reasonably practicable, requires the retention of the environmental, geographical, or historical characteristics of the land and prohibits any use or activity that will significantly impair, interfere with, or destroy these characteristics.
Topography	The configuration of a surface area showing National Geodetic Vertical Datum (NGVD).
Tract	When part of a Platted Subdivision, a Tract is a Parcel reserved for open space, storm drainage, Easement purposes or an otherwise specific and restricted use.
Traffic Calming Device	Physical traffic control or intervention measures designed to reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized Street users.
Turn-around	An area at the closed end of a Street with a single common ingress and egress within which vehicles may reverse their direction.

Term	Definition
Unnecessary Hardship	The condition resulting from application of these regulations when viewing the property in its environment that is so unreasonable as to become an arbitrary and capricious interference with the basic right of private property Ownership, or convincing proof exists that it is impossible to use the property for a conforming use, or sufficient factors exist to constitute a hardship that would in effect deprive the Owner of their property without compensation. Mere financial loss or the loss of a potential financial advantage does not constitute Unnecessary Hardship.
Unincorporated Area	That portion of Douglas County lying outside any incorporated municipality.
Urban	An area generally characterized by residential, commercial and industrial development, as well as the availability of public services required for that development, specifically a municipal water and sewer system, an extensive network of Streets, public transit and other such services (such as municipal fire protection or senior services). Development not providing such services may be considered non-Urban or rural.
Urban Density	A residential density that resembles the built and developed density of the city for which an Urban Growth Area was projected and adopted.
Urban Growth Area – Lawrence	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.
Urban Growth Area – [other cities in the County]	The area defined by a city's master plan as land that will be annexed into the city within the land use planning period to accommodate the future growth and development of neighborhoods, businesses and industries by the extension of city Infrastructure and services.
Vacation	The termination of, or termination of an interest in, an Easement, Right-of-Way or public Dedication of land.
Variance	Permission to depart from the Design Standards (11-110) or Public Improvement Standards (11-111) of the regulations when the application of a specific standard is so unreasonable that it would prevent the logical Subdivision of the property.
Water Table	The upper surface of Groundwater, or that level below which the soil is seasonally saturated with water.

Term	Definition
Woodlands	Natural hardwood forests, whether or not actively forested.
Zoning Regulations	The remainder of Chapter 20 of the City Code or Chapter 12 of the Douglas County Code.

CHAPTER 12. ZONING AND PLANNING

Article 1. Lawrence-Douglas County Planning Commission
Article 2. Board of Zoning Appeals
Article 3. Zoning Regulations

ARTICLE 1. LAWRENCE-DOUGLAS COUNTY PLANNING COMMISSION

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

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

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

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

12-104. **POWERS; DUTIES**. The planning commission shall have such powers and duties as are authorized by state law and provided for herein, and it shall take over and perform the powers, duties, and functions heretofore vested in the Lawrence City Planning Commission and the Douglas County Planning Commission, respectively. As a primary function the planning commission shall be responsible for the preparation, adoption, and maintenance of long range comprehensive plans to guide the future development of the Lawrence-Douglas County land area. As such general plans shall

consist of a land-use element, a circulation element, a parks and recreation element, and a public facilities element. The planning commission shall cause zoning studies to be made, and subdivision regulations to be prepared; and it shall submit to the governing bodies its recommendations relating to the zoning of lands and the control of subdivisions within their respective jurisdictions. Such studies and recommendations shall take into account the existing zoning and subdivision regulations, the anticipated physical, economic, and population trends, the distribution and density of population and proposed building intensities, as well as classes of use to be authorized. Recommended development plans for public facilities, urban renewal, environmental sanitation, and area beautification shall also be considered.

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

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

12-105. **ANNUAL BUDGET**. The Board of County Commissioners and the City of Lawrence shall by agreement provide for an annual budget, and pursuant to said agreement shall appropriate funds for the expenses and costs of staff services, office space and equipment, contractual services, and other relevant expenses required to carry out the purposes and functions of the planning commission. The City of Lawrence shall employ the necessary staff personnel and shall provide office space; and except as otherwise agreed upon for any fiscal year the Board of County Commissioners shall direct the county treasurer to pay semiannually to the city finance director one-sixth of the agreed budget: Provided, That either city or county may authorize, on its own initiative or in conjunction with the other, expenditures for special purposes in addition to the amounts specified in the agreed budget. (Res. 69-8)

12-106. **PRIOR ACTIONS RATIFIED**. All planning and zoning actions of every kind or character heretofore taken by the Lawrence City Planning Commission and by the Douglas County Planning Commission shall be continued in full force and effect and shall in no way be affected by this joint resolution and ordinance, except that the advisory functions of the City of Lawrence and the Douglas County Planning Commission as related to planning and zoning activities shall be transferred as of June 1, 1969, to the planning commission. All petitions for zoning change, petitions for vacation of streets, alleys and other public ways, request for changes in street names, requests for approval of plats and dedications and all other matters pending before either of the above mentioned planning commission upon the effective date of this ordinance shall continue to be processed by such commissions until such matters are concluded or until August 1, 1969, whichever event may be sooner. Any uncompleted and unclosed matter shall on August 1, 1969, be transferred to and become the responsibility of the Lawrence-Douglas County Planning Commission and its planning staff. All records, files, minutes, maps, plats, and other property of the Lawrence City Planning Commission shall be made available to the Lawrence-Douglas County Planning Commission on August 1, 1969, subject only to the annual renewal of the budget agreement.

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

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

12-107. **JOINT AGREEMENT**. This joint resolution and ordinance shall constitute an agreement between the City of Lawrence and Douglas County as contemplated in Section 101, Session Laws of 1957 and shall also constitute a resolution of the Board of County Commissioners and an ordinance of the City of Lawrence. (Res. 69-8)

12-108. **SEPARABILITY**. If this joint resolution and ordinance, or any part thereof shall be held or determined to be unconstitutional, illegal, ultravires, or void, the same shall not be held or construed to change or annul any provisions hereof which may be legal or lawful; and in the event this joint resolution and ordinance or any part thereof, shall be held unconstitutional, illegal, ultravires, or void, the same shall not affect any action heretofore taken by the City planning commission or the Douglas County planning commission as heretofore established and constituted. (Res. 69-8)

12-109. **PREVIOUS COMMISSION ABOLISHED**. The city planning commission of the City of Lawrence and the Douglas County planning commission are hereby abolished in the manner and at the time hereinabove provided for. (Res. 69-8)

12-110. **JOINT HEARINGS WITH OTHER CITY PLANNING COMMISSIONS**. The Board of County Commissioners of Douglas County, Kansas, hereby establishes the following policy for review of zoning and subdivision requests within three miles of a corporate city's limits:
Whenever a development proposal requiring zoning and subdivision review is located in the unincorporated portion of Douglas County and within three miles of the corporate city limits of the cities of Baldwin City, Eudora, or Lecompton, it shall be the responsibility of the Lawrence-Douglas County Planning Commission to notify the affected city and arrange a joint hearing of both planning commissions to review said development proposal. Said hearing shall be held at the Douglas County Courthouse following proper notice to the public. Following said hearing, the Board of County Commissioners shall receive a recommendation from each planning commission for their consideration during the final review process. (Res. 80-5)

ARTICLE 2. BOARD OF ZONING APPEALS

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

ruling or determination of the official charged with enforcement of this resolution, or to approve any special exception or variance. (Res. 92-2, Sec. 10)

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

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

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

ZONING REGULATIONS

UNINCORPORATED TERRITORY

Douglas County, Kansas

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

Chapter XII, Article 3 of the Douglas County Code
Incorporated into the Douglas County Code by Resolution No. 09-11

Amendments:

Resolution 13-13 Nanobrewery
Resolution 14-12 Revisions to Agritourism
Resolution 15-23 Value-added Agricultural Business
Resolution 15-24 Floodplain Management revisions
Resolution 16-16 Accessory Dwelling Unit
Resolution 16-26 Small Scale Industrial
Resolution 17-19 Wireless Facilities
Resolution 17-12 Wind Energy

CONTAINING ALL AMENDMENTS THROUGH
May 24, 2017

OFFICIAL COPY

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12-301 TITLE AND APPLICABILITY

12-301-1. TITLE
This Resolution shall be known as the Douglas County Zoning Resolution.

12-301-2. APPLICABILITY
This Resolution shall apply to the unincorporated territory of Douglas County, Kansas.

12-302 PURPOSE

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

12-303 DEFINITIONS

12-303-1.
For the purpose of this Resolution, certain terms and words are hereby defined. Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular; the word "building" includes the word "structure"; the word "shall" is mandatory and not directory. Words and terms not defined herein shall be interpreted in accord with their normal dictionary meaning.

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

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

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

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

a. Adult arcade means any place to which the public is permitted or invited, wherein there are coin-operated, slug-operated, electronically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices which are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "certain sexual activities" or "specified anatomical areas."

b. Adult Media Outlet means a commercial establishment which offers for sale or for rental, or another form of consideration, “adult media” and which meets at least one of the following tests:

1) More than thirty of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public);
2) More than thirty percent of the gross sales (including rentals) result from the sale or rental of adult media;
3) More than thirty percent of the dollar value of all merchandise displayed at any time is attributable to adult media;
4) More than thirty percent of all inventory consists of adult media at any time;
5) More than thirty percent of the merchandise displayed for sale consists of adult media; or
6) More than thirty percent of the stock in trade consists of such items at any time.

c. Adult cabaret means a nightclub, bar, restaurant, or similar commercial where a significant and substantial portion of its business is featuring:

1) Persons who appear in a state of nudity; or
2) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
3) Films, motion pictures, videocassettes, slides, or other photographic reproductions, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas”.

d. Adult Encounter Parlor – An establishment where a significant and substantial portion of its business is the provision of premises where customers either congregate, associate, or consort with employees who engage in “specified sexual activities” with or in the presence of such customers, or who display “specified anatomical areas” in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.

e. Adult Media means books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas”.

f. Adult motel means a hotel, motel or similar commercial establishment which:

1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or “specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions, or
2) Offers a sleeping room for rent for a period of time that is less than 10 hours, or
3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

g. Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

h. Adult live theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

i. Adult Retail Establishment means a business which offers for sale or rent instruments, devices, gifts or paraphernalia which are designed or marketed for use in connection with "specified sexual activities", clothing that graphically depicts "specified anatomical areas" or any of the material sold or rented in an adult media outlet, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or " specified anatomical areas." For purposes of this subsection, the presumptions relative to what constitute "substantial or significant" portion of business set forth in the definition of "adult media outlet" shall apply here. In determining whether an item is "designed or marketed for use" in connection with specified sexual activities, the following guidelines may be considered:

1) Expert testimony as to the principle use of the item;
2) Evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
3) National and local advertising concerning the use of the item;
4) Evidence of advertising concerning the nature of the business establishment;
5) Instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
6) The physical or structural characteristics of the item; and
7) The manner in which the item is displayed, including its proximity to other regulated merchandise or signage relating to items in a display area.

j. Escort means a person whom, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers privately to model lingerie or privately to perform a striptease for another person.

k. Escort agency means a person or business association who furnishes, offers to furnish, or advertises to furnish, escorts as one of its primary business purposes for a fee, tip, or other consideration.

l. Establishment means and includes any of the following:

1) The opening or commencement of any sexually oriented business as a new business;
2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
3) The addition(s) of any sexually oriented business to any other existing sexually oriented business; or
4) The relocation of any sexually oriented business.

m. Permittee and/or licensee means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application, for a permit and/or license.

n. Nude model studio means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

o. Nudity or a state of nudity means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

p. Person means an individual, proprietorship, partnership, corporation, association, or other legal entity.

q. Semi-nude means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

r. Sexual encounter center means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

s. Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, or sexual encounter center.

t. Specified anatomical areas means:

1) Less than completely and opaque covered: human genitals, pubic region, buttocks and female breast a point immediately above the top of the areola; and
2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

u. Specified sexual activities means and includes any of the following:

1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
3) Masturbation, actual or simulated, or
4) Excretory functions as part of or in connection with any of the activities set forth in 1) through 3) above.

v. Massage Parlor **-** An establishment whose business, or a portion thereof, is the act or art of treating the human body by rubbing, kneading, compression, vibration, or other like activities, whether by manual or mechanical means, to stimulate circulation, increase suppleness or other effects on the various portions of the human body, excluding those acts and/or services provided to patients by a licensed health care provider or licensed physicians, chiropractors, or licensed massage therapists.

w. Substantial enlargement (substantially enlarge) a non-conforming, sexually oriented business that is altered or enlarged as an expansion of a non-conforming use [as defined in section 12-320, Non-Conforming uses].

x. Transfer of ownership or control of a sexually oriented business means and includes any of the following:

1) The sale, leases, or subleases of the business,
2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

a. Child care Home for 12 or fewer Children**.** "Child Care Home" means the care of 12 or fewer children as an accessory use to an occupied residence in which the occupant(s) shall be the primary provider(s) of childcare for children other than his or her own family and the children of close relatives. The primary provider(s) may have an employee(s) to assist with childcare services. "Primary provider" means the licensee who has the ongoing responsibility for the health, safety and well-being of children in care.

b. Non-Occupant Primary Provider Child Care Home for 12 or fewer children. "Non-Occupant Primary Provider Child Care Home" means the care of 12 or fewer children as an accessory use to an occupied residence in which the occupant(s) is (are) not the primary provider(s) of childcare for children other than his or her own family and the

children of close relatives. "Primary provider" means the licensee who has the ongoing responsibility for the health, safety and well-being of children in care. The Primary provider(s) may have an employee(s) to assist with childcare services.

c. Child Care Center for 13 or more children**.** "Child Care Center" means the care of 13 or more children, for less than 24 hours, away from the home of the parent or legal guardian; and includes but not limited to child care facilities, preschools, play groups, kindergartens and before and after school programs not operated by the public schools, and other establishments offering care to groups for children for less than 24 hours for more than two consecutive weeks, with specific exclusion of temporary or seasonal religious instructional schools, including summer Bible school and church school classes. Centers for infants and toddlers or for children with disabilities may have fewer than thirteen children but be licensed as a center because the program meets childcare center regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12-303-1.37. FLOOR AREA.

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

b. Residential buildings: the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

12-303-1.38. FRONTAGE.

a. Street frontage: all of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead - ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.

b. Lot frontage: the distance for which the front boundary line of the lot and the street line are coincident.

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

vegetable stand.

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

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

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

12-303-1.43. **GRADE.**

a. For buildings having a wall or walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.

b. For buildings having a wall or walls adjoining more than one street, the average elevation of the sidewalk at the centers of all walls adjoining the streets.

c. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.

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

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

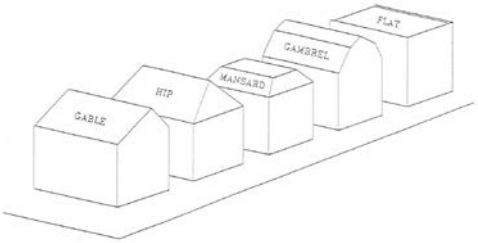
12-303-1.45. **HEIGHT OF BUILDING**.

The vertical distance from the grade to

a. the highest point of the coping of a flat roof;

b. the deck line of a mansard roof;

c. to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.



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

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

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

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

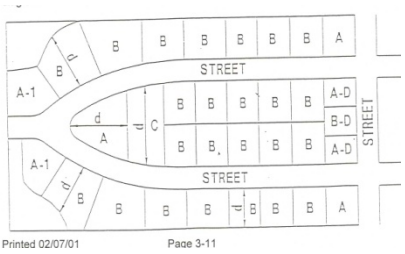
12-303-1.49. **JUNK YARD/SALVAGE YARD**. An area of land with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded materials such as but not limited to waste paper, rags or scrap material; used building materials, house furnishings, machinery, motor vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. A deposit or the storage on a plot of two or more wrecked or broken down motor vehicles, a mobile home, a trailer or parts thereof, for one week in an agricultural/residential district, or for three weeks or more in any other district, shall be deemed a junk yard/salvage yard.

12-303-1.50. **LOADING SPACE OR LOADING BERTH**. A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

12-303-1.51. **LOT**. A parcel of land which may include one or more platted lots, occupied or intended for occupancy by a use permitted in this Resolution, including one main building together with its accessory buildings, the yard areas and parking spaces required by this Resolution and having its principal frontage upon a street or upon an officially approved place.

12-303-1.52. **LOT, AREA**. The total horizontal area within the lot lines of the lot.

12-303-1.53. **LOT, CORNER**. A lot located at the intersection of two or more streets. (See lots marked A in the diagram which follows.) A lot abutting on a curved street or streets 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.



12-303-1.54. **LOT, DEPTH OF.** The mean horizontal distance between the front and rear lot lines. (See dimension "D" on the diagram for example.)

12-303-1.55. **LOT, INTERIOR.** A lot other than a corner lot with only one street frontage. (See lots "B" on the diagram.)

12-303-1.56. **LOT, REVERSED FRONTAGE**. A lot in which the frontage is at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot (See A-D and B-D in the diagram.)

12-303-1.57. **LOT LINE**. The boundary line of a lot.

12-303-1.58. **LOT, THROUGH.** An interior lot having frontages on two streets. (See lot "C" on the diagram.)

12-303-1.59. **LOT WIDTH**. The distance between the side lot lines measured at the required front yard line.

12-303-1.60. **MOBILE HOME**. A vehicle used, or so constructed as to permit being used, as a conveyance upon the public streets and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used or intended to be used generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle.

12-303-1.61. **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.

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

a. Mobile homes shall be anchored to resist floatation, collapse, or lateral movement by providing over–the-top and frame ties in accordance with the state requirements cited in K.S.A. 75-1226 through 1234.

b. Any reconstruction or repair of existing mobile homes be required to meet the following regulations:
   1) Stands or lots be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the regulatory flood elevation;
   2) Adequate surface drainage and access for a hauler are provided; and,
   3) In the instance of elevation on pilings:
      a) lots be large enough to permit steps;
      b) piling foundations be placed in stable soil no more than ten feet apart; and,
      c) reinforcement be provided for pilings more than six feet above the ground level.

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

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

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

duties off the premises if such person is generally required to report to the premises of the Home Occupation at least one time each work day.

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

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

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

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

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

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

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

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

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

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

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

12-303-1.77. **STORY, HALF.** A space under a sloping roof at the top of the building, the

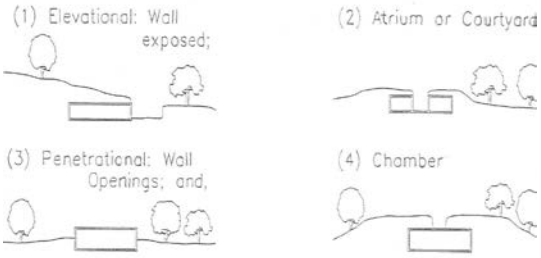
floor of which is not more than two feet below the plate, shall be counted as a half-story when not more than sixty percent of said floor area is used for rooms, baths, or toilets. A half-story containing an independent apartment or living quarters shall be counted as a full story.

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

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

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

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



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

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

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

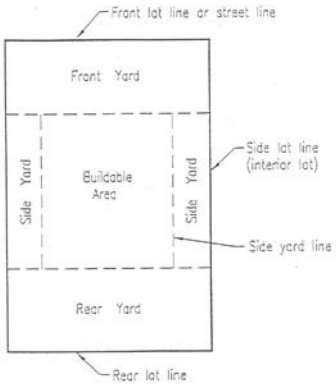
12-303-1.84. **TRAILER PARK OR MOBILE HOME COURT**. That area of land on which two or more trailers or mobile homes being used for living purposes are parked. (Same as "Mobile Home Park".)

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

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

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

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



12-303-1.89. **YARD, REAR.** A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, unenclosed porches or entrance ways.

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

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

12-303-1.92. **ANCILLARY RETAIL SALES** is only for the purpose of Section 12-319-7 and refers to the sales of goods or services that differ from or enhance the principal use. Ancillary retail sales are subsidiary, supplementary, or secondary to the principal use. [Res. 13-02]

12-303-1.93. **FARM STAY** means overnight accommodations in a farm or ranch house for guests while they are vacationing at the farm/ranch as part of a registered Agritourism Use. [Res. 13-02]

12-303-1.94. **NANOBREWERY.** A Nanobrewery is a small microbrewery that typically makes 3 barrels of beer or less in one session. (One barrel equals about 31 gallons which is approximately 2 kegs or 14 cases of beer). A Nanobrewery is a microbrewery by law and the same federal and state regulations apply. For the purpose of these Regulations, a Nanobrewery is defined as a brewery that produces no more than 1250 barrels of beer in a calendar year. Nanobreweries usually include the sale of beer manufactured by the licensee in the original unopened container to be consumed off the licensed premise and free samples. [Res. 13-13]

12-303-1.95 **ACCESSORY DWELLING UNIT.** A dwelling unit that is incidental to and located on the same lot, vested parcel, or Residential Development Parcel as the principal dwelling. [Res. 16-16]

12-303-1.96 **VESTED PARCEL.** A parcel lawfully created within the A (Agricultural) District, A-1 (Suburban-Home Residential) District, or R-1 (Single-Family Residential) District in the Unincorporated Area of Douglas County on or before December 31, 2006, that has been maintained in individual ownership (that is, not further divided). (See Section 11-108(e) of the *Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, KS.).* [Res. 16-16]

12-303-1.97 **WIND ENERGY CONVERSION SYSTEMS.**

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.

[Res. 17-12]

12-304 GENERAL PROVISION, DISTRICTS, AND DISTRICT MAPS

12-304-1. DISTRICTS ESTABLISHED

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

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

12-304-2. DISTRICT MAP ESTABLISHED

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

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

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

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

12-304-3. REVISION OF DISTRICT MAP

No later than March 31 of the year following adoption of this Resolution, prints of the official Zoning District Map, clearly showing the zoning district boundaries and zoning district names and

designations for Douglas County, shall be made available to the public. In each calendar year thereafter, any changes in the permitted uses, zoning district boundaries, zoning regulations, and classifications affecting such map, the official map shall be revised to show such changes once the resolution adopting the change has been published in the official newspaper.

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

12-304-4. REPLACEMENT OF DISTRICT MAP

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

12-304-5. INTERPRETATION OF DISTRICT BOUNDARIES

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

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

a. In cases where a boundary line is given a position within a street or alley, navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream, and if the actual location of such street, alley, or stream varies slightly from the location as shown on the District Map, then the actual location shall control.

b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.

c. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way. Distances shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way. Distances shown as measured from a railroad shall be measured from the center of the designated track.

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

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

12-304-6. GENERAL PROVISIONS

Except as hereinafter provided:

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

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

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

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

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

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

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

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

12-304-6.09. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced. No accessory building shall be used unless the main building on the lot is also being used. A cellar or basement may be used as a dwelling for 12 months prior to completion of the dwelling of which it is a part.

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

12-304-6.10.01. DEFINITIONS.

a. Sewage: Any liquid waste containing animal or vegetable matter in suspension or solution, including all household wastes from toilets, sinks, showers, washing facilities and floor drains, and may include liquids from laboratories, businesses or industrial operations, containing minerals in solution.

b. Available Sewer: Any public sewer within 200 feet of a building.

c. Lagoon Or Sewage Lagoon: An artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer, for biological decomposition.

d. Building: Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property.

e. Health Authority: The Lawrence-Douglas County Health officer or an authorized representative.

f. Health Hazard: Any condition which, in the opinion of the Health authority, is capable of producing acute or chronic illness in humans. Such conditions include, but are not limited to: sewage on the surface of the ground; rat, fly and mosquito breeding; the proliferation of toxic plants; and the release of toxic or infectious gases, aerosols, sprays, liquids or dusts.

g. Garbage: Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

h. Rubbish: Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, cardboard, cans, yard clippings, leaves, wood, glass, rags, bedding, crockery and similar materials.

i. Refuse: All putrescible and non-putrescible wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles or parts, abandoned farm machinery and solid market and industrial wastes.

j. Litter: Is "garbage", "refuse" and "rubbish" as defined herein and all other waste material which is discarded or deposited as herein prohibited or in a manner which creates a health hazard to the public.

k. Private Water Supply: A water system serving a single family residence and not ordinarily available to the public.

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

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

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

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

a. Disposal of garbage, rubbish and refuse shall be permitted only in designated public or private dump which is located and maintained in compliance with County Zoning Regulations and in such a manner that health hazards and offensive odors are not produced. Provided that no dead animals be disposed in any Public dump.

b. Discarding in ditches, streams, roadsides, etc., prohibited: The discarding, dropping or throwing or storing of litter in roads, ditches, streams, or other bodies of water whether on public or private property shall be prohibited. Provided, however that rubbish may be utilized on private property for control of soil erosion if such use does not constitute a health hazard to the public.

12-304-6.10.04. PUBLIC WATER SUPPLIES

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

12-304-6.10.05. PRIVATE WATER SUPPLIES

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

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

12-305-1. SETBACKS

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

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

a. On all Federal, State and County highways, as designated on the Zoning Map of Douglas County, the Base Setback Line shall be located at a distance of sixty feet from the center line of the highway, plus the front yard requirements of Section 12-318-1 unless the right-of-way is in excess of 120 feet. In cases where the established right-of-way is in excess of one hundred and twenty feet, the Base Setback Line shall be one-half of the established right-of-way plus the requirements of Section 12-318-2.

b. On all Township Roads and Section Line Roads, as designated on the Zoning Map of Douglas County, the Base Setback Line shall be located at a distance of forty feet from the centerline of the Road.

c. On all other streets, which shall be designated local streets and roads on the Zoning Ordinance Map of Douglas County, the Base Setback Line shall be located thirty-five feet from the centerline of such street or seventy feet from the center point of a cul-de-sac, unless specifically designated otherwise by action of the Board of County Commissioners.

12-306 "A" AGRICULTURAL DISTRICT REGULATIONS

12-306-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "A" Agricultural District. The purpose of this district is to provide for a full range of agricultural activities, including agritourism, and the processing and sale of agricultural products raised on the premises**;** and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses. The District is also intended for purposes of protecting watersheds and water supplies to provide for spacious development, to protect forest areas, and scenic areas, and to conserve fish and wildlife, to promote forestry, the growing of natural crops and grazing, and to prevent untimely scattering of more dense urban development. For the purpose of restricting outdoor advertising signs, the area within this district shall be considered as defined for residential purposes only. [Res.13-02]

12-306-2. <u>USE REGULATIONS</u>
A building or premises shall be used only for the following purposes: [Res.13-02]

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

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

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

a. Such hospital or clinic shall be located on a tract of land of five acres or more and that all buildings, structures, or pens for large animals shall be located at least 100 feet from any lot lines and open pens, runs, cages or kennels for small animals shall be located at least 100 feet from any side or rear lot lines.

b. A separate on lot sewage disposal system shall be required for hospital or clinic and for a single-family residence.

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

a. That such hospital or clinic and any treatment rooms, cages, pens, or kennels be maintained within a completely enclosed building with soundproof walls, and that such hospital or clinic be operated such a way as to produce no objectionable odors outside its walls.

b. A separate on lot sewage disposal system shall be required for hospital or clinic and for a single-family residence. One acre minimum for each.

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

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

12-306-2.05. Commercial greenhouse.

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

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

12-306-2.07. Grain storage structures.

12-306-2.08. Residential Detached Dwelling provided:

a. The dwelling is on a division of land that was created in conformance with the Subdivision Regulations adopted on December 20, 2006; or,

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

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

a. minimum dimensions of body width shall be 22 feet;

b. minimum roof pitch shall be 2.5" in height to 12 running inches;

c. siding material shall be wood, masonry, composition board or finished aluminum lap siding or is of another material normally found on site built homes;

d. roofing materials shall be wood shingles, composition shingles or fiberglass shingles, asphalt shingles, clay or concrete tile or slate;

e. on level sites the main floor shall be no greater than 20" above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20" above finished grade at the foundation; and,

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

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

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

12-306-2.12. Country club.

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

12-306-2.14. Public parks, playgrounds, golf courses (public or private, except miniature golf courses, putting greens, driving ranges, and similar activities operated as

a business), non-profit, non-governmental, public recreation facilities, and community buildings.

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

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

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

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

a. No outdoor advertising structures shall be allowed along County or Township roads in "A" Agricultural District except as heretofore mentioned. Outdoor advertising along Federal and State roads shall be in compliance with all Federal and Kansas laws and regulations governing and concerning such signs, and shall comply with the conditions as set forth herein.

b. Outdoor advertising signs or structures shall not have a maximum area exceeding 300 square feet. Both sides of the sign structure may be used for advertising purposes. Any advertising sign or structure erected shall be set back a minimum distance of 25 feet from any public right-of-way line, and shall not be closer than 100 feet to any road, highway or street intersection. Each such sign shall be mounted on a single ground pole. There shall be a minimum ground clearance of 12 feet between ground level and the bottom of the sign structure. In no case shall the sign structure exceed 30 feet in height. Such signs shall be serviced by underground electrical wiring. Advertising signs shall observe a minimum interval of 1500 feet in all directions between signs.

12-306-2.19. Accessory open or enclosed storage of farm materials, products, or equipment, accessory farm buildings, including barns, stables, sheds, tool rooms, shops, bins, tanks, and silos, and other accessory buildings and uses, including but not limited to accessory private garages, servants' quarters, guest houses, swimming pools, home

barbecue grills, customary church bulletin boards or identification signs not exceeding 30 square feet in area for permitted public and semi-public uses, accessory storage, and accessory off-street parking and loading spaces.

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

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

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

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

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

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

12-306-2.26 Agritourism – Subject to conditions in Section 12-319-7**.** [Res. 13-2]

12-306-2.27 One Accessory Dwelling Unit is allowed when it is accessory to a principal dwelling on the same vested parcel, Residential Development Parcel or platted lot subject to the supplemental use regulations in Section 12-319.9. [Res. 16-16]

12-306-3. <u>PARKING REGULATIONS</u>
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-306-4. <u>OFF-STREET LOADING REGULATIONS</u>
The off-street loading regulations for permitted uses are contained in section 12-317.

12-306-5. <u>HEIGHT, AREA, AND BULK REGULATIONS</u>
Height, area, and bulk requirements shall be as set forth in the chart of section 12-318, which chart, and all notations and requirements shown therein shall be a part of this Resolution and have the same force and effect as if all the notations and requirements set forth therein were fully set forth or described herein.

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

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

12-307 “A-1” SUBURBAN HOME RESIDENTIAL DISTRICT REGULATIONS

12-307-1.
The regulations set forth in this section or set forth elsewhere in this Resolution, when referred to in this section as the regulation in the "A-1" Suburban Home District. The purpose of this district is to provide for single family residential development of a suburban character together with appropriate public and semi-public buildings, public recreational facilities and accessory uses normally compatible with residential development of this type, where due to a lack of readily accessible municipal service facilities it is desirable to prevent premature uncontrolled residential development. This district is located to insure development of land not served by approved public sewer facilities will be on a low density basis.

12-307-2. <u>USE REGULATIONS</u>
A building or premises shall be used only for the following purposes:

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

12-307-2.02. Single Family Dwellings.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12-307-2.17 One Accessory Dwelling Unit is allowed when it is accessory to a principal dwelling on the same platted lot or vested parcel, subject to the supplemental use regulations in Section 12-319.9. [Res. 16-16]

12-307-3. <u>PARKING REGULATIONS</u>
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-307-4. <u>OFF-STREET LOADING REGULATIONS</u>
The off-street loading regulations for permitted uses are contained in section 12-317 of this Resolution.

12-307-5. <u>HEIGHT, AREA AND BULK REGULATIONS</u>
Height, area and bulk requirements shall be as set forth in the chart of section 12-318, and in addition, the following regulations shall apply:

12-307-5.01. The minimum side yard requirement for any church, temple, college, building, school, library, museum, art gallery or any public building or any main building other than a single-family dwelling shall be thirty feet. The minimum side street yard requirement for any building shall comply with the "Road Classification and Entrance Spacing Standards" adopted by Douglas County Resolution No. HR-06-10-7, as amended (codified at Article 5 of Chapter IX of the Douglas County Code).

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

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

12-308 “R-1” SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

12-308-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "R-1" Single-Family Residential District. The purpose of this district is to provide for single-family residential development of relatively more spacious character together with such public buildings, schools, churches, public recreational facilities accessory uses, as may be necessary or are normally compatible with residential surroundings. The district is located to protect existing development of high character and contains vacant land considered appropriate for such development in the future.

12-308-2. <u>USE REGULATIONS</u>
A building or premises shall be used only for the following purposes:
12-308-2.01. Farm, truck garden, orchard, or nursery for growing or propagation of plants, trees, and shrubs, including temporary stands for seasonal sales of products raised on the premises, but not including the raising for sale of birds, bees, rabbits, or other animals, fish, or other creatures to such an extent as to be objectionable to surrounding residences by reason of odor, dust, noise, or other factors, and provided no retail or wholesale business office or store is permanently maintained on the premises.

12-308-2.02. Single-family dwellings.

12-308-2.03. Residential-design manufactured homes, provided the following standards apply:
a. minimum dimensions of body width shall be 22 feet;
b. minimum roof pitch shall be 2.5" in height to 12 running inches;
c. siding material shall be wood, masonry, composition board or finished aluminum lap siding or other materials normally found on site built homes;
d. roofing materials shall be wood shingles, composition shingles or fiberglass shingles, asphalt shingles, clay or concrete tile or slate;
e. on level sites the main floor shall be no greater than 20" above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20" above finished grade at the foundation.
f. the home shall be permanently mounted on a foundation or basement which meets the provisions of the Building Code.

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

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

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

12-308-2.07. Nonprofit libraries or museums, art galleries, utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.

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

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

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

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

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

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

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

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

12-308-2.06 One Accessory Dwelling Unit is allowed when it is accessory to a principal dwelling on the same platted lot or vested parcel, subject to the supplemental use regulations in Section 12-319.9. [Res. 16-16]

12-308-3. <u>PARKING REGULATIONS</u>
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-308-4. <u>OFF-STREET LOADING REGULATIONS</u>
The off-street loading regulations for permitted uses are contained in section 12-317.

12-308-5. <u>HEIGHT, AREA, AND BULK REGULATIONS</u>
Height, area, and bulk requirements shall be as set forth in the chart of Section 12-318, and in addition the following regulations shall apply:

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

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

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

12-309 “B-1” NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS

12-309-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section, are the regulations in the "B-1" Neighborhood Business District. This district provides primarily for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

12-309-2. **USE REGULATIONS**
A building or premises shall be used only for the following purposes:
12-309-2.01. Any use permitted in the "R-1" Single-Family Residential District.

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

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

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

12-309-2.05. Filling stations, so long as bulk storage of inflammable liquids is underground.
12-309-2.06. Frozen food lockers for individual or family use.

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

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

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

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

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

12-309-2.12. Self-service laundry or self-service dry cleaning establishment.
12-309-2.13. Accessory buildings and uses.

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

12-309-3. PARKING REGULATIONS
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-309-4. OFF-STREET LOADING REGULATIONS
The off-street loading regulations for permitted uses are contained in section 12-317.

12-309-5. HEIGHT AND AREA REGULATIONS
Height and area requirements shall be as set forth in the chart of section 12-318.

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

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

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

12-309A-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "B-3", Limited Business District. This district is designed to permit and encourage the grouping, in areas defined by comprehensive plans, of certain retail activities and services intended primarily to serve, and dependent upon, the motoring public.

12-309A-2. USE REGULATIONS
A building or premises shall be used only for the following purposes:

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

12-309A-2.02. Antique Sales.

12-309A-2.03. Art Supplies.

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

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

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

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

12-309A-2.08. Drug Store.

12-309A-2.09. Equestrian Equipment Sales.

12-309A-2.10. Fishing and Camping Equipment and Supplies.
12-309A-2.11. Florist Shop, Greenhouse, and Garden Supplies.

12-309A-2.12. Gift, Novelty, and Souvenir Sales.

12-309A-2.13. Grocery Store.

12-309A-2.14. Hardware, excluding lumber and industrial hardware.

12-309A-2.15. Restaurant, not providing service in automobiles.

12-309A-2.16. Accessory buildings and uses to include accessory residential uses.

12-309A-2.17. Open storage must meet the minimum front, side, and rear yard requirements, and be screened by a view reducing wall, fence, or landscaping material from adjacent public roads or residentially zoned property.

12-309A-2.18. Motels and motor hotels.

12-309A-2.19. Overnight camper trailer grounds.

12-309A-3. PARKING REGULATIONS
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-309A-4. OFF-STREET LOADING REGULATIONS
The off-street loading regulations for permitted uses are contained in section 12-317 of this Resolution.

12-309A-5. HEIGHT AND AREA REGULATIONS
Height and area regulations shall be set forth in the chart of section 12-318.

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

12-309A-7. Supplementary height, area, and bulk requirements are contained in section 12-321.

12-309A-8. SIGN REGULATIONS
12-309A-8-01. Only one non-flashing unanimated area marker designating or identifying a commercial development area is permitted. The area marker shall not exceed four feet in height from the ground and shall be limited to 15 sq. ft. in area. It shall be located a minimum of ten feet from a road right-of-way unless along a Federal or State Highway for which it will then comply with the conditions set forth by the Kansas Department of Transportation, but in no case shall it be less than the conditions set forth herein.

12-309A-8.02 Each business may have one non-flashing unanimated sign attached flat to the face of the building. The sign shall not exceed 30 sq. ft.

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

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

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

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

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

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

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

a. Rural-Tourism uses shall integrate with and maintain or enhance the rural character of the area;

b. Facilities shall be designed to preserve natural resources and integrate with the rural environment through appropriate land use, site design, buffering, or other methods; and

c. A site-specific site plan shall be submitted with rezoning applications to demonstrate that the site design criteria noted above have been met. The following items are required on all site plans for Rural-Tourism areas:

1) A minimum 200 ft buffer area provided around the perimeter of the site; and,

2) Uses permitted within this buffer area shall be limited to agriculture or other low-impact uses. These uses shall be noted on the site plan along with the party or entity responsible for maintenance of the buffer area.

12-309B-4. USE REGULATIONS

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

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

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

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

Typical Rural-Tourism uses:

12-309B-4.01 Primary outdoor recreation, including parks, areas for picnicking, camping in tents, bike paths, hiking trails and other similar uses.

12-309B-4.02 Open air theatre (excluding drive-ins).

12-309B-4.03 Reception hall, conference center, or other places of social assembly.

12-309B-4.04 Lodging that includes hotels, motels, bed and breakfasts, or campgrounds.

12-309B-4.05 Libraries, cultural center, exhibit hall, museums, art galleries and other similar uses.

12-309B-4.06 Agricultural uses.

Typical Rural-Tourism Accessory uses**:**

12-309B-4.07 Secondary outdoor recreational uses such as playgrounds, swimming pools, skating rinks, and other similar uses.

12-309B-4.08 Personal service uses including barber shops, beauty parlors, spas, photographic or artists' studios, and other personal service uses of a similar character.

12-309B-4.09 Restaurants, (excluding drive-in or drive-thru restaurants), and taverns.

12-309B-4.10 Retail stores, but there shall be no slaughtering of animals or poultry on the premises of any retail store. Retail stores are limited individually to a maximum area of 10,000 sq ft.

12-309B-4.11 Amusement places, skating rinks, and dance halls; all in a completely enclosed building, auditorium or theater.

12-309B-4.12 Indoor sports or recreation, including bowling alleys, billiard parlors, swimming pools, physical fitness centers, and other similar uses.

12-309B-4.13 Commercial riding stable.

12-309B-4.14 Commercial greenhouse.

12-309B-4.15 Residential dwellings when associated with the tourism use as caretaker, manager, or as part of a living museum.

12-309B-4.16 Religious institutions such as a convent, church, temple or mosque.

12-309B-4.17 Community buildings.

12-309B-4.18 Child care center

12-309B-4.19 Animal hospital or clinic when accessory to a tourism use; provided that such hospital or clinic and any treatment rooms, cages, pens or kennels be maintained within a completely enclosed building with soundproof walls and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls and located on a sewer (have it's own sewage management system). Accessory buildings and uses.

12-309B-4.20 Outdoor advertising signage, with the requirement than any outdoor advertising structure or sign in excess of 100 square feet in area shall be attached flat against a wall or building. See Section 12-306-2.18 for requirements pertaining to the height and location of signage.

12-309B-4.21 Temporary signs pertaining to the lease, hire, or sale of a building or premises on which such sign is located.

12-309B-4.22 Utility installations for sewer, water, gas, electric and telephone mains and incidental appurtenances.

12-309B-4.23 Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations and passenger stations.

12-309B-4.24 Temporary buildings, the uses of that are incidental to construction operations and that shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of two years from the time of erection of such temporary buildings, whichever is sooner.

12-309B-5. PARKING REGULATIONS

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

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

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

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

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

12-309B-8. SUPPLEMENTARY USE REGULATIONS

Supplementary use regulations are contained in Section 12-319.

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

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

12-310 “B-2” GENERAL BUSINESS DISTRICT REGULATIONS

12-310-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "B-2" General Business District. The purpose of this district is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and miscellaneous service activities, particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing.

12-310-2. <u>USE REGULATIONS</u>
A building or premises shall be used only for the following purposes:

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

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

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

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

12-310-2.05. Drive-in restaurants.

12-310-2.06. Food storage lockers.

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

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

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

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

12-310-2.11. Public garage.

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

12-310-2.13. Used car lot.

12-310-2.14. Accessory buildings and uses.

12-310-3. **PARKING REGULATIONS**
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-310-4. **OFF-STREET LOADING REGULATIONS**
The off-street loading regulations for permitted uses are contained in section 12-317.

12-310-5. **HEIGHT AND AREA**
Height and area regulations shall be as set forth in the chart of section 12-318, and in addition, the following regulations shall apply:

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

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

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

12-311 “I-1” LIMITED INDUSTRIAL DISTRICT REGULATIONS

12-311-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "I-1" Limited Industrial District. The purpose of this district is to provide sufficient space in appropriate locations, usually in planned industrial subdivisions, for certain types of business and manufacturing, relatively free from offense, in modern, landscaped buildings, to make available more attractive locations for these businesses and factories, and to provide opportunities for employment closer to residence with corresponding reduction of travel time from home to work.

12-311-2. USE REGULATIONS
A building or premises shall be used only for the following purposes, but subject to the special conditions as enumerated in section 12-311-3 below:

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

12-311-2.02. Offices and office buildings.

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

12-311-2.04. Compounding of cosmetics, toiletries, drugs, and pharmaceutical products.
12-311-2.05. Photographic processing or blueprinting.

12-311-2.06. Printing and publishing.

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

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

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

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

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

12-311-2.12. Moving picture production.

12-311-2.13. Generally those light manufacturing uses similar to those listed in items 04 through 12 above, which do not create any more danger to health and safety in surrounding areas and which do not create any more offensive noise, vibration, smoke, dust, lint, odors,

heat, or glare than that which is generally associated with light industries of the type specifically permitted.

12-311-2.14. Bank, drive-in or otherwise.

12-311-2.15. Restaurant, but not a drive-in restaurant.

12-311-2.16. Filling station, if located in a district of 20 acres or more.

12-311-2.17. Hotel, motel, or motor lodge, if located in a district of 20 acres or more.

12-311-2.18. Dwellings for resident watchmen and caretakers employed on the premises.

12-311-2.19. Accessory farm dwellings on a farm of 10 acres or more.

12-311-2.20. Railroad siding.

12-311-2.21. Accessory buildings and uses including accessory signs and advertising structures related to the activity conducted on the premises.

12-311-2.22. Animal hospital or clinic as described in "B-1", section 12-309-2.07.

12-311-3. **SPECIAL CONDITIONS**

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

12-311-3.01. All uses shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished material and supplies or waste material. Finished or semi-finished products manufactured on the premises may be stored in the open if screened from streets by landscaping, fences, or walls.

12-311-3.02. All main plant buildings shall be of concrete, structural steel, or masonry construction and limited to 45 feet in height, unless otherwise approved by the Board of Zoning Appeals.

12-311-3.03. Adequate parking and loading space shall be provided off the street for all employees and traffic to the plant.

12-311-3.04. Loading operations shall be conducted at the side or rear of buildings.

12-311-3.05. No parking or storage of material or products shall be permitted in the required from yard.

12-311-3.06. The front yard shall be landscaped with trees, grass, shrubs, or pedestrian walks and maintained in a neat and attractive condition.

12-311-3.07. All fencing shall have a uniform and durable character and shall be properly maintained.

12-311-3.08. Accessory signs in excess of 60 square feet in area shall be attached flat against a building.

12-311-4. **PARKING REGULATIONS**

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

12-311-5. **OFF-STREET LOADING REGULATIONS**
Additional off-street loading regulations for permitted uses are contained in section 12-317.

12-311-6. **HEIGHT, AREA, AND BULK REGULATIONS**
Additional height, area, and bulk regulations shall be as set forth in the chart of section 12-318.

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

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

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

12-312-1.
The regulations set forth in this section or set forth elsewhere in this Resolution when referred to in this section, are the regulations in the "I-2" Light Industrial District. This district is intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees and with access by major thoroughfares or railroads in either central or outlying locations.

12-312-2. USE REGULATIONS
A building or premises shall be used only for the following purposes:

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

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

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

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

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

FOOD AND BEVERAGE
- Bakery products, wholesale (manufacturing permitted)
- Beverage, blending, bottling (all types)
- Candy, wholesale (manufacturing permitted)
- Chewing gum
- Chocolate, cocoa, and cocoa products
- Coffee, tea, and spices, processing and packaging

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

METALS AND METAL PRODUCTS

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

TEXTILES, FIBERS, AND BEDDING

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

WOOD AND PAPER PRODUCTS

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

UNCLASSIFIED USES

Animal pound or hospital
Animal, poultry and bird raising, commercial
Building materials (cement, lime in bags, or containers, sand, gravel, shell, lumber and the like), storage and sales
Bus garage and repair shop
Button manufacture
Carbon paper and inked ribbons manufacture
Cigar and cigarette manufacture
Circus grounds
Cleaning and dyeing of garments, hats and rugs
Coal and coke storage and sales
Contractor's shop and storage yard
Exposition building or center
Fairgrounds
Fur finishing
Greenhouses, wholesale
Industrial vocational training school, including internal combustion engines
Kennels, commercial
Laboratories, research, experimental, including combustion type motor testing
Leather goods manufacture, but not including tanning operations
Laundries
Livery stables and riding academy
Market, wholesale
Moving, transfer or storage
Outdoor advertising structure or sign subject to section 12-306-2.17
Printing, publishing, and engraving
Produce and storage warehouse
Railroad switching yard, primarily for railroad service in the district
Sign painting or fabrication
Theater, including a drive-in or outdoor theater
Tire re-treading and vulcanizing shop
Truck or transfer terminal, freight
Wholesale houses and distributors
Accessory uses

12-312-3. PARKING REGULATIONS

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

12-312-4. OFF-STREET LOADING REGULATIONS

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

12-312-5. **HEIGHT AND AREA REGULATIONS**

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

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

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

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

12-313 “I-3” & “I-4” HEAVY INDUSTRIAL DISTRICT REGULATIONS

12-313-1.
The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "I-3" and "I-4" Heavy Industrial District. These districts provide for industrial operations of all types. The districts in general would be protected from intrusion by commercial uses, signs, and dwellings.

12-313-2. USE REGULATIONS IN "I-3" DISTRICT
In the "I-3" District, a building or premises shall be used only for the following purposes:

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

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

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

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

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

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

CLAY, STONE, AND GLASS PRODUCTS
- Abrasive wheels, stones, paper, cloth, and related products
- Asbestos products
- Brick, firebrick and clay products
- Concrete central mixing and proportioning plant
- Glass and glass products
- Graphite and graphite products
- Monument and architectural stone
- Pottery and porcelain products (coal fired)
- Refractories (other than coal fired)
- Sand-lime products
- Stone products

Wallboard and plaster, building, insulation, and composition flooring

FOOD AND BEVERAGE

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

METAL AND METAL PRODUCTS

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

TEXTILES, FIBERS, AND BEDDING

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

WOOD AND PAPER PRODUCTS

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

UNCLASSIFIED INDUSTRIES

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

UNCLASSIFIED USES

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

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

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

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

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

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

12-313-4. PARKING REGULATIONS

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

12-313-5. OFF-STREET LOADING REGULATIONS

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

12-313-6. HEIGHT AND AREA REGULATIONS

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

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

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

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

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

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

12-314 “V-C” VALLEY CHANNEL DISTRICT REGULATIONS

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

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

12-314-3. <u>USE REGULATIONS</u>

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

12-314-3.02. Grazing.

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

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

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

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

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

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

12-314-4. <u>PARKING REGULATIONS</u>
The parking regulations for permitted uses are contained in section 12-316 of this Resolution.

12-314-5. <u>OFF-STREET LOADING REGULATIONS</u>
The off-street loading regulations for permitted uses are contained in section 12-317.

12-314-6. <u>HEIGHT, AREA AND BULK REGULATIONS</u>
Height and area requirements shall be as set forth in the chart of section 12-318.

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

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

12-315 RESERVED

12-315 RESERVED

12-316 PARKING REGULATIONS

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

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

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

12-316-1.01

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

TOTAL PARKING SPACES IN LOT	MINIMUM REQUIRED NUMBER OF ACCESSIBLE SPACES
1-25	1
26-50	2
51-75	3
76-100	4
101-15-	5
151-200	6
201-300	7
310-400	8
401-500	9
501-1000	2% of total spaces
0VER 1000	20 spaces plus 1 space for every 100 spaces over 1000

b. Facilities providing medical care and other services for persons with mobility impairments shall provide accessible parking spaces as follows:

1) Outpatient units and facilities shall provide 10 percent of the total number of parking spaces provided serving each such outpatient unit or facility.

2) Units and facilities that specialize in treatment or services for persons with mobility impairments shall provide 20 percent of the total number of parking spaces provided serving each such unit or facility.

c. The County Commission may require additional accessible parking stalls based upon the land use and the size of the facility.

d. Single-family, duplex or triplex residential dwellings are exempt from the requirements to provide accessible parking spaces. However, accessible parking spaces shall be provided on request of residents with disabilities.

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

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

12-316-2. INTERPRETATION OF THE CHART

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

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

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

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

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

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

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

12-316-2.08. Whenever a building or use, constructed or established after the effective date of the Resolution, is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

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

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

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

a. theaters, public auditoriums, bowling alleys, dancehalls, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by

b. banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used, or operated during the same hours as those listed in a.; provided, however, that written agreement thereto is properly executed and filed as specified below.

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

12-316-4. DESIGN STANDARDS

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

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

12-317 OFF-STREET LOADING REGULATIONS

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

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

12-317-2. **INTERPRETATION OF THE CHART**

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

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

12-317-3. **MIXED USES IN ONE BUILDING**

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

12-317-4. **DESIGN STANDARDS**

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

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

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

12-318 HEIGHT, AREA AND BULK REQUIREMENTS

12-318-1. Height, area and bulk requirements for the various districts shall be indicated in the chart below, together with other height, area, and build requirements contained in this Resolution.
12-318-2. The minimum lot sizes listed in any Zoning District of less than one acre are applicable only where an approved sanitary sewer system is available.

Article	District	Max. Feet in Height	Max. Height in Stories	Min. Depth of Front yard in Ft.	Min. Width of Side yard in Ft. (2 required)	Min. Depth of Rear Yard in Ft.	Min. Lot/Parcel Area Per Family in Acres or Sq. Ft.	Min. Lot / Parcel Area in Sq. Ft.	Min. Lot/ Parcel Width at road right-of-way or road easement line (in Feet)[1]	90% of Min. Lot/ Parcel Width (in feet)	Min. Depth of Lot/ Parcel in Feet
6	"A" Agricultural	35	2 ½	50*	10	30	3 acres *	3 acres *	250*	225	250
				75**			3 acres**	3 acres**	330**	297	250
				100***			5 acres***	5 acres***	500-660***	450-594	250
				150****			10 acres****	10 acres****	1320****	1188	300
7	"A-1" Suburban Home Residential	35	2 ½	50*	10	30	3 acres *	3 acres *	250*	225	250
				75**			3 acres**	3 acres**	330**	297	250
				100***			5 acres***	5 acres***	500-660***	450-594	250
				150****			10 acres****	10 acres****	1320****	1188	300
8	"R-1" Single Family Residential	35	2 ½	25	10	30	10,000	10,000	75	N/A	120
9	"B-1" Neighborhood Business	35	2 ½	40	Dwellings: 10	30	15, 000	15,000	75	N/A	125
					Other bldgs: 20		--			N/A	
9A	"B-3" Limited Business	25	2	50	50	50	43,560	87,120	150	N/A	125
10	"B-2" General Business	45	3	40	Dwellings: 10	30	15, 000	15,000	75	N/A	75
					Other bldgs: 20		--			N/A	
11	"I-1" Limited Industrial	45	2	50	20	30	--	43,560	150	N/A	200
12	"I-2" Light Industrial	55	4	25	10	Dwellings: 30	15,000	15,000	75	N/A	125
						Other bldgs: 20	--	7,500	75	N/A	100
13	"I-3" & "I-4" Heavy Industrial	- -	- -	25	10	20	--	15,000	100	N/A	150
14	"V-C" Valley Channel	35	2 ½	50	15	50	5 Acres	5 Acres	300	N/A	300
28	"F-W" Floodway	-- SAME AS UNDERLYING ZONING DISTRICT REGULATIONS --									
	"F-F" Floodway Fringe	-- SAME AS UNDERLYING ZONING DISTRICT REGULATIONS --									

*	**Property which takes access from and has the required frontage on a Local road**
**	**Property which takes access from and has the required frontage on a Minor Collector road**
***	**Property which takes access from and has the required frontage on a Major Collector or Minor Arterial road**
****	**Property which takes access from and has the required frontage on a Principal Arterial road**

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

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

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

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

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

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

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

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

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

12-319-1.05. Regardless of whether or not the Planning Commission approves or disapproves a Conditional Use Permit, if a protest petition against such amendment is filed in the office of the County Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed for a Conditional Use Permit or by the owners of record of 20% or more of the total area required to be notified by this act of the proposed Conditional Use Permit for a specific property, excluding streets and public ways, the Conditional Use Permit shall not be approved except by at least a 3/4 vote of all the members of the Board of County Commissioners.

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

12-319-2. TIME LIMITATIONS.
If no building permit is issued for the site within one year from the date of the Conditional Use Permit (CUP) approval by the Board of County Commissioners, the CUP shall be and becomes null and void. Applicants may request approval of a one-year time extension if the request is submitted to the Planning Office prior to the original expiration date.

12-319-3. AMENDMENT OR REVOCATION OF CONDITIONAL USE PERMIT
The County Commission shall have the authority to amend or revoke an approved Conditional Use Permit pursuant to this Section:

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

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

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

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

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

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

12-319-4. CONDITIONAL USES ENUMERATED
The following conditional uses may be approved by the Board of County Commissioners as provided in this section:

12-319-4.01. Airports and Landing Fields.

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

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

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

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

a. Mining excavation and extraction of mineral or raw materials including but not limited to stone, sand, gravel or the other building materials and the manufacturing, processing, storage and selling of said minerals and materials shall be permitted to continue in operation in "A" Agricultural District, "VC" Valley Channel District and Floodway and Floodway Fringe Overlay Districts (only on those areas under lease and on record at the time this resolution goes into effect.)

b. Mining, extraction and excavation of raw materials at new locations within Agricultural, Valley Channel districts, in Douglas County, shall require that an approved plan of restoration of land be submitted to the Planning Board for its recommendation to the Board of County Commissioners. This plan shall show that all excavated material will be returned to a level no higher than the elevation of surrounding land, and that proper drainage is provided. All shafts or tunnels must be left in a safe condition when abandoned.

12-319-4.06. Fairgrounds.

12-319-4.07. Hospitals.

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

12-319-4.09. Public or Government Buildings.

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

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

12-319-4.12. Sanitary Landfill.

12-319-4.13. Sports Arena or Stadium.

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

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

a. Facilities shall be limited to those for games and outdoor uses such as swimming pool, shuffleboard, croquet or tennis and locker rooms. Games and building locations shall not be located within twenty-five feet of the side lot lines, twenty-five feet of the rear lot line.

b. Appropriate fencing and screening from abutting property of all outdoor activity area shall be required. If parking areas are outside this fencing, then appropriate screening of at least three and one-half feet in height shall be constructed around parking area to protect adjoining property from headlights. The Board of County Commissioners may require the applicant to file with the County Clerk a performance bond during the period of construction, reconstruction, or alteration, such bond to be in an amount determined by the Commissioners to be sufficient to insure completion of landscaping and parking plans as submitted.

c. Any pumps and filters, which are located above ground, shall be at least fifty feet from abutting properties.

d. Dispensing of food, beverages, candy, tobacco, ice cream and sandwiches shall be from coin-operated vending machines or small snack bar, concession stand, or dining facility operated on the premises for the benefit of authorized persons only and not open to the public generally. The dispensing of food shall be considered a privilege subject to review and subject to revocation by the County Commissioners if said use becomes in nature a general business rather than for the convenience of patrons of the facility. No outside advertising concerning the promotion of foods is allowed; however, facilities will be permitted if they are to be located such as to cause the facilities to appear to be commercial in nature.

e. All lights shall be shielded to reflect or direct light away from adjoining property.

f. The required off-street parking space shall be computed on the basis of one (a) space, two hundred square feet, for each seventy square feet of pool area. The parking layout and surfacing shall be approved by the County Engineer.

12-319-4.16. <u>Race track</u>.

12-319-4.17. <u>Mobile Home Parks</u>.

a. In any approved district the wheels or any similar transporting devices of any mobile home or camping trailer shall not be removed except for repairs, nor shall such mobile home or camping trailer be otherwise permanently fixed to the ground or permanently fastened to another Mobile Home Unit in a manner that would prevent ready removal of said Mobile Home or camping trailer. Tires and rims may be removed for storage purposes.

b. <u>Mobile Home Park Regulations</u>. The purpose of these regulations is to insure and promote acceptable living environment for occupants of Mobile Home Parks with Mobile Home spaces offered for rental or lease. Every Mobile Home Park shall comply with all other pertinent City and/or State regulations, together with all amendments thereto subsequently adopted. No use shall be allowed other than those uses considered as an integral part of the planned Mobile Home Park as shown on the Development Plan.

1) Location. A Mobile Home Park may be located upon any tract of land held under single ownership within any residential zoning district that is not in the "F-W" or "F-F" overlay districts.
2) Size Of Park. The minimum size of a Mobile Home Park shall be five acres with all Mobile Homes fronting upon a private roadway within the park.
3) Gross Density. The average gross density of a Mobile Home Park (including streets and sidewalks) shall not exceed eight mobile homes spaces per acre.
4) Access. A Mobile Home Park shall have access to arterial or major collector streets and no Mobile Home Space shall have direct access to a local residential public street.
5) A minimum of at least one off-street parking space shall be provided for and be

located on each Mobile Home space. Parking will be allowed on one side of each roadway having a width of thirty feet or greater.

6) Mobile Home Park Plan. A site plan on a scale of one inch equals fifty feet shall be submitted as part of the Conditional Use Permit Application. The Site Plan shall show roads, buildings, land-use zoning, and other features outside the park within three hundred feet of the exterior boundaries. The Site Plan shall
   a) Drainage. The park shall be properly drained, to insure rapid runoff, and freedom from stagnant pools of water or flooding.
   b) Natural Features. The design of the park shall preserve natural features, such as large trees, outcroppings, etc., when feasible.
   c) Spaces. Each Mobile Home Park shall clearly define the Mobile Home spaces, and such spaces shall not have an area of less than thirty-six hundred square feet. There shall be a minimum distance of twenty feet between Mobile Homes.
   d) Circulation. The interior circulation and access driveways to public streets shall be so designed as to promote the public safety. A minimum fifty foot radius turn around shall be provided at the terminus of dead end roadways, sufficient to accommodate emergency vehicles on the scale of ambulances and pumper trucks.
   e) Roadways. Internal roadways shall be provided and all Mobile Home spaces shall face or abut on a roadway having at least twenty-two feet of unencumbered travel way. Such roadways shall be surfaced with four inches of Portland cement concrete or five inches of rock with two inches of Asphaltic Concrete.
   f) Sidewalks. Sidewalks of at least three feet wide shall be provided conform to the following design requirements: leading from Mobile Home spaces to service and recreational areas.
   g) Lighting. Both roadways and sidewalks shall be adequately lighted. Roadways shall be lighted with a minimum of one street light at each roadway intersection and one street light at the end of each cul-de-sac which is three hundred feet or more from a roadway intersection. These lights shall be a minimum of one thousand lumens.
   h) Setbacks and Landscaping. Mobile homes shall be set back a minimum of fifty feet along the street frontage of a major thoroughfare and a minimum of twenty-five feet of all other property lines. This setback or buffer zone shall be planted with a mixture of grass, trees, and shrubs to provide a dust deterrent shaded park like atmosphere.
   i) Office and Management. An area near the main entrance of the park shall be for office and management use only, with accessory off-street parking.
   j) Design. The design of the Mobile Home Park shall provide for and promote the public safety, convenience, and general welfare in a manner that will provide an enjoyable environment.
   k) Facilities. Adequate provisions shall be made for public water supply, sanitary sewers, fire protection, refuse collection, and other necessary facilities to satisfy State and Local Codes, Ordinance, and specifications.
   l) Recreational Space. One or more recreational areas shall be provided and equipped with suitable play equipment and other recreational facilities. There shall be at least two hundred square feet of developed area per Mobile Home space. Calculations of recreational space shall not include the setback requirements as specified in section 12-319-4-17b.6) h) of these regulations.
   m) Boat and Trailer Storage. Each Mobile Home Park shall provide screened areas for the storage of boats and trailers (travel, horse, or utility) with an

aggregate size of at least one hundred square feet per Mobile Home space.

n) Non-Conforming Mobile Home Parks. Existing Mobile Home Parks that do not conform to these regulations and special conditions shall be considered as non-conforming and shall be allowed to continue under the provisions of section 12-320, Non-Conforming Uses.

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

12-319-4.19. Commercial Feed Yards.

12-319-4.20. Sale Barn.

12-319-4.21. Slaughter House.

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

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

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

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

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

12-319-4.27. Farmer's Market.

12-319-4.28. Fruit and Vegetable Stand.

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

12-319-4.30. Child Care Center.

12-319-4.31 Wireless Facilities

a. 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.

b. Definitions.

The following words, terms, and phrases, when used in this Section, shall, except where the context clearly indicates otherwise, have the following meanings:

1) 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.
2) Antenna means telecommunications equipment that transmits or receives radio waves necessary for the provision of Wireless Services.
3) 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.
4) 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.
5) 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.
6) 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.
7) Monopole means a single, free-standing, pole-type structure supporting Wireless Facilities, including Antennas.
8) 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.
9) Wireless Facility means any equipment at a fixed location that enables wireless telecommunications between user telecommunications devices and telecommunications networks.
10) Wireless Service Provider means a provider of Wireless Services.
11) 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.
12) 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.

c. Approvals Required.

1) 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.
2) 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.

d. Terms of Approval; Renewal; Limits.

1) 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.
2) 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.

e. 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:

1) 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.
2) 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.
3) A Site Plan, drawn to scale, including:
   a) The information required by Section 12-319A-4 of these Regulations, as amended;
   b) The location of existing or proposed Wireless Facilities or Wireless Facility Support Structures;
   c) The location of other existing or proposed structures;

d) The location of accessory equipment and/or other accessory uses;
e) the location of access road(s), access road surface materials, and any parking area;
f) The height, location, and construction materials of fences or other barriers;
g) A Landscape Plan, in accordance with Section 12-319A-4.10 of these Regulations, as amended;
h) Elevation contours; and
i) Zoning and uses of properties neighboring the subject property.

4) 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:
   a) The height and design of the proposed Wireless Support Structure;
   b) the height for all potential mounting positions for Antennas and the minimum separation distances between Antennas;
   c) The capacity of the Wireless Support Structure, including the number and types of Antennas that can be accommodated;
   d) 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
   e) Any other information that may be necessary or requested by the Planning Director to evaluate the Application.

5) If the project involves a new Wireless Support Structure, the application shall include:
   a) 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;
   b) 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
   c) 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.

6) 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.

7) 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.

8) 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.

9) 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:

a) A brief description and location of the proposed tower:

b) Projected date for construction;

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

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

e) A statement with substantially the following information:
Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.
This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed 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.

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

f. General Standards.

1) Co-location:

a) 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.

b) 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.

c) 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.

2) 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.

3) 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.

4) 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 base.
   b) 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.
   c) 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.
   d) 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.

5) Height: The height of a tower is unregulated but all towers must comply with FAA regulations.

6) Separation Requirements:
   a) 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.
   b) 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.

7) Design Standards:
   a) Access: Access shall be provided to all Wireless Facilities, Wireless Support Structures, and accessory equipment per the approval of the County Public Works Director.
   b) 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.

c) 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.

d) 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.

e) Color: The color of the tower shall comply with the standards set by the Federal Aviation Administration (FAA) or the County.

f) 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.

g) 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.

h) 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.

i) 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.

j) 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.

k) 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.

g. Final Decision.

1) 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:

a) Review the application in light of the standards of this Section and applicable provisions of the County Code;

b) Make a final decision to approve or disapprove the application; and

c) 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.

2) 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.

3) 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.

4) 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.

h. Miscellaneous Provisions.

1) 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.

2) 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.

3) 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.

a) Major Modifications and Minor Modifications to nonconforming structures shall be permitted in accordance with the provisions of this Section.

b) 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.

4) Ordinary Maintenance. Ordinary Maintenance, as defined herein, shall be exempt from the permitting and approval requirements of this Section.

i. Exemptions.

a) The provisions of this Section shall not apply to the following:

i. Any Wireless Facility, including Amateur and Receive-only Antennas, that are:

(a) Less than 75 feet in height;

(b) Located in the Rear Yard of a residentially zoned Parcel; and

(c) Owned and operated by a federally licensed amateur radio operator.

(d) Wireless Facilities that are exempt under this Subsection shall not be considered, be deemed available, or be used for Co-location.

ii. Broadcast Towers; and/or

iii. Satellite Dishes.

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

12-319-4.33. **Adult Entertainment Business or Sexually Oriented Business**. The types of uses included under this category are subject to regulation through review, approval and adoption of a Condition Use Permit. The operation of an Adult Entertainment Business requires commercial or industrial zoning in addition to the approval of a Conditional Use Permit. Adult Entertainment Businesses shall include but not be limited to the following:

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

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

a. Adult Entertainment Businesses shall not be located within 1,000 feet of any other Adult Entertainment Business, or within 1,000 feet of any residence, residential zoning, church, school, park or playground, or any other area where large numbers of individuals under the age of 18 regularly attend or congregate. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property lines of applicant's premises to the nearest point on the property line of the residence, school, church, park or playground.

b. Adult Entertainment Businesses proposed for any building, structure, or open space shall meet all requirements of this and other county, state and health regulations pertaining to buildings and structures; parking; zoning; signage; and on-site and off-site improvements; as provided in the other applicable ordinances, resolutions and regulations of the Unincorporated Territory of Douglas County, Kansas.

c. The interior of an Adult Entertainment Business shall be adequately lighted (as defined in subsection f below) and constructed so that every portion thereof, with the exception of restrooms, is readily visible to the clerk or other supervisory personnel from the counter or other regular station where payment is made for the stock in trade, fare, or live entertainment offered in such establishment. Private or semi-private viewing rooms or booths are prohibited.

d. The lobby or entrance area of an Adult Entertainment Business shall be designed to minimize the obstruction of sidewalks or pedestrian paths during operating hours and to prevent the interior of the establishment from being viewed from the exterior. Exterior lighting shall be provided at a minimum of two foot-candles of illumination at the entrance and in the parking lot.

e. All sexually oriented graffiti shall be prohibited. Any existing sexually oriented graffiti shall be immediately removed from the interior or exterior of a building used for adult entertainment business or of a vacant building formally used for such purpose upon adoption of this regulation.
f. All areas within an Adult Business shall be illuminated at a minimum of one and one/fourth foot candles, minimally maintained and evenly distributed at ground level.
g. No materials that graphically depict "specified anatomical activities" or "specified anatomical areas", or that are characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" shall be permitted in restrooms.
h. All live entertainment shall take place in an area which is at least two feet above the primary level of the customer floor level and at least six feet from all members of the public and which is separated by a rail or other physical barrier designed to obstruct any contact between any entertainer and the public.
i. The names and telephone numbers of the principal owner and manager of the adult entertainment business shall be legibly written or printed and posted in a visible, unobstructed place viewable from the front door of the establishment. This information shall be kept current so the constituents or general public know whom to contact in case of an emergency.
j. Illegal activities shall not be permitted to occur on the premises. All measures necessary to eliminate illegal activities on the premises shall be taken as soon as they are known to exist.
k. All Adult Entertainment Businesses shall permit law enforcement and code enforcement officers to inspect the premises at anytime without advance notice during normal business hours.
l. All Adult Entertainment Businesses shall comply with all laws regarding the protection of minors from harmful materials.
m. All Adult Entertainment Businesses shall take all necessary & reasonable measures to control patrons' conduct which results in disturbances; vandalism; criminal activity; or crowd control problems which occur inside or outside the premises; traffic control problems; or the creation of a public or private nuisance; or the obstruction of another business's property.

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

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

12-319-4.34. **Mini-or self-storage facilities** permitted in the portions of the unincorporated area of Douglas County which meets the following locational criteria and development standards:
a. Must be located within an Urban Growth Area.
b. Must take direct access from a paved road classified as 'collector' or higher.
c. Security fencing and lighting must be provided for the entire facility. Security fencing is fencing which permits visibility while obstructing access. An example would be a 6' high chain link fence.
d. All outdoor lights shall, to the maximum extent feasible, confine emitted light on the property on which the light is located and not be directed upwards toward the sky. All lights are to be shielded to reflect or direct light away from adjoining property but may be of sufficient intensity to discourage vandalism and theft. Photometric plans must be submitted with site plan. Maximum illumination at lot line is as follows:
1) .2 foot-candles, or less, if adjacent to a residentially zoned property

2) 3 foot-candles, or less, if adjacent to a non- residentially zoned property.
3) 1 foot-candle at lot line abutting the road right-of-way.

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

f. Access way width must be a minimum of 20' for one-way traffic and 25' for two-way traffic (to allow parking within the drive aisles).

g. Off-street parking shall be required on the basis on one space for each 8,000 square feet of floor area in the facility, plus one space for each employee, but in no case shall the number be less than five spaces.

h. All storage will be kept within an enclosed building, unless a portion is designated for covered (non-enclosed) or exterior vehicle storage. This area may be used for storage of trucks, automobiles, trailers, boats or RVs. Exterior storage of unregistered and/or disassembled vehicles is prohibited. Access ways and individual spaces must be shown on the plan and designated on the site. One vehicle and trailer will be permitted per stall. Any covered (non-enclosed) or exterior vehicle storage must be screened from adjacent public roads, residentially zoned properties or a property containing a residence with a view reducing wall, fence, landscaping materials or a combination of these measures.

i. Activities which are prohibited on the premises include miscellaneous or garage sales, commercial shipping and receiving, and the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment. Storage spaces shall not be used for storage of commercial or industrial trucks and/or trailers, workshops, hobby shops, manufacturing or similar uses. Human occupancy shall be limited to that required to transport, arrange and maintain stored materials.

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

k. Keyless keypad entry system required or similar secure entry system with monitoring ability.

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

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

a. A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam).

b. The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system).

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

a. Employees: A maximum of 4 full-time equivalent employees shall be allowed.
b. Buildings or Structures:
    i. The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 sq feet.
    ii. Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.
c. Deliveries to/from the site: Commercial vehicles that exceed 5 tons (gvw) in capacity shall be limited to two trips (to and from the site) per day.
d. Environmental considerations: All EPA water and air quality standards must be met. No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
e. Equipment: All equipment used in the production of the value-added product shall be located wholly within a building or structure, or be screened from public rights-of-way and adjacent residential buildings.
f. Off-site impacts: The associated noise, odor**,** light, 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 so that it is not visible from the site boundary/property lines.
h. Road Access and Frontage:
    i. The site must have direct access to a full maintenance public road.
    ii. Properties must meet the same Access Management Regulations as residential dwellings, at a minimum. Additional standards may be applied following the review of the anticipated traffic generated by the use and resulting traffic safety impacts.
i. Signage: One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located no closer than 10 feet from the road easement/right-of-way line. No other signs may be posted or erected on the property.

12-319-4.36. <u>Nanobreweries</u>. The following standards apply:

a. Commodities grown on site shall be used to the greatest extent possible, with production utilizing crops grown on the same property or in combination with crops grown off-site. A nanobrewery that uses commodities produced on-site may be permitted with a CUP. A nanobrewery that does not utilize commodities produced on-site is considered a manufacturing activity and requires appropriate zoning.

b. Production is limited to no more than 1,250 barrels of beer per year.

c. All State and Federal licenses which are required for the use shall be provided prior to the release of the permit for the Conditional Use.

d. The nanobrewery may employ up to 3 full-time employees.

e. Commercial vehicles for delivery and pick-up of product are limited to light or medium duty trucks; which are defined as trucks with a Gross Vehicle Weight Rating (GVWR) of 16,000 lbs or less.

f. Commercial pick-up and deliveries by trucks heavier than 14,000 lbs GVWR shall be limited to three trips (to and from the site) per week.

g. Beer sales for on-site consumption are prohibited.

h. A tap room is permitted for the tasting of beers produced on-site. No charge may be levied for the use of the tap room or sampling of beers.

i. Beer sales for off-site consumption are permitted as well as ancillary retail sales of related items. T-shirts and glasses are examples of items which would be permitted as ancillary retail sales.

j. New buildings used in the brewery operation, production, and storage of materials shall be designed and located to maintain the rural character of the area. Existing buildings shall maintain their rural character from the outside.

k. No part of the production may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.

l. All equipment used in the production shall be located wholly within a building or structure. Any associated noise, light or vibrations from the production operation shall not be perceptible at the site boundary/property lines.

m. All products shall be stored within a building or structure.

n. All buildings, whether new or existing, which are used for the operation and production of the nanobrewery, warehousing of products, and any areas which will be open to the public such as the tap room and area for ancillary associated retail sales must meet the adopted construction codes (Chapter 13 of the County Code).

o. Traffic data related to the project shall be provided with the CUP application. This information will be used by the County Engineer to make a determination regarding the intensity of use which is suitable based on the road network and will include, at a minimum:

1) The number of trips anticipated with the nanobrewery use. This information should be provided for passenger vehicles as well as delivery trucks.
2) The size of the delivery/distribution trucks should be noted as well as the frequency of the trips.
3) The typical route the delivery/distribution vehicles will use to access the property.

p. The property shall have direct access to a full-maintenance public road unless access to an existing private road is approved as follows:

1) The County Engineer has made a determination based on the traffic data provided that as to the intensity of use which is suitable based on the configuration and condition of the private road.
2) Written approval of other land owners using the private road must be provided.
3) A maintenance agreement for the private road must be executed and recorded**.** [Res. 13-13]

12-319-4.37 <u>Radio, television, and microwave towers</u>.

a. 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.

b. 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:

1) Written authorization from the property owner of the proposed tower site.

2) A site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site. If any accessory building is proposed, details of the building including elevations and proposed use of the building is required to be submitted with the application.

3) 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.

4) In addition to the written notice to owners within 1,000 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:

a) A brief description and location of the proposed tower:

b) Projected date for construction;

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

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

e) A statement with substantially the following information:
Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.
This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed 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.

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

c. General Provisions.

1) An effort in good faith must be made to locate new antenna on existing towers, or other structures. A request for a new tower must be accompanied by evidence that application was made to locate on existing towers, with no success.

2) 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.

3) A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.

d. 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.
2) 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:
   a) 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
   b) 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.
3) 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:
   a) The waiver will not adversely affect the public health, safety, or general welfare of the community;
   b) The waiver will not adversely affect the rights of adjacent property owners or residents;
   c) Strict application of the provisions of this section would constitute unnecessary hardship on the Owner/Applicant; and
   d) The waiver is appropriate under the circumstances.
4) 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.

e. Development Standards.

1) The height of a tower shall meet the setback requirements as stated in this chapter.
2) 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.
3) 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.

[Res. 17-19]

12-319-4.38

a. **<u>Large Wind Energy Conversion System (Commercial Wind Energy Conversion Systems)</u>. 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. 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.

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.

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.*

c. **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].

d. **Conditions Required for Approval.** In addition to the findings of fact listed in section 12-319-1.02 the additional considerations shall be evaluated.

1) 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.

2) Key Issues. Key issues relating to CWECS include, but are not limited to:
   a) Visual Impact
   b) Noise Impact
   c) 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].
   d) Bird migration/strike
   e) Endangered or Threatened Species
   f) Water Quality and Soil Erosion
   g) Infrastructure, including roads and bridges for construction access
   h) Aviation/FAA
   i) Reception Interference
   j) Cultural Heritage
   k) Maintenance of the Rural Character
   l) Cumulative Impact
   m) Company experience, reputation, and financial ability
   n) Removal/Reclamation
   o) Bond agreement
   p) Specific requirements for building and construction

e. **Application Requirements.** As part of the CUP application, the applicant shall submit a CWECS Development Plan. Each application for a CWECS shall include the following documentation.

1) **Site plan per section 12-319A-4.**

2) **Contents of the CWECS Site Plan.**
   a) Name of the project.
   b) Name / address of land owner and land developer;
   c) Narrative describing phases of construction (if applicable).
   d) 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.
   e) Extent of area of subject property to be disturbed or cleared for access, construction, operation and maintenance.
   f) Boundaries of the 100-year floodplain as identified on the Federal Insurance Administration's "Flood Hazard Boundary Maps" of Douglas County, Kansas; and,
   g) The location of any underground pipelines and other utility easements**.**
   h) 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.

3) **Supplemental information.** All detailed technical information that supports the proposal should be included in appendices. The following information must be submitted with the application:

a) **Vicinity Map.** Two (2) maps showing project location and vicinity within Douglas County.

b) **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.)

c) **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.
d) **Map of residential** uses and structures within 1000' of the site boundary [for each individual wind turbine included in the application];
e) **Environmental guidelines and industry codes** of practice that will be followed if the project is approved.
f) An **inventory of existing wildlife**, endangered and threatened species, wetlands, flora, fauna and geoconservation areas and other biologically sensitive areas within the site.
g) **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.

h) **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.

i) 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.

j) 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.

k) 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.

l) Applicant shall submit proof of having submitted FAA form 7460 (notice to build) at the time of application.

4) **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.

e. 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.

1) **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

   a. A setback shall be equal to 110% of the height of tower plus length of blade.

   b. No turbine shall be located closer than 1500 feet to a residential structure.

   c. Additional or reduced setback requirements may be imposed as conditions to the project, depending on the circumstances.

2) **Lowest point.** The rotor blades shall be at least 100 feet above ground level at the base of the tower.

3) **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.

4) **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.

5) **Logos.** Logos or advertisements are prohibited on these structures.

6) **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.

7) **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.
   a. Access roads shall be low profile roads so farming equipment can cross them.
   b. 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.

g. Decommissioning/Restoration/Abandonment Plan.

1) 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.

h. Bond Agreement.

1) Bond Requirement:
   a) 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.
   b) 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.
2) Liability on Termination or Expiration:
   a) 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.
   b) 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.

c) 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.

3) 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.

[Res. 17-12]

12-319.4.39 <u>Small Scale Industrial Uses</u>

A small scale industrial use is an industrial use that is of such a scale as to be compatible with nearby land uses, while maintaining the rural character of the area.

a. 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.

b. 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) Small Scale Industrial uses are permitted as Conditional Uses only on properties that are zoned A (Agricultural) or V-C (Valley Channel).
2) The proposed use shall be located primarily outside of the regulatory floodplain.
3) Vegetative cover and wildlife habitat on the site shall be preserved, along with other environmentally sensitive areas to act as buffers and site amenities.
4) The site shall have adequate utilities, infrastructure, and services for the proposed use.
5) 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.
6) The establishment may employ up to 15 full-time equivalent non-resident employees, as defined in Section 12-303-1.65.
7) All business activity shall be conducted within the structure with no outdoor storage of materials or product.
8) 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.

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

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

11) The site shall be located on a full maintenance public road.

a) 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.

b) 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.

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

12) 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.

13) 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.

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

[Res. 16-26]

12-319-5. <u>TEMPORARY BUSINESS USES AND TEMPORARY BUSINESS USE PERMITS</u>

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. [Res.13-03]

12-319-5.01. <u>Definitions</u>.

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:

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.

c. Application Procedure. An applicant for a temporary business use permit shall make application to the office of the Director of Zoning and Codes Department no less than twenty-eight days before the date of commencement of the proposed temporary business use. For good cause shown, the Board of County Commissioners may allow an application to be filed on shorter notice. All applications shall be accompanied by a non-refundable application fee in an amount set by resolution of the Board of County Commissioners but not less than one hundred dollars. In the application the applicant shall identify each sponsor of or other persons with a financial interest in the proposed activity

d. Temporary Business Use Plan. Each temporary business use application shall be accompanied by ten copies of a plan in which the applicant explains the activity, the number of persons anticipated to attend, the location of the temporary business use, and detailed information concerning the applicant's plans and procedures for the following:

1) Controlling traffic, parking and road conditions during the temporary business use, including provisions for off-road parking;

2) Addressing health and sanitation concerns at the site, including toilet and drinking water facilities and supplies adequate to meet the anticipated crowd plus a reasonable allowance for additional persons, including certification by Lawrence-Douglas County Health Department that all sanitation and health concerns have been adequately addressed in the applicant's plans;

3) Providing adequate illumination at the site if the temporary business use is to be held at night;

4) Providing security at the site, including the hiring of private security guards;

5) Providing adequate fire safety precautions at the site, including consultation with the township fire department and approval prior to the activity;

6) Evidence that the applicant has secured or can secure adequate general liability and property insurance coverage for the temporary business use; and,

7) If applicable, the serving of alcoholic beverages, including cereal malt beverage.

e. Public Notice Requirements. Upon receipt of the application for a temporary business use permit, the Director of Zoning and Codes Department shall notify the applicant of the date scheduled for a public hearing on such application before the Board of County Commissioners. No less than ten days prior to the public hearing the Director of Zoning and Codes Department shall cause notice to be sent of the date, time and place of the hearing by first class mail to the following persons:

1) The owners and occupants of properties within 1,000 feet of the boundaries of the site at which the proposed use will occur; and,

2) The owners and occupants of residential structures served by driveways which take access from the public road which shall serve as the primary access to the proposed site and that are within one mile of the main entrance to such site. The public notice provided for herein also shall contain a copy of the temporary business use plan required in paragraph (d) or a summary thereof. The failure of any of the above described persons to receive the notice provided for herein shall not invalidate any proceedings held concerning a temporary business use permit application. The notice required by this subsection shall only be required to be

sent to the non-owner occupants of properties described herein if the names and addresses of such persons can be ascertained from records of the County that are available to the Director of Zoning and Codes Department.

f. **Public Hearing and Decision by Board.** Each application for a temporary business use permit shall be exempt from the requirements of Section 12-319-1, but the application shall be the subject of a public hearing before the Board of County Commissioners on the date and at the time and place set out in the notice required to be given under paragraph (e) of this section. After the public hearing held thereon, the Board may approve or deny the permit, or the Board may continue the hearing or a decision on the permit application until a subsequent meeting. If the permit is approved, the Board shall establish the effective time period for the permit and all conditions under which the permit is granted. Such conditions may include, but shall not be limited to, a requirement that a cash bond be posted by the applicant to reimburse Douglas County for the cost of any overtime incurred by County staff in responding to calls by law enforcement personnel and the provision of other services in connection with the permitted activity. Within 14 days after the conclusion of the use the County Administrator shall review all costs incurred by the County, shall deduct the amount of the costs from the bond, and shall refund the balance of the cash bond to the applicant.

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

12-319-6.01. <u>RURAL HOME OCCUPATIONS [Type I]</u>

a. <u>Purpose</u>

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

b. <u>Development Standards for Operation of a Rural Home Occupation</u>

Rural Home Occupations shall be subject to the following standards:

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

the name of the business and its hours of operation. For purposes of this provision, "commercial message" means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.

c. Permitted Uses

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

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

d. Prohibited Uses

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

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

e. Off-street Parking Requirements

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

f. Application and Approval Process

Rural Home Occupations must be registered with the County Zoning Administrator. The approval process is an administrative procedure. The application form is available from the County Zoning and Codes Office. Upon receipt by the Zoning and Codes office of a completed application form, the listed use will be verified as a permitted Rural Home

Occupation use listed in 12-319-6.01-a. A use permit will be issued for a use if it is a permitted use. The Rural Home Occupation use permit is valid for a period of twelve months from the date of issuance.

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

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

a. Purpose

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

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

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

"commercial message" means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business product, service, or other commercial activity;

11) Outdoor storage buildings, and off-street parking spaces established after August 16, 2000, shall be located at least 50 feet from all property lines and public rights-of-way, or screened by landscaping or buildings so as not to be visible from off-site.

c. Permitted Uses

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

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

d. Prohibited Uses

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

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

e. Off-street Parking Requirements

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

f. Registration & Approval Process

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

The registration and approval process is an administrative procedure. To establish the

Rural Home Business Occupation, a registration application available from the County Zoning and Codes Office must be filled out and submitted to the County Zoning Administrator. Upon submittal of a completed application, the Zoning and Codes Office needs to verify the requested use is permitted for the requested home business occupation. The use permit is valid for twelve months.

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

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

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

a. Purpose

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

b. Permitted Uses

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

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

c. Registration Required

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

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

d. Notice

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

1) By publication on two different dates, in a display advertisement in the general news sections, or a newspaper of general circulation in the county;

2) By written notice, by first class mail, to all property owners known or believed to have such a use, as determined from business licensing records, tax records, inspection records, or other sources;
3) By handbill notice maintained in appropriate racks or on the counters of the offices of City/County Planning, Zoning and Codes, Real Estate Appraisal, and the office of the County Clerk until December 28, 2001.

e. Application for Registration

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

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

f. Review of Application

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

This is an annual review process. The Transitional Home Occupation owner shall be responsible for annually renewing a registration application and use permit request by May 1st of each year. The fees charged for the initial permit and for the renewal permit are based on a separate FEES & ENFORCEMENT POLICY Resolution adopted by the County Commission. The applicant shall provide written notification to the County Zoning

Administrator when the Transitional Home Occupation is discontinued or moved.

g. Right to Continue

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

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

h. Development Standards for Operation

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

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

i. Termination

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

Any Transitional Home Occupation which meets the requirements of this 30and is duly registered under this section shall cease on May 1, 2006, or on the earlier occurrence of one of the other events enumerated in sub-section g, shall cease on May 31, 2006, or on the earlier date on which such event occurs, and all inventory, equipment, and activity not

allowed under either sections 12-319-6.01 or 12-319-6.02 shall be removed from the premises before the first day of business for government offices after such date.

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

a. Purpose
To provide for aggrieved business owners an opportunity to appeal determinations made by the Douglas County Zoning and Codes Department.

b. Appeals From Decisions of Douglas County Zoning and Codes Department
Any person owning a home business that is dissatisfied with the final determination of the Douglas County Zoning and Codes Department as it relates to the applicability of sections 12-319-6.01, 12-319-6.02, or 12-319-6.03 to such person's home business, may appeal such determination to the Douglas County Commission. The provisions in sections 12-319-6.01, 12-319-6.02 and 12-319-6.03 are not provisions that can be appealed to the County Board of Zoning Appeals.

c. Appointment of County Commissioner to Act for County Commission
The Douglas County Commission may, from time to time, appoint a hearing officer to hear and decide appeals made pursuant to Paragraph B. In the event that there is a single Commissioner so appointed, the decision of that Commissioner shall be deemed to have been made by the entire Douglas County Commission and the aggrieved person shall have no right to appeal to the entire Commission.

d. Appeals From Douglas County Commission
Any person who is dissatisfied with the decision of the Douglas County Commission may appeal such decision to the district court, as provided by law.

e. Final Determination of Appeal Not Prerequisite To Enforcement
A final determination of the Douglas County Commission shall not be a prerequisite to the commencement of any enforcement action against any person allegedly violating the Zoning Regulations.

12-319-7. AGRITOURISM SUPPLEMENTAL REGULATIONS

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. [Res.13-02]

12-319-7.01. AGRITOURISM

a. Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.

b. Typical agritourism uses include, but are not limited to, the following:

1) Farm markets/roadside stands,
2) U-Pick operations,
3) Farm winery tours and tastings,
4) Corn mazes,
5) Farm-related interpretive facilities, exhibits, and tours,
6) Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers.
7) Farm stays,
8) Bed and breakfast establishments,
9) Recreation-related operations (fishing, hunting, bird watching, hiking, etc.),
10) Horseback riding,

11) Garden, nursery tours and exhibits,
12) Pumpkin patch visits and activities,
13) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related; weddings; receptions; etc.,
14) Ancillary retail sales,
15) Other uses that may be determined on a case-by-case basis if they meet the purpose and intent of these regulations.

c. These Agritourism provisions do not apply to camping. [Res.13-02]

12-319-7.02. <u>REGISTRATION AND APPROVAL PROCESS</u>

a. After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the Agritourism use with the County. 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 Section 12-319-7 without any additional review under Section 12-319, Conditional Use Permits; Section 12-319A, Site Plan Regulations; or Section 319.8 , Special Event Permits, although other State and local regulations shall apply. [Res. 13-02]

b. Sections 12-319-7.03 and 12-319-7.08 establish the parameters for Tier 1 (low intensity), and Tier 2 (medium intensity) Agritourism uses.

1) Tier 1 (low intensity) Agritourism uses may be registered administratively by the Zoning and Codes Director.
2) Registration of Tier 2 (medium intensity) Agritourism uses requires approval by the Board of County Commissioners.
3) Agritourism uses which do not meet the definition or parameters of a Tier 1 or Tier 2 use require approval through a Conditional Use Permit, Special Event permit, or rezoning. [Res.14-12]

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

1) Additional descriptive information may be necessary for the determination. This information will be provided by the Agritourism operator and kept as a part of the registration.
2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.
3) 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. [Res.13-02]

12-319-7.03. <u>TIER 1 (LOW INTENSITY) AGRITOURISM USES DEFINED</u>

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

1) Farm Stands,
2) Farmers Markets with 10 or fewer vendors,
3) U-Pick Operations,
4) Farm Winery Tours and Tastings,
5) Corn Mazes and Pumpkin Patches visits and activities,
6) Farm-related Interpretative Facilities, Exhibits, and Tours,

7) Historical, Cultural, or Agriculturally Related Educational and Learning Experiences, including volunteer workers,
8) Farm Stays and Bed and Breakfasts with no more than 3 guestrooms,
9) Recreation-related Operations (Fishing, Hunting, Bird Watching, Hiking, etc.),
10) Equestrian Facilities,
11) Garden, Nursery Tours and Exhibits,
12) Small scale assembly type uses such as weddings, receptions, etc.,
13) Christmas Tree Sales,
14) Farm Tours and Demonstrations,
15) Small-scale entertainment such as the integration of music, theatre, or arts to enhance the rural experience,
16) Ancillary Retail Sales; and,
17) Other uses that may be determined on a case-by-case basis to meet the intent of the Tier 1 definition. [Res.14-12]

b. In addition to meeting the definition above, a proposed use must meet both of the following parameters to be considered a Tier 1 Agritourism use:
1) The Agritourism use is located on a parcel, or one of a number of contiguous parcels (contiguous shall mean lands that are adjacent and road, rail, and other rights-of-way and easements shall not exclude parcels from being contiguous), under the same ownership, as agricultural land uses listed in 12-306-2.01 or a working farm or ranch as determined by the Zoning and Codes Director;
2) The Agritourism operator resides on the parcel, or one of a number of contiguous parcels (as defined in this section), containing the Agritourism use; [Res.14-12]

12-319-7.04. <u>TIER 1 AGRITOURISM USES STANDARDS</u>

The following standards apply to all Tier 1 Agritourism uses:

a. The operators of the Agritourism use shall be limited to the property owner or operator, his/her family members and employees (whether paid or unpaid).
1) 'Operator' refers to the person with the financial and legal responsibility for the Agritourism activity.

b. Adequate parking shall be provided on-site for the use, including ADA parking (where applicable).
1) Parking for the Agritourism use is limited to 40 parking spaces;
2) No parking may occur on adjacent roads.

c. In order to minimize noise from the agritourism use the following are prohibited:
1) Motors or motorized vehicles, with the exception of agricultural machinery and vehicles or electric motors;
2) Outdoor amplification of sound: such as auctioneering speakers or amplified music (with the exception of a stereo or radio).

d. Landscaping or opaque fencing shall be provided along the perimeter of parking areas (excluding overflow areas) that are within view of residences or the road right-of-way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation or opaque fencing, of a height determined by the Zoning and Codes Director to provide adequate screening for the parking area. Alternate forms of screening may be utilized, provided the Director of Zoning and Codes determines they will provide effective screening of the parking area.

e. Exterior lighting used in conjunction with the Agritourism use shall be prohibited with the exception of the Farm Stays and Bed and Breakfast uses. Lighting for these uses shall be located and shielded to prevent glare or trespass on to adjacent properties.

f. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements for the use and expected attendance. [Res.14-12]

12-319-7.05. <u>ADMINISTRATIVE WAIVER PROVISION</u>

The Director of Zoning & Codes may waive these standards only if it can be demonstrated 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. [Res 14-12]

12-319-7.06. <u>TIER 1 AGRITOURISM REGISTRATION PROCESS</u>

The following standards apply to all Tier 1 Agritourism uses:

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

1) Approved State Agritourism Registration.
2) Completed Douglas County Agritourism Registration form.
3) Site plan.

   The agritourism site plan does not need to meet all the requirements in Section 12-319A, but must be adequate to illustrate 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:

   a) All structures to be utilized for the agritourism use identified on the plan with dimensions, including the distance to the nearest property line.
   b) Areas where the agritourism use will occur and any areas where visitors would be allowed marked on the plan.
   c) 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.
   d) The water and sanitation facilities provided per the County Health Department approval.
   e) Hours of operation noted.
   f) Anticipated attendance noted. Attendance is limited to that which can be served by available parking, as participants may arrive by bus or alternative forms of transportation. [Res. 14-12]

b. A 20 day property owner notification period is required.

1) The applicant shall obtain a list of property owners within 1000 ft of the property on which the Agritourism activity is to occur from the Douglas County Clerk's Office. If the notification area includes land within the corporate limits of a city, the list shall include owners of property within the 1000 ft notification area that extend 200 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.
2) The applicant shall mail a letter which contains 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) The registrant must provide a copy of the letter, the property owner list, and certification of the date the letters were mailed to the address on the list with their registration materials. [Res. 14-12]

c. The registration materials shall be reviewed by the Director of Zoning and Codes with the following approval criteria:
1) The proposed use and layout meets the intent and purpose of the Tier 1 definition;
2) The proposed arrangement of buildings, off-street parking, access, lighting is compatible with adjacent land uses;
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;
5) 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. [Res. 14-12]

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. [Res. 14-12]

12-319-7.07. <u>DURATION AND RE-REGISTRATION</u>

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.

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

b. 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, or 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 (if a new use is proposed) and re-registration through the processes established in this section. [Res. 14-12]

12-319-7.08. <u>TIER 2 (MEDIUM INTENSITY) AGRITOURISM USES- DEFINED</u>

a. 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 parameters;
2) Farmers Markets with more than 10 vendors;
3) Bed and Breakfasts or Farm Stays with more than 3 guest rooms;
4) Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related. [Res. 14-12]

12-319-7.09. <u>TIER 2 AGRITOURISM USE STANDARDS</u>

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

a. Operators of the Agritourism activity shall be limited to the property owner or operator, his/her family members and employees (paid or unpaid).
1) 'Operator' refers to the person with the financial and legal responsibility for the Agritourism activity. [Res. 14-12]

b. Adequate parking, including ADA parking (when applicable), must be provided on-site.
1) Parking for the Agritourism use is limited to 100 parking spaces.
2) No parking may occur on adjacent roads.
3) For the purpose of calculating parking requirements, Parking is calculated at a rate of 1 parking space per 2 attendees unless visitors are expected to utilize busses or alternative forms of transportation. [Res. 14-12]

c. No motors or motorized vehicles, with the exception of agricultural machinery and vehicles or electric motors, will be utilized for the Agritourism Use. [Res. 14-12]

d. Landscaping or opaque fencing shall be provided along the perimeter of parking areas (excluding overflow areas) that are within view of residences or the road right of way. Landscaping shall consist of one of the following: a continuous hedge of shrubs or other vegetation or opaque fencing, of a height determined by the Zoning and Codes Director to provide adequate screening for the parking area. Alternate forms of screening may be utilized, provided the Director of Zoning and Codes determines they will provide effective screening of the parking area. [Res. 14-12]

e. If Agritourism activities are to occur outside of daylight hours, 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. [Res. 14-12]

f. Sanitary facilities shall be provided in accordance with Lawrence Douglas County Health Department requirements for the proposed use and anticipated attendance. [Res. 14-12]

g. 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. [Res. 14-12]

12-319-7.10. DURATION TIER 2 ADMINISTRATIVE APPROVALS AND WAIVERS

a. The Director of Zoning and Codes may administratively approve a Tier 2 Agritourism Use without further review by the County Commission, if all of the following apply:

1) The Agritourism use is permitted as a Type 1 use in Section 12-309-7.03.a;
2) The Agritourism use meets all the parameters for a Tier 1 use in Section 12-309-7.03.b except for parameter 12-309-7.03.b.(2), which requires the operator of the Agritourism use to reside on the parcel; and
3) The Agritourism use meets all the Tier 1 use standards in Section 12-309-7.04. [Res. 14-12]

b. 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. [Res. 14-12]

12-319-7.11. TIER 2 AGRITOURISM USES REGISTRATION PROCESS

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

1) Approved State Agritourism Registration.
2) Completed Douglas County Agritourism Registration form.
3) Site plan meeting the requirements outlined in Section 12-319-7.06.a.3).
4) Information from the applicable fire department regarding access to the proposed Agritourism Activity area. [Res. 14-12]

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 1000 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 1000 ft notification area that extend 200 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. [Res. 14-12]

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. [Res. 14-12]

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. [Res. 14-12]

12-319-7.12. <u>DURATION AND REVIEW</u>

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.

a. The Agritourism Use may continue as long as the use complies with the conditions and standards that were applied with the registration. [Res. 14-12]

b. 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. [Res. 14-12]

c. 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 re-registration through the processes established above. [Res. 14-12]

d. 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) may be approved administratively by the Zoning and Codes Director following notification of neighbors within 1000 ft. [Res. 14-12]

e. 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 12-329. [Res. 14-12]

12-319-7.13. STRUCTURES AND CONSTRUCTION CODES

Structures for Agritourism uses are required to comply with Douglas County Construction Codes, adopted by HR-12-11-5, and amendments thereto. [Res. 13-02]

12-319-8. SPECIAL EVENTS

12-319-8.01. 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. [Res.13-03]

12-319-8.02. SPECIAL EVENT DEFINED

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. [Res.13-03]

12-319-8.03. 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 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,
6) Signs displayed in conjunction with use shall comply with sign regulations for the Zoning District in which the property is located, and,
7) No fee is charged for use of the property or facilities and no admission or entrance fee is charged. [Res.13-03]

12-319-8.04. EVENTS WHICH REQUIRE SPECIAL EVENT PERMITS

Events which do not meet the criteria for exemption listed in Section 12-309-8.03 require a Special Event Permit.

a. 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. [Res.13-03]

12-319-8.05. 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 12-319-8.06 or the standards listed in Section 12-319-8.07 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. [Res.13-03]

12-319-8.06. <u>CRITERIA FOR ADMINISTRATIVE REVIEW</u>

The Director of Zoning and Codes shall review the Special Event Permit application with the following criteria to determine if the permit may be processed administratively:

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. 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.

e. The event does not propose any overnight sleeping or camping, whether or not accommodations are provided. [Res.13-03]

12-319-8.07. <u>STANDARDS</u>

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. No parking shall occur on the public right-of-way
3) 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. Signage.

1) One temporary freestanding or wall-mounted on-site sign is permitted.
2) The applicable sign regulations for the Zoning District in which the property is located shall apply.
3) Sign text and graphics, which relate only to the Special Event, shall be removed immediately upon cessation of the event.

4) Off-premise directional signage, on private property, that describes the location of the Special Event shall be allowed with the written approval of the property owner. A map with the location of the signage shall be provided to the Zoning and Codes Department prior to event.

5) Under no circumstance is signage permitted within the public right-of-way.

g. 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.

h. Structures. Any structure used for a Special Event must comply with Douglas County Construction Codes.

i. 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. [Res.13-03]

12-319-8.08. <u>REVIEW AND APPROVAL PROCEDURE</u>

Special Events which do not meet the exemption criteria listed in Section 12-319-8.03 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.

2) 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.

3) 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 1000 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 200 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 12-319-8.06 and the standards listed in Section 12-319-8.07 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. [Res.13-03]

12-319-9. <u>ACCESSORY DWELLING UNITS</u>

a. Accessory Dwelling Units are allowed in certain situations to:

1) Create additional housing options while maintaining the rural character of unincorporated Douglas County;

2) Provide an independent living area for residents with health issues or disabilities, in close proximity to a caretaker; and,

3) Provide housing for persons employed on a farm. [Res. 16-16]

b. The Accessory Dwelling Unit shall be occupied by a relative/family member, caregiver, or farm employee for not less than three years following the issuance of the certificate of occupancy for the Accessory Dwelling Unit.

1) This time 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.

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

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

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

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

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

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

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

f. There shall be no more than one Accessory Dwelling Unit per vested parcel, Residential Development Parcel or platted lot.

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

h. An Accessory Dwelling Unit may be located in 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.

i. The following standards apply to all Accessory Dwelling Units:

1) 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.

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

3) A detached Accessory Dwelling Unit shall have a water source and septic system that are separate from those serving the principal dwelling.

4) The following area requirements apply to a detached Accessory Dwelling Unit:

a) 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.

b) 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.

5) The Accessory Dwelling Unit and the principal dwelling unit shall share a common access drive unless a new access is approved by the County Engineer. To the greatest extent feasible, existing driveways shall be utilized.

6) 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.

7) 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.

8) The Accessory Dwelling Unit may be rented, but shall not be used as a short term lodging use such as a Bed & Breakfast or motel.

9) 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)

j. The following standards also apply to Accessory Dwelling Units in the A-1 and R-1 Districts:

1) The Accessory Dwelling Unit should be located behind the front plane of the principal dwelling whenever possible.
2) The Accessory Dwelling Unit or the principal dwelling shall be occupied by the owner of the property. [Res. 16-16]

12-319-9.01 <u>Administrative Regulations:</u>

a. Accessory Dwelling Unit must be registered with the Zoning and Codes Director prior to their establishment. The Registration 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 registration application to insure compliance with the Accessory Dwelling Unit Standards, the required setbacks, and to insure adequate access is provided for Fire/Medical emergency vehicles.

c. When approved, the registration 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 12-319.9 of the Zoning Regulations.

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 A-1 and R-1 Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property. [Res. 16-16]

12-319-9.02 <u>ADU Registration Requiring Board of County Commission Approval</u>

a. A registration 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 registration 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.

b. The applicant shall provide written notice of the Accessory Dwelling Unit as noted below:

1) The applicant shall obtain a list of property owners within 1000 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 200 feet into the city. If the notification area extends into the adjacent County, notice must be sent to property owners in the adjacent County.
2) 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 registered with 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."

3) 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 12-319-9.01.

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

c. When approved the registration 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 12-319.9 of the Zoning Regulations.

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 A-1 and R-1 Districts, the affidavit shall also note the requirement that one of the dwelling units is to be occupied by the owner of the property. [Res. 16-16]

12-319A SITE PLAN REGULATIONS

12-319A-1. PURPOSE AND INTENT

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

12-319A-2. WHEN REQUIRED

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

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

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

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

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

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

12-319A-3. PROCEDURE

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

12-319A-4. SITE PLAN CONTENTS

A site plan shall:

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

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

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

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

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

the site;

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

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

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

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

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

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

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

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

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

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

12-319A-5. <u>CONDITIONS OF APPROVAL</u>

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

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

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

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

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

12-319A-5.05. That there is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter (including public right-of-way) of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for building, structures, parking or access ways shall be landscaped with a mixture of grass, trees, and shrubs; and;

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

12-319A-6 <u>ASSURANCE OF PERFORMANCE</u>

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

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

12-319A-6.02. That consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of landscaping plans before initiation of such activity: Provided, that landscaping shall be completed within six months following commencing of such activity.
Such conduct of an activity on a parcel of ground having an approved site plan without completion of site plan conditions, except as noted above, and/or zoning regulation provisions shall be considered a violation of the zoning regulations.

12-319A-7. <u>APPROVED SITE PLAN CHANGE</u>

An applicant who wishes to change an approved site plan must contact the Planning Office. If the proposed changes are of a nature that the revised site plan will be substantially similar to the approved site, the Lawrence-Douglas County Planning Director may approve the revised site

plan. If the proposed changes substantially rearrange use grouped types, parking, landscaping, drainage, lighting, etc., the applicant must apply for approval of the revised plan in the manner set forth in 12-319A-3 of this section.

12-319A-8. TIME LIMITATIONS

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

12-320 NON-CONFORMING USES

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

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

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

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

a. The lawful use of a building, or structure existing at the effective date of this Resolution, or

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

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

a. Such change is required by law or order;

b. The use is changed to a use permitted in the district in which it is located;

c. Authority is granted by the Board of County Commissioners to change the use or occupancy, provided the Commission finds the use is within the same or more restricted classification as the original non-conforming use; or,

d. Authority has been granted by the Board of County Commissioners to extend a non-conforming use throughout those parts of a building which were manifestly designed or arranged for such prior to the date when such use or building became non-conforming.

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

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

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

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

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

12-320-4.01. Any non-residential building damaged by more than 50% of its fair market value

shall not be restored if the use of such building is not in conformance with the zoning regulations adopted herein.

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

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

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

12-321 SUPPLEMENTAL HEIGHT, AREA, AND BULK REQUIRMENTS

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

12-321-2. CONSTRUCTION REQUIREMENTS

All new dwellings constructed, and all dwellings moved from one location to another, shall:
Comply with the Construction Codes, Chapter 13, of the Douglas County Codes [Res. 16-16].

12-321-3. MODIFICATION OF HEIGHT REGULATIONS

12-321 SUPPLEMENTAL HEIGHT, AREA & BULK REQUIREMENTS

12-321-3. MODIFICATION OF HEIGHT REGULATIONS

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

a. Belfries
b. Chimneys
c. Church spires
d. Conveyors
e. Cooling towers
f. Elevator bulkheads
g. Fire towers
h. Flag poles
i. Grain elevators
j. Monuments
k. Ornamental towers and spires
l. Radio and television antennas
m. Silos
n. Smoke stacks
o. Stage towers or scenery lofts
p. Tanks
q. Water towers and standpipes
r. Wind turbines, less than 200', when in conjunction with a residential or individual commercial use. 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.
s. Wind turbines when operated as part of an approved Conditional Use Permit

[Res. 17-12]

12-321-3.02. Public, semi-public or public service buildings, hospitals, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 75 feet, when the required side and rear yards are each increased by at least one foot for each one foot of additional building height above the height regulations for the district in which the building is located.

12-321-4. MODIFICATION OF AREA REGULATIONS

12-321-4.01. Yards, Generally

a. Whenever a lot abuts upon a public alley, one-half of the alley width may be considered a portion of the required yard.

b. Every part of a required yard shall be open to the sky except as authorized by this section, and ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard.

c. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a court having direct street access; provided, however,

1) that said court between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for one-story buildings and, in no case may such buildings be closer to each other than 15 feet;

2) where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 30 feet for one-story buildings, 40 feet for two-story buildings, and 50 feet for three-story buildings.

d. Within any residential district, the least dimension of a yard upon which the principal entrances or exits of a multiple dwelling face, shall be 20 feet.

e. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the district in which the lot is located.

12-321-4.02. Accessory Buildings and Structures

a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.

b. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 25 feet from street lines.

c. One directional or name sign or sign advertising products sold on the premises may occupy required yards in a district where such sign is permitted by the use regulations of this Resolution; provided such sign is of not more than 30 square feet in area, does not contain flashing, moving or intermittent illumination, and provided the requirements of other laws and resolutions are complied with.

d. An ornamental fence or wall not more than three and one-half feet in height may project into or enclose any required front or side yard to a depth from the street line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided such fences and walls do not exceed a height of seven feet.

e. Accessory, open, and uncovered swimming pools and home barbecue grills may occupy a required rear yard; provided they are not located closer than five feet to the rear lot line nor closer than three feet to a side lot line.

f. Accessory buildings which are not part of the main building, although they may be

connected by an open breezeway, may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and provided it is not located closer than five feet to the rear lot line or closer than three feet to a side lot line.

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

12-321.4.03. <u>Front Yards.</u>

a. Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.

b. On through lots, the required front yard shall be provided on each street.

c. Where a lot is located at the intersection of two or more streets, there shall be a front yard of twenty-five feet on the side street.

d. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front and side yard not more than six feet.

e. Where 25 percent or more of the street frontage, or where 25 percent or more of the street frontage within 400 feet of the property in question, is improved with buildings that have a front yard (with a variation of six feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than 50 percent in excess of the depth of the required front yard in the district in which the lot is located, shall not be required. Where 40 percent have no front yard, no front yard shall be required for the remainder of the street frontage.

12-321-4.04. <u>Side Yards.</u>

a. Where dwelling units are erected above business structures in business districts, no side yards are required except such side yard as may be required in the district regulations for a business or industrial building.

b. For the purpose of the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot.

c. The minimum depth of side yards for schools, libraries, churches, community houses, and other public and semi-public buildings in residential districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case, the depth of that yard shall be as required in the chart of Section 12-318 for the district in which the building is located.

12-321-4.05. <u>Rear Yards.</u>

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

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

the intersection of the street lines.

12-321-4.07. <u>Lot Area.</u>

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

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

12-322-1. PROCEDURE

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

12-322-2. SPECIAL CONDITIONS

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

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

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

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

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

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

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

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

12-322-3. ADDITIONAL REQUIREMENTS BY THE COMMISSION

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

12-322-4. PERMITS

If the Board of County Commissioners approved the plans, building permits and certificates of occupancy may be issued, even though the use of land and the location and height of buildings

to be erected in the area and the yards and open space contemplated by the plan do not conform in all respects to the district regulations of the district in which it is located.

12-322-5. AMENDMENTS AND ADDITIONS

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

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

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

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

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

12-323 THE BOARD OF ZONING APPEALS

12-323-1. ORGANIZATION

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

12-323-2. POWERS

The Board of Zoning Appeals shall have the following powers:

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

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

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

a. That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant;

b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;

c. That the strict application of the provisions of this Resolution will constitute unnecessary hardships upon the property owner represented in the application;

d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and,

e. That granting the variance desired will not be opposed to the general spirit and intent of this Resolution.

12-323-3. SPECIAL USE EXCEPTIONS

In order to provide for adjustment in the relative locations of uses and buildings of the same or of

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

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

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

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

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

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

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

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

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

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

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

a. Commercial dog kennels.
b. Child care center.
c. Convalescent or nursing home.
d. Riding stables and private stables.
e. Rifle or pistol range, trap, or skeet shooting.
f. Miniature golf courses or driving ranges.
g. Raising for sale of birds, bees, rabbits, and other animals, fish, and other creatures.

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

permit an assembly of trailers on separate lots which would in appearance or otherwise, constitute a mobile home park.

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

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

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

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

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

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

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

12-323-4. <u>SPECIAL YARD AND HEIGHT EXCEPTIONS</u>

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

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

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

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

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

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

12-323-5. VARIANCES

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

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

12-323-6. CONDITIONAL PERMITS

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

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

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

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

12-323-8. MEETINGS

The Board of Zoning Appeals shall annually elect one of its members as chairperson. The Board shall appoint a secretary who may be an officer or an employee of the governing authority, and shall adopt rules in accordance with the provisions of any ordinance or resolution adopted

pursuant to this act. Meetings of the Board shall be held at the call of the chairperson, and at such other times as the Board may determine. The chairperson, or in his absence the acting chairperson, may administer oaths. The Board shall keep minutes of its proceedings, showing evidence presented, the findings of fact by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board, and shall be a public record. The Board of County Commissioners may establish a scale of reasonable fees to be paid in advance by the party appealing.

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

12-323-9. APPEALS

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

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

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

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

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

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

a. The danger of injury from materials swept onto other lands;
b. The danger of life and property due to flooding or erosion damage;
c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner or occupant;
d. The importance of the services provided by the proposed facility to the community;
e. The necessity to the facility of a waterfront location, where applicable;

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

12-323-11.1 <u>CONDITIONS</u>

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

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

12-323-11.2 <u>CONDITIONS VARIANCE APPROVAL</u>

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

12-323-11.2.02. Variances shall be issued only upon:
a. a showing of good and sufficient cause,
b. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
c. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or in victimization of the public, or conflict with existing local laws or ordinances.

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

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

12-324 CHANGES AND AMENDMENTS

12-324-1.

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

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

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

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

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

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

In addition to such publication notice, written notice of such proposed amendment shall be made at least 20 days before the hearing to all owners of record of lands located within at least 1,000 feet of the area proposed to be altered. Notice of the county's action shall extend 200 feet in those areas where the notification area extends within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Board of County Commissioners.

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

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

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

a. The Planning Commission may take any action that is consistent with the regulations of this Article, the Douglas County Code, by-laws adopted by the Planning Commission, and the notice given.

b. The Planning Commission's action may include recommending approval of the proposed amendment, recommending approval with conditions or modifications, or recommending disapproval.

c. The Planning Commission may recommend conditions or modifications if the effect of the condition or modification is to limit the allowed uses or to allow a lesser change from the rezoning requested in the proposed amendment; provided, however, that any recommendation of a zoning classification of lesser change from the zoning set forth in the published notice shall not be valid without republication and, where necessary, remailing notice to property owners entitled to mailed notice, unless the lesser change is consistent with any lesser change table the Planning Commission has previously established in accordance with Section 12-324-2.01.

d. The Planning Commission may not recommend greater density of development, intensity of use, or a more intense zoning district classification than was specified in the published notice.

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

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

12-324-3 **ACTION BY THE BOARD OF COUNTY COMMISSIONERS**. When the Planning Commission submits a recommendation and findings of fact for approval, approval with conditions or modifications, or disapproval of a proposed amendment, the following shall apply:

a. The Board of County Commissioners may approve, approve with conditions or modifications, or deny the proposed amendment; or,

b. The Board of County Commissioners may return the proposed amendment to the Planning

Commission for further consideration, together with a written explanation of the reasons for the Board of County Commissioners' failure to approve or disapprove.

1. The Planning Commission, after considering the explanation by the Board of County Commissioners, may resubmit its original recommendations with its reasons for doing so or may submit a new or amended recommendation.
2. Upon the receipt of such recommendation, the Board of County Commissioners may, by a simple majority vote, approve the proposed amendment, approve it with conditions or modifications, or deny it.
3. If the Planning Commission fails to deliver its recommendations to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioners' report, the Board of County Commissioners will consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendations and proceed accordingly.

c. The Board of County Commissioners may act by a simple majority vote, except in the following cases:

1. An action that overrides the Planning Commission's recommendations, in which case the decision shall be by a 2/3 majority vote of the membership of the Board of County Commissioners; or
2. Approval, or approval with conditions or modifications, when a valid protest petition has been submitted in accordance with Section 12-324-4, in which case the voting requirements in Section 12-324-4 shall apply

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

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

12-324-4. Regardless of whether or not the Planning Commission recommends approval, approval with conditions or modifications, or disapproval of a zoning amendment, if a protest petition against such amendment is filed in the office of the county clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20% or more of any real property proposed to be rezoned or by the owner of record of 20% or more of the total area required to be notified by this act of the proposed rezoning of a specific property, excluding streets and public ways, the resolution adopting such amendment shall not be passed except by at least a ¾ vote of all of the members of the Board of County Commissioners. The foregoing supermajority voting requirement, however, shall not apply if K.S.A.12-757(g) or other applicable law requires approval by only a majority of the Board of County Commissioners.

12-324-5.

12-324-5.01. No application for an amendment, supplements, or change to the "Zoning

Regulations for Unincorporated Territory of Douglas County, Kansas". Including the zoning map, Conditional Use Permits, and Community Unit Plans, shall be accepted by the Lawrence-Douglas County Planning Commission if an application for the same amendment, supplement, or change has been denied by the Board of County Commissioners within the preceding twelve months. The withdrawal of an original application after it has been advertised for public hearing shall constitute a denial of the application just as if the public hearing had commenced and been concluded.

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

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

12-325 CERTIFICATE OF OCCUPANCY

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

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

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

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

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

12-326 PERMITS, PLATS, AND FILING FEES

12-326-1. PERMITS

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

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

12-326-2. BUILDING PERMIT APPLICATIONS.

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

a. Location of proposed building(s) on the lot, required street right-of-way line, base setback line, and required yard setback line.

b. All easements, public or private; sewer or septic tank location; source of potable water supply and location.

c. The drawings shall contain suitable notation indicating the proposed use of all lands and buildings.

d. Vicinity sketch showing relationship of parcel to surrounding lands and existing street network.

e. Title block, which shall include a north arrow, date, legal description of the property, name of owner, and scale.

f. Scale of drawings: For a parcel containing one acre or less – one inch equals fifty feet; over one acre – one inch equals one hundred feet.

g. Road access entrance location, culvert size, and materials, as approved by the Douglas County Public Works Department, Kansas Department of Transportation, or Township Board, as appropriate.

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

12-326-3. FILING FEES.

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

12-326-3.02. All persons, firms, corporations, or other entities (except any federal or state

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

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

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

12-327 INTERPRETATION, PURPOSE, AND CONFLICT

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

12-328 FLOODPLAIN MANAGEMENT REGULATIONS

12-328-1. STATEMENT OF PURPOSE AND INTENT

12-328-1.01. Statement of Purpose.

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

12-328-1.02. Intent.

a. The intent of these regulations is to avoid additional costs for home owners upon annexation and to minimize losses due to floods or flood waters by provisions designed to:

1) Prohibit the placement of fill, materials, and structures which would obstruct flood flows and decrease the storage capacity of the regulatory floodway unless it can be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2) Require structures in the floodplain and public utilities vulnerable to floods be provided with flood protection at the initial construction stage.
3) Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to floodplain.
4) Minimize public expenditures for flood control projects and damage to public improvements within the floodplain.
5) Maintain property values adjacent to the floodplain and minimize flood blight areas.
6) Assure eligibility for property owners in the Federal Flood Insurance Program.
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.

12-328-2. FLOODPLAIN OVERLAY DISTRICTS

The floodplain overlay districts shall include only those areas designated as floodplain by the

Federal Insurance Study or by an approved Hydrologic and Hydraulic Study.

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

12-328-3. FLOODPLAIN OVERLAY DISTRICTS MAP

The official floodplain overlay districts map shall be used in conjunction with the official zoning districts map. The official floodplain overlay districts map shall show the boundaries of the "F-W" floodway and the "F-F" floodway fringe overlay districts. These boundaries shall be consistent with the Floodway and Floodway Fringe as identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled, "The Flood Insurance Study for the County of Douglas, Kansas, and Incorporated Areas September 2, 2015 ", with the accompanying Flood Insurance Rate Maps and revisions thereto.

12-328-4. FLOOD INSURANCE

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

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

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

a. Property platted prior to June 1, 2005, may develop and/or re-plat or subdivide (including lot splits) for non-residential uses without conducting a hydrologic and hydraulic study. Such development is still subject to the remaining sections of this Article.

b. Development of undeveloped property that was platted prior to June 1, 2005 may occur without conducting a hydrologic and hydraulic study until January 1, 2007. Such development is still subject to the remaining sections of this Article. After January 1, 2007 development of the property is subject to all sections contained within this Section.

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

a. Flood control and stormwater management structures;

b. Road improvements and repair;

c. Utility easements/Rights-of Way; and,

d. Public improvements or public structures for bridging the Floodway.

12-328-5.03. Hydrologic and Hydraulic Study

a. Hydrologic and hydraulic studies shall comply with the following standards:

1) The study shall be signed and sealed by a professional engineer, licensed in the State of Kansas;

2) The study shall be submitted for approval by the Douglas County Director of Public Works concurrent with the initial submittal of a floodplain development permit application, preliminary plat, development plan or site plan;

3) Hydrologic and hydraulic methods of analysis shall be consistent with those used in the current Flood Insurance Study for Douglas County;

4) The study shall extend an adequate distance upstream and downstream of the proposed development to encompass the hydraulic effects of the proposed development;
5) The study shall determine the water surface elevations of the base flood for the existing stream and for any proposed development. Based on the assumption of full watershed development and other factors, the findings of the hydrologic and hydraulic study may differ from the Flood Insurance Study. At a given location, the higher water surface elevation shall be the base flood elevation for compliance with the provisions of this section;
6) The study shall identify the velocities of the base flood for the existing stream and for any proposed development;
7) The study shall determine the areas of inundation of the base flood for the existing stream and for any proposed development. The area of inundation shall be dimensioned to the property corners for use in revising the floodplain overlay districts on all property within the extent of the study; and,
8) In areas outside Zone AE, the study shall also identify the Floodway for the proposed development.

b. For a hydrologic and hydraulic study that proposes an alteration of FEMA's designated floodplain or Floodway, a letter of map revision (LOMR) must be obtained before a building permit will be used for any lot containing a Zone A, AE, AH or AO of the current FIRM.

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

a. Construction plans shall be prepared for the proposed modifications and shall be submitted for review and approval by the Douglas County Director of Public Works.

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

12-328-6 DEVELOPMENT STANDARDS AND CRITERIA

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

a. No structure, fill, or other uses within the floodway overlay district shall be permitted which will increase the base flood elevation.

b. Public improvements shall be waterproofed to the base flood elevation. Any space below the base flood elevation shall be watertight with walls substantially impermeable to the passage of water with structural components having the capabilities of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The interior and content of the structures shall remain substantially dry.

c. Water lines shall be designed to eliminate infiltration of flood waters into systems.

d. Sewer lines shall be designed to eliminate infiltration of flood waters into systems and discharge from the systems into the floodwaters.

e. Residential Construction: New construction or substantial improvements of a residential structure shall be elevated, anchored to prevent flotation, collapse, or lateral movement of the structure and shall be constructed to resist and minimize flood damage. Construction shall be with materials resistant to flood damages, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

f. Non-Residential Construction: All new construction and substantial improvements that fully enclose areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement; and, which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exist of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria; A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

g. Storage of materials or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent floatation or if readily removable from the area within the time available after the flood warning. Storage of materials that are buoyant, flammable, explosive or potentially injurious to human life at times of flooding shall not be permitted.

h. On site waste disposal systems shall be designed to avoid impairment due to flooding.

i. All new construction and substantial improvements that fully enclose areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

j. Until a Floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

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

a. Residential Construction. New construction and substantial improvement of residential structures shall have the lowest floor, including basement 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.

12-328-6.03. **Letter of Map Revision (LOMR).** Structures placed on property that has been removed from the floodplain by a LOMR shall have the lowest floor, including basement, elevated above the base flood elevation in compliance with section 12-328-6-02.

12-328-7. ADMINISTRATION AND RECORDS

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

a. Satisfying all the requirements of this Section.

b. Obtaining all the necessary permits from federal, state, or local government agencies prior to approval of the development permit.

c. The location of the proposed development in relation to the Floodway and the assurance that any encroachment meets the standards in this Section, and K.S.A. 12-766.

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

a. The proposed use, residential or non-residential;

b. The elevation of the regulatory floodway for the area developed; and,

c. Certification that the elevation of the lowest floor is above the base flood elevation by the required; one foot in the unincorporated area of the County outside the Lawrence Urban Growth Area or, two feet within the Urban Growth Area of Lawrence.

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

12-328-8. **DEVELOPMENT PERMIT**

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

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

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

a. Identification and description of proposed use or development;

b. Legal description of the property;

c. Plan of the proposed development or use at a scale of one inch equals fifty feet or larger showing the Floodway and Floodway Fringe as designated by the Federal Insurance Administrator;

d. Use and type of structures proposed;

e. The elevation (in relation to mean sea level) of the lowest floor, including basements, of all structures or proposed fill;

f. A statement of the elevation flood proofed by a licensed land surveyor or professional engineer;

g. Proposed developments which include alteration of watercourses must:

1) In river or tributary situations, the Director of Zoning and Codes will notify any adjacent community, state coordinating agency for the National Flood Insurance Program, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse.

2) Evidence submitted by the applicant's engineer or architect showing that no adverse impacts will result from the alteration and the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.

h. Any additional data which the Director of Zoning and Codes or County Engineer requests which is pertinent to the issuance of a development permit.

12-328-9. CERTIFICATION OF ELEVATION

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

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

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

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

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

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

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

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

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

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

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

12-328-11.01. Zone AO.

a. All development and substantial-improvements of residential structures, including mobile homes or manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);

b. All development and substantial-improvements of any commercial, industrial, or other non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade as least as high as the depth number specified in feet on the community FIRM (at 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.

12-328-11.02. Zone AH.

a. The development standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in section 12-328-6 et al; and,

b. Drainage paths must be provided adequately to guide floodwaters around structures.

12-328-12. AMENDMENTS

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

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

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

12-328-13. DEFINITIONS

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

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

12-328-13.02. Areas of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

12-328-13.03. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

12-328-13.04. Base Flood Elevation. The water surface elevation of the base flood as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher.

12-328-13.05. Community. Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

12-328-13.06. Development. Any man-made change to improved or unimproved real estate, including but not limited to, building or other structure, mining, fill, dredging, grading, paving, excavation or drilling operations (excluding wells for potable water), or storage of equipment or materials.

12-328-13.07. "Eligible Community". A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

12-328-13.08. **Existing Construction.** For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "existing construction" may also be referred to as "existing structures".

12-328-13.09. **Existing Manufactured Home, Park or Subdivision.** A manufactured home, park or subdivision for which the construction of facilities for servicing the lot(s) on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before March 2, 1981, the effective date of the adoption of the first County floodplain management regulations.

12-328-13.10. **Existing Structures.** (See "Existing Construction")

12-328-13.11. **Expansion to an Existing Manufactured Home Park or Subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)

12-328-13.12. **Flood.** A general and temporary condition of partial or complete inundation of normally dry land areas from: 1) the overflow of inland waters; 2) the unusual and rapid accumulation or runoff of surface waters from any source; and 3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item 1).

12-328-13.13. **Flooding.** [See "Flood"].

12-328-13.14. **Flood Insurance Rate Map (FIRM).** The official map of a community on which both the special flood hazard areas and the risk premium zones have been delineated.

12-328-13.15. **Flood Insurance Study (FIS).** An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.

12-328-13.16. **Floodplain.** The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study.

12-328-13.17. **Floodplain Management.** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness flood control works, and floodplain management regulations.

12-328-13.18. **Floodplain Management Regulations.** Zoning ordinances, subdivision regulations, building codes, health regulations, special purposes (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

12-328-13.19. **Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

12-328-13.20. **Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

12-328-13.21. **Floodway Encroachment Lines.** The lines marking the limits of Floodways on Federal, State and local floodplain maps.

12-328-13.22. **Floodway Fringe.** The area outside the Floodway encroachment lines, but still subject to inundation by the regulatory flood.

12-328-13.23. **Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and Floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

12-328-13.24. **Habitable Floor.** Any floor usable for living purposes, which include working, sleeping, eating, cooking or recreation, or a combination thereof.

12-328-13.25. **Highest Adjacent.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

12-328-13.26. **Historic Structure.** Any structure that is: a) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; b) certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district; c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: 1) by an approved state program as determined by the Secretary of the Interior or 2) directly by the Secretary of the Interior in states without approved programs.

12-328-13.27. **Hydrologic and Hydraulic Study.** An engineering study that is done in accordance with section 12-328-5.03 et al.

12-328-13.28. **Lowest Floor.** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render to structure in violation of the applicable non-elevation design requirements of this ordinance.

12-328-13.29. **Manufactured Homes [See "Mobile Home"]**

12-328-13.30. **Market Value.** An estimate of what is fair, economic, just and equitable value under normal local market conditions. If market value cannot be determined, the construction estimate can be used.

12-328-13.31. **Mean Sea Level.** For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are reference.

12-328-13.32. Mobile or Manufactured Home. A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The terms “mobile home” or “manufactured home” does not include a “recreational vehicle”.

12-328-13.33. New Construction. For the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structure.

12-328-13.34. Overlay District. A special zoning district that has been ”overlaid” on a base zoning classification to add to or alter some or all of the base district zoning regulations.

12-328-13.35. Participating Community. [See “Eligible Community”]

12-328-13.36. Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

12-328-13.37. Principally Above Ground. When at least 51 percent of the actual cash value of the structure, less land value, is above ground.

12-328-13.38. Recreational Vehicle. A vehicle which is a) built on a single chassis; b) 400 square feet or less when measured at the largest horizontal projections; c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

12-328-13.39. Special Flood Hazard Area (SFHA). See [“Area of Special Flood Hazard”].

12-328-13.40. Start of Construction. This includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

12-328-13.41. State Coordinating Agency. The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

12-328-13.42. **Structure.** For the purpose of this section the definition of structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principal above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

12-328-13.43. **Substantial Damage.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damage condition would equal or exceed 50% of the market value of the structure before the damage occurred.

12-328-13.44. **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceed 50 percent of the market value of the structure; either 1) before the improvement or repair is started or 2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either 1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or 2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

12-328-13.45. **Urban Growth Area.** The area that is defined in the City and County Comprehensive Land Use Plan as the Urban Growth Area (UGA) surrounding the City of Lawrence.

12-328-13.46. **Variance.** A grant of relief by the community from the terms of floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied the community.

12-328-13.47. **Violation.** The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

12-328-13.48. **Water Surface Elevation.** The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

12-328-13.49. **Zone A.** The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.

12-328-13.50. **Zone AE**. The special flood hazard area inundated by 100-year flood where the base flood elevations have been determined.

12-328-13.51. **Zone AH.** The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually areas of ponding); where base flood elevations have been determined.

12-328-13.52. **Zone AO.** The special flood hazard area inundated by 100-year flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); where average depths have been determined. For areas of alluvial fan flooding velocities have also been determined.

12-329 ENFORCEMENT, VIOLATION, AND PENALITIES

12-329-1. It shall be the duty of the Zoning Administrative Officer to enforce the provisions of this Resolution and to refuse to issue any permit for any building, or for the use of any premises which would violate any of the provisions of said Resolution. It shall also be the duty of all officers and employees of the County to assist the administrative officer by reporting to him any seeming violation in new construction, reconstruction, or land uses. Any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce the adopted zoning regulations and to abate nuisances maintained in violation thereof.

12-329-2. In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this Resolution, the administrative officer is authorized and directed to institute any appropriate action to put an end to such violation.

12-329-3. Any person or corporation who shall violate any of the provisions of the Resolution or fail to comply therewith, or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved here-under, shall be guilty of a misdemeanor and shall be punishable by a fine of not to exceed $500.00 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

The owner or owners of any building or premises, or part thereof, where anything in violation of this Resolution shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who have assisted in the commission of any such violation shall be guilty of a separate offense, and upon conviction thereof, shall be fined as herein before provided.

12-329-4. In the event the County fails to timely and adequately enforce the provisions of these Regulations after written demand by any person directly and adversely affected by an alleged violation of these Regulations, such person may (at such person’s expense) bring an action against the landowner allegedly violating these Regulations, in a court of competent jurisdiction, to assert the public’s general interest in the enforcement of these Regulations, and to enjoin such alleged unlawful use.

12-330 VALIDTY

12-330-1. If any section, paragraph, subdivision, clause, phrase, or provision of this Resolution shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Resolution as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

12-330-2. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

12-330-3. VALLEY CHANNEL AND FLOODPLAIN OVERLAY DISTRICTS WARRANTY

12-330-3.01. Designation of Valley Channel and Floodplain Overlay Districts. The designating of only part of Douglas County as a Valley Channel or as a part of the regulatory floodplain shall in no way constitute a finding or warranty by Douglas County or any agency or employee thereof that any part of the County not so designated is free from flood hazards.

12-330-3.02. Granting Of Building Permits in the Valley Channel or Floodplain Overlay Districts. The granting of a building permit for the erection, moving in, altering, or enlarging of any building or structure in a Valley Channel or regulatory floodplain shall not constitute a representation or warranty of any kind or nature by the Douglas County or any agency or employee thereof; of the practicability or safety of any action or improvement described by such permit and shall create no liability upon or course of action against the County or any agency or employee thereof for any damage that may result pursuant thereto.

CHAPTER 13. CONSTRUCTION CODES

Article 1. Administration
Article 2. Residential Code
Article 3. Building Code
Article 4. Plumbing Code
Article 5. Mechanical Code
Article 6. Fuel Gas Code
Article 7. Electrical Code

ARTICLE 1. ADMINISTRATION

13-101 **TITLE.** This Chapter and the codes adopted pursuant to the various Articles of this Chapter shall be collectively known as the "Construction Codes of the Unincorporated Areas of Douglas County Kansas", hereinafter collectively referred to in this Article interchangeably as "this Code" or "the Construction Codes" or "this Chapter." [HR-12-9-3]

13-102 **SCOPE.** The provisions of this Chapter shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use, and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances and systems connected or attached to such buildings or structures and located in the unincorporated areas of Douglas County, Kansas, including but not limited to the construction, conditions and maintenance of property, buildings and structures; the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress; the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems; the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems; the conditions and maintenance of plumbing systems; the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of fuel gas systems and gas-fired appliances; the design, construction, quality of materials, erection, installation, alteration repair, location, relocation, replacement, addition to, use or maintenance of electrical systems.

13-102.1 **Appendices.** Provisions in the appendices shall not apply unless specifically adopted. [HR-12-9-3]

13-103 **INTENT.** The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress from facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the building environment and to provide safety to fire fighters and emergency responders during emergency operations.

13-103.1 **Referenced Codes.** The codes referenced in this Chapter, including the separate codes identified in Sections 103.1.1 through 103.1.6, and those referenced elsewhere in this Chapter and in the foregoing separate codes shall be considered part of the requirements of this Chapter to the prescribed extent of each such reference. Where differences occur between provisions of this Chapter and referenced codes and standards, the more restrictive shall govern.

13-103.1.1 **Residential One and Two Family Dwellings.** The provisions of the International Residential Code, 2012 Edition, adopted pursuant to Article 2 of this Chapter, as amended, shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, location, use, occupancy, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress, and their accessory buildings. [HR-12-11-5]

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13-103.1.2 **Commercial and Multi-Family Structures.** The provisions of the International Building Code, 2012 Edition, adopted pursuant to Article 3 of this Chapter, as amended, shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use, and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.

13-103.1.3 **Plumbing.** The provisions of the International Plumbing Code, 2012 Edition, adopted pursuant to Article 4 of this Chapter, as amended, shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.

13-103.1.4 **Mechanical.** The provisions of the International Mechanical Code, 2012 Edition, adopted pursuant to Article 4 of this Chapter, as amended, shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.

13-103.1.5 **Gas.** The provisions of the International Fuel Gas Code, 2012 Edition, adopted pursuant to Article 5 of this Chapter, as amended, shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of fuel gas systems and gas-fired appliances, including gas piping from the point of delivery to the inlet connections of appliances and the installation and operation of gas appliances and related accessories. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.

13-103.1.6 **Electrical.** The provisions of the 2011 National Electric Code (NFPA 70), 2011 Edition, adopted pursuant to Article 6 of this Chapter, as amended,

shall apply to design, construction, quality of materials, erection, installation, alteration repair, location, relocation, replacement, addition to, use or maintenance of electrical systems. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition. [HR-12-9-3]

13-104 **APPLICABILITY.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

13-104.1 **Other Laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

13-104.2 **Application of References.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Chapter or the applicable code, as the case may be.

13-104.3 **Referenced Codes and Standards.** The codes and standards referenced in this Chapter, including the separate codes, as amended, adopted pursuant to the various Articles of this Chapter, shall be considered part of the requirements of this Chapter to the prescribed extent of such reference. Where differences occur between provisions of this Chapter and referenced codes and standards, the more restrictive shall govern.

13-104.4 **Partial Invalidity.** In the event that any part or provision of this code is held to be illegal or void, it shall not have the effect of making void or illegal any of the other parts or provisions.

13-104.5 **Existing Structures.** The legal occupancy of any structure existing on the date of adoption of this Chapter shall be permitted to continue without change, or as is otherwise deemed necessary by the building official for the general safety and welfare of the occupants and the public.

13-105 **ENFORCEMENT AGENCY; BUILDING OFFICIAL.** The Douglas County Department of Zoning and Codes shall administer and enforce the provisions of this Chapter and the official in charge thereof shall be known as the building official. [HR-12-9-3]

13-105.1 **Appointment.** The Douglas building official shall be appointed by the Douglas County Administrator.

13-105.2 **Deputies.** In accordance with the prescribed procedures of Douglas County, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official. [HR-12-9-3]

13-106 **DUTIES AND POWERS OF BUILDING OFFICIAL**

13-106.1 **General.** The building official is hereby authorized and directed to enforce the provisions of this Chapter. The building official shall have the authority to render

interpretations of this Chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Chapter and the codes adopted pursuant to this Chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Chapter.

13-106.2 **Applications and Permits.** The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures and their components, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Chapter.

13-106.3 **Notices and Orders.** The building official shall issue all necessary notices or orders to ensure compliance with this Chapter.

13-106.4 **Inspections.** The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

13-106.5 **Identification.** The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this Chapter.

13-106.6 **Right of Entry and Inspection.** Absent exigent circumstances, when (1) it is necessary to enter a premises or structure to inspect to enforce or verify compliance with the provisions of this Chapter or other applicable law; or (2) the building official has reasonable cause to believe that (a) there exists upon a premises or in a structure or equipment upon a premises a condition which is contrary to or in violation of this Chapter or other applicable law, or (b) a condition exists upon a premises which creates an unsafe structure, unsafe equipment, structure unfit for human occupancy, unlawful structure, or dangerous structure or premises, the building official is authorized to enter the premises or structure at reasonable times to inspect or to perform the duties imposed by this Chapter or other applicable law. [HR 13-3-2]

1. **By Consent**. If such premises or structure is unoccupied, the building official shall make a reasonable effort to locate the owner or person having charge or control of the premises or structure, present credentials, and request entry to portions of the premises or structure not open to the public. If the premises or structure is occupied, the building official shall attempt to make contact with the occupant, present proper credentials, and request entry to portions of the structure or premises that are not open to the public. If consent is given, the building official may enter the premises or structure to inspect or to perform the duties imposed by this Chapter or other applicable law. [HR 13-3-2]

2. **Administrative Search Warrant.** If the building official is unable to make contact with the owner or person having charge or control of the premises or structure, or the occupant, or the building official is denied consent to enter and inspect, or the building official believes it is unsafe or impractical under the circumstances to seek consent to enter and inspect, then the building official shall have recourse to the remedies provided by law to secure entry and inspection. Those remedies shall include seeking an administrative search warrant. [HR 13-3-2]

3. **Process for Seeking Administrative Search Warrant.** To obtain the administrative search warrant to enter and inspect, the building official shall present a sworn affidavit to a judge of the district court stating the grounds for the administrative search warrant, which shall include: (a) the name of the owner and/or occupant of the premises, if known or reasonably ascertainable; (b) the address or location of the premises; (c) a statement that the building official has reasonable cause to believe that it is necessary to enter the premises or structure to inspect to enforce or verify compliance with the provisions of this Chapter or other applicable law; or the building official has reasonable cause to believe that there exists upon the premises or in a structure or equipment upon the premises a condition which is contrary to or in violation of this Chapter or other applicable law, or a condition exists upon a premises which creates an unsafe structure, unsafe equipment, structure unfit for human occupancy, unlawful structure, or dangerous structure or premises; (d) the basis for the building official's reasonable cause to believe the condition or violation identified in clause (c) exists, including without limitation observation of the premises or structure from areas accessible by the public, complaints from third parties, photographs and other images, video, law enforcement reports, statements or admissions by the owner or occupant, reasonable inferences of the building official, and any other reasonable basis; and (e) identification, with reasonable particularity, the area or areas of the premises, structure, or equipment sought for entry and inspection. [HR 13-3-2]

4. **Administrative Search Warrant: Contents**. The building official shall request that (a) absent exigent circumstances, the administrative search warrant specify that the building official and his or her designees as being authorized to enter the premises and structure and complete the inspection at any time between the hours of 8 a.m and 6 p.m; (b) the administrative search warrant describe with reasonable particularity the area or areas of the premises, structure, or equipment to be inspected; (c) the administrative search warrant direct the owner, occupant or operator of the premises to cooperate with the building official regarding access to the premises, structure, or equipment, to permit the inspection, and to not obstruct or interfere with the inspection; (d) the administrative search warrant authorize the building official to secure law enforcement to assist in the service and execution of the warrant, in the reasonable discretion of the building official; (e) the administrative search warrant authorize the building official to enter the premises or structure, have access to the equipment, and use reasonable force to obtain entry as may be necessary under the circumstances; and (f) the administrative search warrant not authorize the building official to seize any personal property or equipment, unless the property presents an imminent danger to life, property, or the public welfare, but

the foregoing shall not prevent the building official from condemning any premises, structure, or equipment in accordance with this Chapter. [HR 13-3-2]

13-106.7 **Department Records.** The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.

13-106.8 **Liability.** The building official, member of the Board of Construction Codes Appeals or employee charged with the enforcement of this Chapter, while acting for Douglas County in good faith and without malice in the discharge of the duties required by this Chapter or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Chapter shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this Chapter.

13-106.9 **Approved Materials and Equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

13-106.10 **Used Materials and Equipment.** The use of used materials which meet the requirements of this Chapter or new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

13-106.11.1 **Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this Chapter, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this Chapter impractical and the modification is in compliance with the intent and purpose of this Chapter and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

13-106.11.2 **Flood Hazard Areas.** The building official shall not grant modifications to any provision related to flood hazard areas, as established by Section 1612.3 of the International Building Code, 2012 Edition or Table R301.2(1) of the International Residential Code, 2012 Edition, as the case may be, unless the Douglas County Floodplain Administrator has made a determination that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards inappropriate.

2. A determination that failure to grant the modification would result in exceptional hardship by rendering the lot undevelopable.

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or resolutions.

4. A determination that the modification is the minimum necessary to afford relief, considering the flood hazard.

Upon any such modification, the Floodplain Administrator shall submit to the applicant a written notice specifying the difference between the design flood elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

13-106.12 **Alternative Materials, Design and Methods of Construction and Equipment.** The provisions of this Chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Chapter, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

13-106.12.1 **Research Reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Chapter, shall consist of valid research reports from approved sources.

13-106.12.2 **Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records. [HR-12-9-3]

13-107 **PERMITS**

13-107.1 **Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this

Chapter, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

13-107.2 **Annual Permit.** In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefore to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

13-107.3 **Annual Permit Records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The building official shall have access to such records at all times or such records shall be filed with the building official as designated.

13-107.4 **Work Exempt From Permit.** Exemptions from permit requirements of this Article shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Article or any other laws or regulations of Douglas County. Permits shall not be required for the following:

13-107.4.1 **Building.**

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m^2)

2. Fences not over 7 feet (2134 mm) high.

3. Decks not exceeding 200 square feet in area, that are not more than 30 inches above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R 311.4 of the International Residential Code. 2012 Edition. [HR-12-11-5]

4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IDA liquids.

5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925L) and the ratio of height to diameter or width is not greater than 2:1.

6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

8. Temporary motion picture, television and theater stage sets and scenery.

9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18, 925L) and are installed entirely above ground.

10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

11. Swings and other playground equipment accessory to detached one- and two-family dwellings.

12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

13. Non-fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

14. Agricultural Buildings. Constructing, moving, converting, extending, or enlarging a building to be used solely for agricultural purposes shall be exempt from the necessity of obtaining a building permit if the owner or owners fully completes and files with the building official an application containing information necessary for the building official to determine eligibility for an agricultural building exemption. Such application shall be limited to (1) a statement of the intended use of the building; (2) a description of the real estate upon which the proposed agricultural building is to be located, together with a description of the building or alterations with sufficient detail of size, location, and character or kind of proposed construction, to enable the building official to distinguish and identify it; (3) a statement of an owner acknowledging the owner or owners of the building must obtain a building permit and bring the building into compliance with the building code in the event its use subsequently changes and the building is no longer used solely for agricultural purposes; and (4) such other documents or evidence that the building official reasonably believes necessary to determine that the owner or tenant of the land on which the building is to be placed or constructed is engaged in agricultural pursuits and the building will be used as an agricultural building.

The building official shall not require the owner or owners to provide certificates or drawings of architects, engineers, or other professionals relating to the proposed agricultural building or alterations.

No fee shall be charged for requesting or receiving a building permit exemption under this subsection.

Upon receipt of such properly completed application and determining that the construction or other work is entitled to receive an exemption from the building permit requirement, the building official shall issue to the owner or owners of the building a document evidencing the agricultural building exemption.

Any owner or owners desiring an exemption from the building permit requirement with respect to any particular agricultural building shall apply for and

obtain such exemption prior to commencement of the construction or other work. No construction or other work shall be exempt under this subsection unless and until a properly completed application has been filed with the building official and the building official has issued an agricultural building exemption with respect to the building. The failure of an owner or owners to apply for and receive an agricultural building exemption with respect to any building or alteration used solely for agricultural purposes, however, shall not preclude the building official from later issuing an agricultural building exemption with respect to such building or alteration.

The owner or owners of a building that is eligible for an agricultural building exemption pursuant to this subsection who fail to apply for and receive an agricultural building exemption prior to commencement of construction work shall not be subject to any fine or other penalty if an owner of the building submits an application to the building official before receiving any notice of noncompliance or other formal notice of violation.

For purposes of this subsection, an "agricultural building" and a "building to be used solely for agricultural purposes" is a structure designed, constructed, and used solely to do any one or combination of the following: (a) to house hay, grain, poultry, livestock, or other agricultural or horticultural products; (b) to sort, grade, wash, weigh, package, or otherwise prepare agricultural or horticultural products produced on site for market; (c) to prepare, sort, or house agricultural inputs if such agricultural inputs are to be planted or otherwise used in connection with agricultural pursuits (i) on site, (ii) on other property under common control of the owner or tenant of the property on which the building is located, or (iii) on other property if the use on other property is ancillary to the use of such agricultural inputs on property under (i) or (ii); or (d) to house farm implements, tools and equipment used in connection with any of the foregoing.

Except as expressly provided above, a building is not an "agricultural building" or a "building to be used solely for agricultural purposes" if it is a place of human habitation or a place of employment where agricultural or horticultural products not produced on site are processed, treated or packaged; nor is it an agricultural building if it is a place used by the public (other than a temporary "farmer's market" predominantly for the sale of agricultural or horticultural products produced or grown on site).

The foregoing definition of agricultural building is solely for purposes of the building code and the owner's or owners' ability to obtain an exemption from the requirements of obtaining a building permit. A building used to sell agricultural products grown or produced off site may be an agricultural building for purposes of obtaining an exemption from obtaining a building permit if the predominate products sold are produced or grown on site, while such land use may still require a conditional use permit under applicable zoning regulations.

This subsection shall not exempt signs advertising or identifying agricultural uses such as farms. A building permit for such a sign, however, may be issued if the sign complies with all other applicable regulations and codes.

13-107.4.2 **Electrical**.

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles.

2. Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

3. Temporary testing systems: A *permit* shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

13-107.4.3 **Gas.**

1. Portable heating appliance.

2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

13-107.4.4 **Mechanical.**

1. Portable heating appliance.

2. Portable ventilation equipment.

3. Portable cooling unit.

4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.

5. Replacement of any part that does not alter its approval or make it unsafe.

6. Portable evaporative cooler.

7 Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

13-107.4.5 **Plumbing.**

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this Article.

2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided

such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

13-107.4.6 **Emergency Repairs**. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

13-107.4.7 **Repairs.** Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

13-107.4.8 **Public Service Agencies.** A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

13-107.4.9 **Preliminary Meeting.** When requested by the permit applicant or the building official, the permit applicant and the building official shall meet prior to the application for a permit to discuss plans for the proposed work or change of occupancy in order to establish the specific applicability of the provisions of this Chapter.

13-107.10 **Application for Permit.** To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in the applicable Article.

5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Give such other data and information as required by the building official.

13-107.11 **Action on Application.** The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefore. If the building official is satisfied that the proposed work conforms to the requirements of this Chapter and laws and resolutions applicable thereto, the building official shall issue a permit therefore as soon as practicable.

13-107.12 **Time Limitation of Application.** An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

13-107.13 **Validity of Permit.** The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter or of any other applicable law, resolution or regulation. Permits presuming to give authority to violate or cancel the provisions of this Chapter or other law, resolution or regulation shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this Chapter or of any other laws, resolutions or regulations.

13-107.14 **Expiration.** Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

13-107.15 **Suspension or Revocation.** The building official is authorized to suspend or revoke a permit issued under the provisions of this Chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Chapter.

13-107.16 **Placement of Permit.** The building permit or copy shall be kept on the site of the work until the completion of the project. [HR-12-9-3]

13-108 FLOOR AND ROOF DESIGN LOADS

13-108.1 **Live Loads Posted.** Where the live loads for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40 kN/m2), such design live loads shall be conspicuously posted by the owner in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices

13-108.2 **Issuance of Certificate of Occupancy.** A certificate of occupancy required by any provision of this Chapter shall not be issued until the floor load signs, required hereby have been installed.

13-108.3 **Restrictions on Loading.** It shall be unlawful to place, or cause or permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by this Chapter. [HR-12-9-3]

13-109 **SUBMITTAL DOCUMENTS**

13-109.1 **General.** Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional. Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this Chapter.

13-109.2 **Construction Documents.** Construction documents shall be in accordance with Sections 13-109.2.1 through13-109.2.7.

13-109.2.1 **Information on Construction Documents.** Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, resolutions, rules and regulations, as determined by the building official.

13-109.2.2 **Fire Protection System Shop Drawings.** Shop drawings for the fire protection systems shall be submitted to indicate conformance to this Chapter and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 of the International Building Code, 2012 Edition.

13-109.2.3 **Means of Egress.** The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress including the path of the exit discharge to the public way in compliance with the provisions of this Chapter. In other than occupancies in Groups R-2,

R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.

13-109.2.4 **Exterior Wall Envelope.** Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings. The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.

13-109.2.5 **Site Plan.** The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when other-wise warranted.

13-109.2.6 **Design Flood Elevations; IBC.** Where design flood elevations are not specified with respect to building and structures regulated by Article 2 (i.e. the International Building Code), they shall be established in accordance with Section 1612.3.1 of the International Building Code, 2012 Edition.

13-109.2.7 **Information for Construction in Flood Hazard Areas; IRC**. For buildings and structures regulated by Article 3 (i.e. the International Residential Code) and located in whole or in part in the flood hazard areas as established by Table R301.2(1), construction documents shall include:

1. Delineation of flood hazard areas, floodway boundaries and flood zones and the design flood elevation, as appropriate;

2. The elevation of the proposed lowest floor, including basement; in areas of shall flooding (AO Zones), the height of the proposed lowest floor, including basement, above the highest adjacent grade;

13-109.3 **Examination of Documents.** The building official shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Chapter and other pertinent laws or regulations.

13-109.3.1 **Approval of Construction Documents.** When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.

13-109.3.2 **Previous Approvals.** This Chapter shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

13-109.3.3 **Phased Approval.** The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

13-109.3.4 **Design Professional in Responsible Charge.** When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

109.3.5 **Deferred Submittals.** For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred

submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by the building official.

13-109.6 **Amended Construction Documents.** Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

13-109.7 **Retention of Construction Documents.** One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or other local laws. [HR-12-9-3]

13-110 **TEMPORARY STRUCTURES AND USES**

13-110.1 **General.** The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.

13-110.2 **Conformance.** Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare.

13-110.3 **Temporary Power.** The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the National Electric Code, 2011 Edition, NFPA 70.

13-110.4 **Termination of Approval.** The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued. [HR-12-9-3]

13-111 **FEES**

13-111.1 **Payment of Fees.** A permit shall not be valid until the fees prescribed herein have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.

13-111.2 **Schedule of Permit Fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit pursuant to the codes adopted under this Chapter, a fee for each permit shall be paid as required according to the following table:

PERMIT FEE SCHEDULE

TOTAL VALUATION	FEE
$1 to $500	$23.50
$501 to $2,000	$23.50 for the first $500 plus $3.05 for each additional $100 or fraction thereof, to and including $2,000.
$2,000 to $25,000	$69.25 for the first $2,000 plus $10.89 for each additional $ 1,000 or fraction thereof, to and including $25,000.
$25,001 to $50,000	$391.25 for the first $25,000 plus $10.10 for each additional $1,000 or fraction thereof, to and including $50,000.
$50,001 to $100,000	$643.75 for the first $50,000 plus $7.00 for each additional $1,000 or fraction thereof, to and including $100,000.
$100,001 to $500,000	$993.75 for the first $100,000 plus $5.60 for each additional $1,000 or fraction thereof, to and including $500,000.
$500,001 to $1,000,000	$3,233.75 for the first $500,000 plus $4.75 for each additional $1,000 or fraction thereof, to and including $1,000,000.
$1,000,001 to $5,000,000	$5,608.75 for the first $ 1,000,000 plus $3.15 for each additional $1,000 or fraction thereof, to and including $5,000,000.
$5,000,001 to $15,000,000	$17,980.92 for the first $5,000,000 plus $1.54 for each additional $ 1,000 or fraction thereof, to and including $15,000,000.
$15,000,001 and above	$33,562.30 for the first $15,000,000 plus $1.02 for each additional $1,000 or fraction thereof.

Inspection and Other Fees:

1. Inspections outside of normal business hours (minimum charges - two hours) - $47.00 per hour.*

2. Re-inspection fees assessed under provisions of Section 108.8 - $47.00 per hour.*

3. Inspections for which no fee is specifically indicated (minimum charge - one-half hour) - $47.00 per hour.*

4. Additional plan review required by changes, additions or revisions to approved plans (minimum charge - one-half hour) - $47.00 per hour or the total hourly cost to Douglas County, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

5. Any person who commences any work before obtaining the necessary permits and paying the necessary permit fees shall pay an additional fee equal to 100 percent of the permit fee set forth above, which is in addition to all other required permit fees.

6. The permit applicant shall pay costs of any third party plan review required by the size or complexity of the building project, as determined by the building official.

7. Solar photovoltaic (PV) systems (up to 13.44 kW) and solar thermal systems requiring no structural changes to the building - $115.00.[1] For every kW, measured in whole increments of 1 kW, over 13.44 kW the flat rate shall increase by $10 per kW.[HR-14-1-1]

13-111.3 **Building Permit Valuations.** The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

13-111.4 **Disposition of Fees.** The building official shall keep, or cause to be kept, an accurate account of fees collected and received under the provisions of this Chapter and record the name of the person on whose account the same was paid, the date and the amount thereof together with the location of the proposed construction or installation to which the fees relate. The building official shall deposit the amount of the fees collected with the County Treasurer.

13-111.5 **Work Commencing Before Permit Issuance.** Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee established by the permit fee schedule, which shall be in addition to all other required permit fees.

13-111.6 **Related Fees.** The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.

13-111.7 **Fee Refund.** The building official may authorize the refunding of fees as follows:

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[1] Flat fee covers plan review, inspection and one re-inspection. Submittal shall include structural details of the roof on which the system will be mounted. Structural Engineer's certification may be required. Installation shall be according to manufacturer's recommended method and the 2011 NEC.

1. The full amount of any fee paid hereunder that was erroneously paid or collected.

2. Not more than 50% of the permit fee paid when no work has been done under a permit issued in accordance with this Chapter.

3. Not more than 50% of a plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended. [HR-12-9-3]

13-112 **INSPECTIONS**

13-112.1 **General.** Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Chapter or of resolutions of Douglas County. Inspections presuming to give authority to violate or cancel the provisions of this Chapter or of other resolutions of Douglas County shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. The building official may order work exposed for inspections purposes and the permit applicant shall bear the cost thereof. If the permit applicant refuses to expose the work for inspection, the building official may expose the work, revoke the permit, or take other action as authorized by this Chapter or other applicable law. Neither the building official nor Douglas County shall be liable for expense entailed in the removal or replacement of any material required to allow inspection. [HR-12-11-5]

13-112.2 **Preliminary Inspection.** Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.

13-112.3 **Required Inspections.** The building official, upon notification, shall make the inspections set forth in this Article.

13-112.3.1 **Footing and Foundation Inspection.** Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.

13-112.3.2 **Concrete Slab and Under-Floor Inspection.** Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.

13-112.3.3 **Lowest Floor Elevation.** In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction,

the documentation required in Section 1612.5 of the International Building Code, 2012 Edition or Section R109.1.3 of the International Residential Code, 2012 Edition, as the case may be, shall be submitted to the building official.

13-112.3.4 **Frame Inspection.** Framing inspections shall be made after the roof deck or sheathing, all framing, fire- blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.

13-112.3.5 **Lath and Gypsum Board Inspection.** Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished. Exception: Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.

13-112.3.6 **Fire and Smoke-Resistant Penetrations.** Protection of joints and penetrations in fire-resistance- rated assemblies, smoke barriers and smoke partitions shall not be concealed from view until inspected and approved.

13-112.3.7 **Energy Efficiency inspections**. Inspections shall be made to determine compliance with energy efficiency requirements and shall include, but not be limited to, inspections for: envelope insulation R- and U-values, fenestration U-value, duct system R-value, and HVAC and water-heating equipment efficiency.

13-112.3.8 **Special Inspections.** For special inspections, see Chapter 17 of the International Building Code, 2012 Edition.

13-112.3.9 **Final Inspection.** The final inspection shall be made after all work required by the building permit is completed.

13-112.3.10 **Flood Hazard Documentation (Elevation Certificate).** If located in a flood hazard area, documentation of the elevations as required in Section 1612.5 of the International Building Code, 2012 Edition or Section R109.1.6.1 of the International Residential Code, 2012 Edition, as the case may be, shall be submitted to the building official prior to the final inspection.

13-112.3.11 **Other Inspections.** In addition to the inspections specified in Sections 13-112.3.1 through 13-112.3.10, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.

13-112.4 **Inspection Agencies.** The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

13-112.5 **Inspection Requests.** It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to

provide access to and means for inspections of such work that are required by this Chapter.

13-112.6 **Approval Required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official. [HR-12-9-3]

13-113 CERTIFICATE OF OCCUPANCY

13-113.1 **Use and Occupancy.** No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefore as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other resolutions of Douglas County. Exceptions:

1. Certificates of occupancy are not required for work exempt from permits under pursuant to this Article.

2. Accessory buildings or structures.

13-113.2 **Certificate Issued.** After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.

2. The address of the structure.

3. The name and address of the owner.

4. A description of that portion of the structure for which the certificate is issued.

5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this Chapter for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.

6. The name of the building official.

7. The edition of the code under which the permit was issued.

8. The use and occupancy, in accordance with the provisions of the applicable code.

9. The type of construction as defined in the applicable code

10. The design occupant load.

11. If an automatic sprinkler system is provided, whether the sprinkler system is required.

12. Any special stipulations and conditions of the building permit.

13-113.3 **Temporary Occupancy.** The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid. [HR-12-9-3]

13-113.4 **Revocation.** The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this Chapter wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof, or its use or occupancy, is in violation of any ordinance or regulation or any of the provisions of this Chapter. [HR-12-11-5]

13-114 **SERVICE UTILITIES**

13-114.1 **Connection of Service Utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system that is regulated by this code for which a permit is required, until released by the building official.

13-114.2 **Temporary Connection.** The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

13-114.3 **Authority to Disconnect Service Utilities.** The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Chapter and the referenced and adopted codes and standards set forth therein in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without the required approval. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter. [HR-12-9-3]

13-115 **BOARD OF CONSTRUCTION CODES APPEALS.**

13-115.1 **General.** In order to determine the suitability of alternate materials and types of construction and in order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the codes adopted pursuant to this Chapter, there shall be and is hereby created a Board of Construction Codes Appeals, consisting of 5 members who are qualified by experience and training to pass upon matters pertaining to building projects. The Board of Construction Codes Appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of Douglas County. Board of County Commissioners shall use reasonable efforts to appoint members to the Board of Construction Codes Appeals having one of the following qualifications: (1) a license professional engineer; (2) a licensed professional architect; (3) a building contractor or superintendent of building construction; or (4) a master plumber, electrician or other individual in the building trades. Each member of the Board of Construction Codes Appeals shall have had 10 years of experience, no less than 5 years of which shall have been in a position of responsible authority on building projects. No more than two members should be selected from the same profession, business, or trade, and at least one of the members should have professional registration and engineering experience as a structural, civil, or architectural engineer, or architect. Notwithstanding the foregoing, the failure of the members of the Board of Construction Codes Appeals to possess the foregoing qualifications shall not invalidate actions and determinations that the Board of Construction Codes Appeals makes. The building official shall be an ex-officio member and shall act as Secretary to the Board of Construction Codes Appeals. The Board of Construction Codes Appeals shall be appointed by the Board of County Commissioners for terms of office of 4 years. Notwithstanding the foregoing, the members of the Board of Construction Codes Appeals appointed and serving pursuant to the construction codes in place on the effective date of this Section shall continue as members of the Board of Construction Codes Appeals hereby created for the remainder of their appointed terms, subject to removal or resignation. The Board of Construction Codes Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant, and may recommend to the Board of County Commissioners such new legislation as is consistent therewith. The Board of Construction Codes Appeals shall annually elect or reelect a Chair and a Vice-Chair from its membership.

13.115.2 **Authority.** An application or appeal shall be based on a claim that the true intent of the applicable code or rules legally adopted thereunder have been incorrectly interpreted, the provisions of the applicable code do not fully apply, or an equally good or better form of construction is proposed. The Board of Construction Codes Appeals, however, shall not have the authority to waive requirements under the applicable code.

13-115.3 **Rules, Meetings, and Records.** The Board of Construction Codes Appeals shall adopt rules to govern its proceedings in accordance with the provisions of this subsection.

1. Meetings of the Board of Construction Codes Appeals shall be held at least once a month if there is business for the Board to consider. Additional meetings may be called at such other times as are determined by the Chair at any time or by the Board of Construction Codes Appeals at regular or special meeting.

2. The Board of Construction Codes Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or filing to vote, indicted such facts.

3. The Board of Construction Codes Appeals shall keep records of hearings, examinations and other action. Such minutes and records shall be public records.

13-115.4 **Appeals.** Any person whose application for a building permit requesting the use of an alternate material or type of construction has been denied by the building official, or who disagrees with the application of the Residential Code, Building Code, Mechanical Code, Plumbing Code, Fuel Gas Code, or Electric Code or other determination of the building official, may appeal the action of the building official to the Board of Construction Codes Appeals by serving written notice upon the building official and paying a $100 application fee. The notice shall state the action being appealed, the reasons for appeal, and that the applicant shall pay all costs and expenses of tests deemed necessary by Board of Construction Codes Appeals in determining the merits of the appeals. The building official shall at once transmit the notice to the members of the Board of Construction Codes Appeals and schedule a hearing on the matter.

13-115.5 **Authority of the Board of Construction Codes Appeals.** The Board of Construction Codes Appeals may reverse, affirm or modify the decision of the building official. All decisions of the Board of Construction Codes Appeals shall be by a majority of the members of the Board present and voting at which a quorum is present. Three members shall constitute a quorum for meeting purposes.

13-115.6 **Disposition of Fee.** In the event the Board of Construction Codes Appeals reverses or modifies the decision of the building official, the $100 application fee shall be refunded to the applicant. If the Board affirms the decision of the building official, the application fee shall be retained by Douglas County and deposited with the County Treasurer to the credit of the general fund. [HR-12-9-3]

13-116 **VIOLATIONS AND STOP WORK ORDERS.**

13-116.1 **Unlawful Acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish, use, or occupy any building, structure or equipment regulated by this Chapter, or cause the same to be done, in conflict with or in violation of any of the provisions thereof.

13-116.2 **Notice of Violation**. The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction,

alteration, extension, repair, moving, removal, demolition, use, or occupancy of a building or structure in violation of the provisions of this chapter, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this Chapter. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

13-116.3 **Violation and Penalties.** Any person who violates a provision of this Chapter or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this Chapter, shall be guilty of a misdemeanor, punishable by a fine of not more than $500 or by imprisonment for not more than one month, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to any other remedies provided by the code or other applicable law, the county or building official may bring civil suit to enjoin the violation of any provisions of the code. The availability or pendency of an appeal to the Board of Construction Code Appeals shall not preclude Douglas County or the building official from pursuing such civil or criminal actions, seeking any available remedy, including injunction, relating to any such violation, and the court need not delay or defer its adjudication of the case on the basis that such appeal may be available or pending before the Board of Construction Code Appeals.

13-116.4 **Stop Work Orders.** Upon notice from the building official or his designee that work on any building or structure is being performed contrary to the provisions of any codes adopted in this Chapter or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than $500 and such other penalties as prescribed by law.

13-116.5 **Abatement and Injunction of Violation.** The imposition of the penalties herein prescribed shall not preclude the building official or Douglas County from instituting appropriate action to prevent unlawful construction or restrain, correct or abate a violation, or to prevent illegal use or occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business or utilization of a building or other construction on or about any premises. [HR-12-11-5]

13-117 UNSAFE STRUCTURES AND EQUIPMENT

13-117.1 **Condemnation.** All equipment, systems, devices and safeguards required by this Chapter, a previous statute or code applicable to the structure, premises or equipment, or other applicable law shall be maintained in good working order and repair. It shall be unlawful for an owner, operator or occupant to cause or permit any equipment, systems, devices and safeguards, or any other service, facility,

equipment or utility required by this Chapter, a previous statute or code applicable to the structure, premises, or equipment, or other applicable law, to be removed, shut off, or discontinued from any occupied structure, except for such temporary interruption as necessary while repairs or alterations made in accordance with applicable law are in progress. Structures (including agricultural buildings), real property, or existing equipment that are or hereafter become unsafe, unsanitary, deficient, or in violation of applicable law because of inadequate means of egress facilities, inadequate light and ventilation, inadequate safety features, or which constitute a fire hazard or life-safety hazard, or are otherwise detrimental to public health, safety, or welfare, or that involve illegal or improper use, occupancy or inadequate maintenance, shall be condemned pursuant to the provisions of this Chapter. Unsafe structures shall be taken down and removed or made safe, and real property shall be restored to a safe and compliant condition, as the building official deems necessary and as provided for in this Section. Structures, real property, or equipment may be condemned for any of the following reasons:

1. **Unsafe Structure.** An unsafe structure is a vacant structure that is not secured against entry or a structure that is found to be dangerous to life, health, property, or safety of the public or the occupants of the structure, including without limitation, by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe or improperly installed equipment, or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

2. **Unsafe Equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition or is improperly installed or maintained that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

3. **Structure Unfit for Human Occupancy.** A structure is unfit for human occupancy whenever the building official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is structurally unsound or unsafe, unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

4. **Unlawful Structure.** An unlawful structure is one occupied by more persons than permitted under this Chapter or other applicable law, or was erected, altered or otherwise occupied contrary to law.

5. **Dangerous Structure or Premises**. For the purpose of this Chapter, any structure or premises that has one or more of the following shall be considered dangerous and unsafe:

A. The walking surface of any aisle, passageway, stairway,

exit or other means of egress is so warped, worn loose, torn, or otherwise unsafe as to not provide safe and adequate means of egress.

B. Any portion of a building, structure, or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.

C. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy, or is a threat to life or health.

D. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who are unable to appreciate the risk the building or structure poses and might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.

E. Any building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, or otherwise, is unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness, disease, or injury.

F. Any portion of a building which remains on a site after the demolition or destruction of the building or structure; or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

Notwithstanding the foregoing, however, the provisions of this Section relating to condemning structures and ordering abatement of unsafe or dangerous structures shall not apply to any agricultural building (see Section 13-107.4.1 for definition) unless the agricultural building actually presents a public nuisance that endangers public health, safety, and welfare. [HR 13-3-2]

13-117.2 **Record.** The building official shall cause a report to be filed with the building official's records on an unsafe condition. The report shall state the occupancy of the structure, if any, and the nature of the unsafe condition. [HR 13-3-2]

13-117.3 **Notice.** Whenever the building official has condemned a structure, real property, or equipment, the building official shall serve on the owner, agent or person in control of the premises, a written notice that describes the condition deemed unsafe, unlawful, or dangerous and specifies the required repairs or improvements to be made to abate the unsafe condition, and the time to complete such repairs or improvements, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order. If the owner, agent or person in charge rejects or fails to

comply within the time allowed, the building official shall have the authority to accept the terms of the order or to complete the repairs or demolition or otherwise remove the structure, equipment, system, or device, and to restore any real property to a safe and compliant condition, as reasonably necessary to protect public health, safety and welfare. [HR 13-3-2]

13-117.4 **Method of Service.** Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; (c) sent by certified or registered mail addressed to the owner at the address listed in the County tax records for the subject real property, with the return receipt requested; (d) posted conspicuously in or about the structure or real property affected by such notice, or (e) delivered in any other manner as prescribed by local law or reasonably calculated to reach the intended recipient. If sent by mail, the notice shall be deemed effective and complete three calendar days after mailing. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person occupying or responsible for the structure or real property shall constitute service of notice upon the owner. [HR 13-3-2]

13-117.5 **Placarding.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given (if any time is given), the building official shall post on the premises or on defective equipment, system or device, a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard. [HR 13-3-2]

13-117.6 **Prohibited Occupancy.** Any structure, real property or equipment condemned and placarded by the building official shall be vacated as ordered by the building official, and shall not thereafter be occupied or used unless and until the building official authorizes. It shall be unlawful for any person to occupy a placarded premises or operate placarded equipment, and it shall be unlawful for any owner or any person responsible for the premises to permit anyone to occupy a placarded premises or operate placarded equipment. Any violator shall be subject to the civil and criminal penalties provided for violations of the provisions of this Chapter. [HR 13-3-2]

13-117.7 **Removal of Placard.** The building official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the building official shall be deemed to have violated the provisions of this Chapter and shall be shall be subject to the civil and criminal penalties provided for violations of the provisions of this Chapter. [HR 13-3-2]

13-117.8 **Authority to Disconnect Service Utilities.** The building official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Chapter and the referenced codes and standards in case of emergency where necessary to eliminate an immediate hazard to life or

property or when such utility connection has been made without approval. The building official shall notify the servicing utility and, whenever possible, the owner and occupant of the building, structures or service system of the decision to disconnect prior to taking such action. If not provided prior to disconnection, written notification shall be done as soon as practical thereafter. [HR 13-3-2]

13-117.9 **Abatement.** The owner, operator, or occupant of a structure, premises, or equipment, system, or device deemed unsafe or dangerous by the building official shall abate or cause to be abated or corrected such unsafe or dangerous conditions either by repair, rehabilitation, demolition or other approved corrective action in the manner and within the timeframe specified by the building official. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with all applicable requirements of this Chapter, including the requirements of Section 113-107.4.7 and Chapter 34 of the International Building Code, 2012 Edition or Appendix J of the International Residential Code, 2012 Edition, as the case may be. [HR 13-3-2]

13-117.10 **Emergency Measures.** When, in the opinion of the building official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part thereof has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes, gases or vapors or the presence of toxic fumes, gases or materials, fire hazard, or operation of defective or dangerous equipment, or when any other emergency condition exists, the building official may, without notice or hearing, order and require the occupants to vacate the premises forthwith. It shall be unlawful for any person to enter such structure, except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same. Notwithstanding other provisions of this Chapter, whenever, in the opinion of the building official, there is imminent danger due to an unsafe condition, the building official may order the owner to perform the necessary work to be done to secure the structure to safeguard from imminent danger, including the boarding up or locking of openings to render such structure temporarily secure, whether or not the legal procedure described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such imminent condition. If the owner fails to perform such work to secure the structure and safeguard from imminent danger, the building official may employ the necessary labor and materials to perform the required work as expeditiously as possible to secure the structure in an effort to provide the minimum safeguards from imminent danger. Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the code official. The cost of such repairs shall be the responsibility of the owner and may be recovered in any civil or criminal action. [HR 13-3-2]

13-117.11 **Appeals.** Appeals under this Section 13-117 may be made as follows:

1. **General.** Any person directly affected by a decision of the building official or any notice of violation, condemnation, other order issued under this

Section 13-117 shall have the right to appeal to the Board of Construction Codes Appeals, provided that a written application for appeal is filed with the Director of the Zoning & Codes Department within 15 days after the day the decision, notice, or order was served (with the exception of Section 13-117.9 – Emergency Measures specified below). The appeal shall be based on a claim that the true intent of this Chapter has been incorrectly interpreted or that the provisions of this Chapter do not apply. An application for appeal shall state the specific reason or reasons for the appeal, shall provide all facts in support of the appeal, and shall state, with particularity, the way in which the true intent of this Chapter has been incorrectly interpreted or applied. An appeal under this Section shall be heard according to the procedures set forth in Section 13-115. [HR 13-3-2]

2. **Emergency Measures.** To provide a prompt appeal for emergency notices, any person directly affected by a decision of the building official issued under Section 13-117.9 – Emergency Measures, shall have the right to appeal to the County Administrator or the County Administrator's designee, provided that a written application for appeal is filed within 3 days after the day the decision, notice, or order was served, but any appeal not perfected within 3 days may still be made to the Board of Construction Codes Appeals within the timeframe specified above. The appeal shall be based on a claim that the true intent of this Chapter has been incorrectly interpreted or that the provisions of this Chapter do not apply. An application for appeal shall state the specific reason or reasons for the appeal, shall provide all facts in support of the appeal, and shall state, with particularity, the way in which the true intent of this Chapter has been incorrectly interpreted or applied. The decision of the County Administrator may be appealed to the Board of Construction Codes Appeals, provided that a written application for appeal is filed with the Director of the Zoning & Codes Department within 15 days after the day of the decision. [HR 13-3-2]

3. **Appeal Fees.** The appeal fees provided in Section 13-115 shall apply to appeals to the Board of Construction Codes Appeals and the County Administrator pursuant to this subsection. The fee must be paid within the timeframe for filing an appeal. [HR 13-3-2]

4. **Stays of Enforcement.** Except for Emergency Measures ordered pursuant to Section 13-117.9, appeals of notices, citations, and orders shall stay the enforcement of the notice, citation, or order until the appeal is heard by the appropriate board or official. Appeals of Emergency Measures ordered pursuant to Section 13-117.9 shall not stay the enforcement of the notice, citation, or order, but a decision of the County Administrator or the County Administrator's designee overruling or invalidating a decision, notice or order of the building official on an appeal of Emergency Measurers shall stay the enforcement of the decision, notice or order pending the decision of the Board of Construction Codes Appeals. [HR 13-3-2]

13-118 QUALIFICATION AND LICENSURE

13-118.1 **Licensure of Plumbers**. All plumbers practicing their trade within the unincorporated area of Douglas County shall hold a valid license from some Kansas jurisdiction. This license shall be subject to the requirement of K.S.A. 12-1508 *et seq*. and any amendment thereto. Any property owner shall be allowed to do his or her own plumbing work; provided, however, after the second failure to pass a plumbing inspection, a licensed plumber will be required to finish the work.

13-118.2 **Licensure of Electricians**. All electricians practicing their trade within the unincorporated area of Douglas County shall hold a valid license from some Kansas jurisdiction. This license shall be subject to the requirement of K.S.A. 12-1525 *et seq*. and any amendment thereto. Any property owner shall be allowed to do his or her own electrical work; provided, however, after the second failure to pass an electrical inspection, a licensed electrician will be required to finish the work.

13-118.3 **Licensure of Mechanical Mechanics**. All mechanical heating, ventilation and air conditioning mechanics practicing their trade within the unincorporated area of Douglas County shall hold a valid license from some Kansas jurisdiction. This license shall be subject to the requirement of K.S.A. 12-1540 *et seq*. and any amendment thereto. Any property owner shall be allowed to do his or her own mechanical work; provided, however, after the second failure to pass an electrical inspection, a licensed mechanical heating, ventilation and air conditioning mechanic will be required to finish the work. [HR-12-9-3]

ARTICLE 2. RESIDENTIAL CODE

13-201 **ADOPTION OF INTERNATIONAL RESIDENTIAL CODE.** The International Residential Code, 2012 Edition, including the following Appendix Chapters:

Appendix E Manufactured Housing Used as Dwellings
Appendix F Radon Control Methods
Appendix G Swimming Pools, Spas and Hot Tubs
Appendix J Existing Buildings and Structures
Appendix P Sizing of Water Piping Systems

as published by the International Code Council, is hereby adopted as the "Residential Code" of Douglas County, Kansas, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions, and said Residential Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Residential Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Residential Code." [HR-12-9-3]

13-202 **COPIES**. Not less than one copy of the International Residential Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Residential Code" shall mean the International Residential Code, 2012 Edition, as adopted and amended herein. [HR-12-9-3]

13-203 **AMENDMENTS TO RESIDENTIAL CODE**. The International Residential Code, 2012 Edition is amended or supplemented as provided below.

13-203.1 Chapter 1 of the Residential Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-203.2 **Table R301.2 (1). Climatic and Geographic Design Criteria.** Table R301.2 (1) is completed and inserted to read as follows:

Table R301.2 (1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD	WIND DESIGN		SEISMIC DESIGN CATEGORY[f]	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP[e]	ICE BARRIER UNDERLAYMENT REQUIRED[h]	FLOOD HAZARDS[g]	AIR FREEZING INDEX[i]	MEAN ANNUAL TEMP[j]
	Speed[d] (mph)	Topographic effects[k]		Weathering[a]	Frost line depth[b]	Termite[c]					
20 lbs psf	90 mph	No	A	Severe	30”	Moderate to Heavy	4º F	No	See note g below	778	56º F

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.

b. The frost line depth may require deeper footings than indicated in Figure R403.1(!). The stated depth in the frost line depth column is the minimum depth of footing below finish grade.

c. This part of the table indicates the need for protection based upon a history of local subterranean termite damage.

d. This part of the table is the wind speed from the basic wind speed map [Figure R301.2(4)A]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.

e. The outdoor design dry-bulb temperature shall be selected from the columns of 97 $^{1/2}$ – percent values for winter from Appendix D of the International Plumbing Code, 2012 Edition. Deviations from Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.

f. This part of the table is from the seismic design category determined from Section R301.2.2.1.

g. (a) The date of Douglas County’s entry into the National Flood Insurance Program and date of adoption of the first code or ordinance for management of flood hazard areas was 03/02/1981, (b) the Date of the Flood Insurance Study is 08/05/2010, and (c) the panel numbers and dates of all currently effective FIRMs and FBFMs or other flood hazard map adopted by Douglas County, as amended are: Panel numbers:
20,29,33,36,37,40,41,42,43,44,61,62,63,64,66,67,68,69,88,89,90,95,110,120,130,135,140,145,151,152,153,154,156,157,158,159,16,165,166,167,168,169,176,177,178,179,181,182,183,184,186,187,188,189,191,192,195,201,202,203,204,206,208,211,212,215,220,235,245,255,257,259,260,265,270,276,277,280,281,282,285,290,295,301,304,305,306,308,310,312,314,315,316,318,320,330,335,341,360,380,385,405,410,430,435,455.

h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, there has not been a history of local damage from the effects of ice damming.

i. This part of the table is the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)" at www.ncdc.noaa.gov/fpsf.html.

j. This part of the table is the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index- USA Method (Base 32°F)" at www.ncdc.noaa.gov/fpsf.html.

k. In accordance with Section R301.2.1.5, there is not local historical data documenting structural damage to buildings due to topographic wind speed-up effects.

13-203.3 **Section R313.2** One**- and Two-Family Dwellings Automatic Fire Systems.** First sentence is amended to read: An automatic residential fire sprinkler system may be installed in one-and two-family dwellings. [Changed from “shall be installed” to “may be installed”.]

13-203.4 **Section R403.3. Frost Protected Shallow Foundations.** Delete whole section and subsections, including figures R403.3 (1), R403.3 (3), and R403.3 (4), and Table R403.3 (1). [Frost Protected Shallow Foundations are not permitted.]

13-203.5 **Table N1102.1.1 (R402.1.1). Insulation and Fenestration Requirements by Component.** Table N1102.1.1 (R402.1.1) is amended to read as follows:

Table N1102.1.1 (R402.1.1)
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT[a]

CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT[b] U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE[k]	FLOOR R-VALUE	BASEMENT[c] WALL R-VALUE	SLAB[d] R-VALUE AND DEPTH	CRAWL SPACE[c] WALL R-VALUE
1	1.2	0.75	0.35[i]	30	13	3/4	13	0	0	0
2	0.65[i]	0.75	0.35[j]	30	13	4/6	13	0	0	0
3	0.50	0.65	0.35[e,j]	30	13	5/8	19	5/13[f]	0	5/13
4 except Marine	**0.35**	**0.60**	**NR**	**38**	**13**	**5/10**	**19**	**10/13**	**10, 2ft**	**10/13**
5 and Marine4	0.35	0.60	NR	38	20 or 13 + 5[h]	13/17	30[f]	10/13	10, 2ft	10/13
6	0.35	0.60	NR	49	20 or 13 + 5[h]	15/19	30g	10/13	10, 4 ft	10/13
7 and 8	0.35	0.60	NR	49	21	19/21	30g	10/13	10, 4 ft	10/13

a. R-values are minimums. U-factors and solar heat gain coefficient (SHGC) are maximums. R-19 batts compressed in to nominal 2 x 6 framing cavity such that the R-value is reduced by R-1 or more shall be marked with the compressed batt R-value in addition to the full thickness R-value. b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
c. The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.
d. R-5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less, in zones 1 through 3 for heated slabs. Slab edge insulation may be eliminated for slab on grade floors when the building's heating system efficiency rating is 90% or better.
e. There are no SHGC requirements in the Marine Zone.
f. Basement wall insulation is not required in warm-humid locations as defined by Figure N1101.2 and Table N1101.2. g. Or insulation sufficient to fill the framing cavity, R-19 minimum.
h. "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25% or less of the exterior, R-5 sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25% of exterior, structural sheathing shall be supplemented with insulated sheathing of at leastR-2.
i. For impact-rated fenestration complying with Section R301.2.1.2, the maximum U-factor shall be 0.75 in zone 2 and 0.65 in zone 3.
j. For impact-resistant fenestration complying with Section R301.2.1.2 of the International Residential Code, 2012 Edition, the maximum SHGC shall be 0.40.
k. The second R-value applies when more than half the insulation is on the interior.

[Using the 2009 table rather than the 2012 table, which requires 49 R in ceilings and 20 R in walls.]

13-203.6 **Section N1102.4.1.2 Testing.** Delete section which requires a blower door test. Building official will perform an insulation inspection but will not require a blower door test.

13-203.7 **Section N1102.2.8. Building Thermal Envelope/ Basement Walls.** Section N1102.2.8 is amended to read: Exterior walls associated with conditioned basements shall be insulated from the top of the basement wall down to 10 feet (3048 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections N1102.1.1 and N1102.2.7. *Exception*: Basement walls that are otherwise exposed shall be insulated from the top of the basement wall down 3 feet (914mm) below grade or the basement floor, whichever is less. [The exception is added.]

13-203.8 **Section G2406. Appliance location.** The following is added:

Appliances burning liquefied petroleum gas (LPG) or liquid fuel may be installed in a basement, a pit, an underfloor space, below grade or similar location; provided, however, that each area in which such appliances are located shall be equipped with a listed and approved liquefied petroleum gas or liquid fuel detection alarm (110-Volt with a battery backup, with all detectors in new construction being permanently wired into the electrical system if such permanently wired detectors are reasonably available at a comparable price in Douglas County). Detectors shall sound an alarm audible in all areas of the dwelling unit and be installed per the manufacturer's installation instructions.

13-203.9 **Section G2417.4.1 Fuel Gas Test Pressure.** Amended to read: The test pressure to be used shall be not less than one and one-half time the proposed maximum working pressure, but not less than 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe. [Changed test pressure from 3 psig to 10 psig.]

13-203.10 **Section P2503.5.1. Rough Plumbing.** Amended to read: DWV systems shall be tested on completion of the rough piping installation by water or air with no evidence of leakage. Either test shall be applied to the drainage system in its entirety or in sections after rough piping has been installed, as follows:

1. Water test. Each section shall be filled with water to a point not less than 10 feet (3048mm) above the highest fitting connection in that section, or to the highest point in the completed system. Water shall be held in the section under test for a period of 15minutes. The system shall prove leak free by visual inspection.

2. Air test. The portion under test shall be maintained at a gauge pressure of 5 pounds per square inch (psi) (34kPa) or 10 inches of mercury column (34kPa). This pressure shall be held without introduction of additional air for a period of 15 minutes. [Changed to allow air test on plastic DWV.]

13-203.11 **Section P2603.5.1. Sewer Depth.** Amended to read: Building sewers that connect to private sewage disposal systems shall be not less than 12 inches (304 mm) below finished grade at the point of septic tank connection. Building sewers shall be not less than 12 inches (304 mm) below grade. [Inserted number of inches and millimeters in two locations.]

13-203.12 **Section P3005.4.2. Building drain and sewer size and slope.** Amended to read: Pipe sizes and slope shall be determined from Table P3005.4.2 on the basis of drainage load in fixture units (d.f.u.) computed from Table P3004.1; however no building sewer shall be less than four (4) inches in diameter. [Added minimum sewer size requirement of 4 inches.]

13-203.13 **Section P3113.5 Total Size of Vents.** New Section added read: The drainage piping of each building and each connection to a public sewer or a private sewage disposal system shall be vented by means of one or more vent pipes, the aggregate cross-sectional area of which shall not be less than that of the

largest required building sewer. *Exception*: When connected to a common building sewer, the drainage piping of two buildings located on the same lot and under one ownership may be vented by means of piping sized in accordance with Table P3005.4.2, provided the aggregate cross-sectional area of all vents is not less than that of the largest required common building sewer.

13-203.14 **Section P3114.2. Installation of Air Admittance Valves.** Amended to read: The valves shall only be installed with prior approval from the Zoning & Codes Department, in accordance with the requirements of this section and the manufacturer's installation instructions. Air admittance valves shall be installed after the DWV testing required by Section P2503.5.1 or P2503.5.2 has been performed. [Added requirement to get prior approval for air admittance valves.]

13-203.15 **Section P3114.3. Air Admittance Valves, Where Permitted.** Amended to read: Individual vents, branch vents, circuit vents and stack vents shall be permitted to terminate with a connection to a permitted air admittance valve. Individual and branch type air admittance valves shall vent only fixtures that are on the same floor level and connect to a horizontal branch drain. [Added requirement to get prior approval for air admittance valves.]

13-203.16 **Section P3114.8. Air Admittance Valves, Prohibited Installations.** Amended to read: Air admittance valves without an engineered design shall not be used to vent sumps or tanks of any type and shall not be installed in new construction. Exception: Island fixtures in new construction may be vented by air admittance valves that comply with Section 3114. [Added prohibition to use of non-engineered air admittance valves in new construction and added exception.]

13-203.17 **Section P3201.2. Trap Seals and trap seal protection.** Amended to read: Traps shall have a liquid seal not less than 2 inches (51mm) and not more than 4 inches (102 mm). [Eliminated requirement of trap primers or deep seals on floor drains for residential (still required for commercial).]

13-203.18 **Section E3601.6.2. Service disconnect location.** Amended to read: The service disconnecting means shall be installed at a readily accessible location either outside of the building or structure or inside the building or structure at a point limited to a horizontal distance not to exceed three (3) feet from the point of penetration of the service entrance raceway into the structure. The service entrance conductors shall be protected by a raceway from the point of service to the termination at the service disconnecting means enclosure. Service disconnecting means shall not be installed in bathrooms. Each occupant shall have access to the disconnect servicing the dwelling unit in which they reside. [Added 3' horizontal distance limitation.]

13-203.19 **Section E3604.5 Service masts as supports.** Amended to read: Where a service mast is used for the support of service-drop conductors, it shall be a galvanized rigid conduit with a minimum trade size diameter of two (2) inches and of adequate strength to withstand the strain imposed by the service drop. Where the service mast projects above the roof surface in excess of three (3) feet, the mast shall be supported by braces or guys to withstand safely the strain imposed. Where raceway-type service masts are used, all equipment shall be

approved. Only power service drop conductors shall b permitted to be attached to a service mast. [Added minimum requirement of 2-inch rigid conduit.]

13-203.20 **Section E3609.3 Bonding for Other Systems.** Amended to read: An intersystem bonding termination for connecting intersystem bonding conductors required for other systems shall be provided external to enclosures at the service or metering equipment enclosure and at the disconnecting means for any additional buildings or structures. The intersystem bonding termination shall comply with the following:

1. It shall be accessible for connection and inspection.

2. It shall consist of a set of terminals with the capacity for connection of not less than three intersystem bonding conductors.

3. It shall not interfere with opening the enclosure for a service, building or structure disconnecting means, or metering equipment.

4. Where located at the service equipment, it shall be securely mounted and electrically connected to an enclosure for the service equipment, or shall be mounted at one of these enclosures and connected to the enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.

5. Where located at the disconnection means for a building or structure, it shall be securely mounted and electrically connected to the metallic enclosure for the building or structure disconnecting means, or shall be mounted at the disconnecting means and connected to the metallic enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.

6. It shall be listed as grounding and bonding equipment.

[Deleted allowance in #4 for intersystem bonding on meter or raceway.]

13-203.21 **Section E3611.2. Accessibility.** Amended to read: All mechanical elements used to terminate a grounding electrode conductor or bonding jumper to the grounding electrodes that are not buried or concrete encased shall be accessible. The location of the grounding electrode conductor connection to the grounding electrodes shall be permanently stated on a plaque or directory on the service disconnecting means. [Added requirement that the location of the GEC connection to the grounding electrodes shall be permanently stated on the disconnecting means.]

13-203.22 **Section E3902.12. Arc-fault circuit-interrupter protection.** Amended to read: All branch circuits that supply 120-volt, single-phase, 15- and 20-ampere outlets installed in bedrooms shall be protected by a listed arc-fault circuit interrupter installed to provide protection of the branch circuit.

Exceptions:

1. Where a listed AFCI is installed at the first outlet to provide protection for the remaining portion of the branch circuit, the portion of the branch circuit between the branch-circuit over-current device and such outlet shall be wired with metal outlet and junction boxes and RMC, IMC, EMT or steel armored cable, Type AC meeting the requirements of Section E3908.8.

2. AFCI protection is not required for a branch circuit supplying only a fire alarm system where the branch circuit is wired with metal outlet and junction boxes and RMC, IMC, EMT, or steel armored cable Type AC meeting the requirements of Section E3908.8.
[Not all circuits need be arc faulted, just the bedrooms.]

13-203.23 **Section E4002.14. Tamper-resistant receptacles.** Amended to read: In areas specified in Section E 3901.1, 125-volt, 15- and 20-ampere receptacles may be listed tamper-resistant receptacles. [Used "may" rather than "shall".] [HR-12-9-3]

13-204 **SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Residential Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. [HR-12-9-3]

13-205 **EXISTING RIGHTS OR VIOLATIONS.** Nothing in this Article or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Residential Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this. [HR-12-9-3]

ARTICLE 3. BUILDING CODE

13-301 **ADOPTION OF INTERNATIONAL BUILDING CODE.** The International Building Code, 2012 Edition, including the following Appendix Chapters:

Appendix G Flood-Resistant Construction

as published by the International Code Council, be and is hereby adopted as the "Building Code" of the Douglas County, Kansas, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Building Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Building Code."

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies. [HR-12-9-3]

13-302 **COPIES**. Not less than one copy of the International Building Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Building Code" shall mean the International Building Code, 2012 Edition, as adopted and amended herein. [HR-12-9-3]

13-303 **AMENDMENTS TO BUILDING CODE**. The International Building Code, 2012 Edition is amended or supplemented as provided below.

13-303.1 Chapter 1 of the Building Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-303.2 **Section 1612.3. Establishment of flood hazard areas.** The title and date of the flood insurance study referred to and incorporated by reference in Section 1612.3 is The Flood Insurance Study for the Unincorporated Territory of Douglas County, Kansas, dated August 5, 2010.

13-303.3 **Section 3412.2. Applicability.** The applicability date in Section 3412.2 is January 1, 2013. [HR-12-9-3]

13-304 **Section 4. SEVERABILITY**. If any section, subsection, sentence, clause or phrase in this Article or in the Building Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. [HR-12-9-3]

13-305 **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Building Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation. [HR-12-9-3]

ARTICLE 4. PLUMBING CODE

13-401 **ADOPTION OF INTERNATIONAL PLUMBING CODE.** The International Plumbing Code, 2012 Edition, including the following Appendix Chapters:

Appendix E Sizing of Water Piping System
Appendix F Structural Safety

as published by the International Code Council, be and is hereby adopted as the "Plumbing Code" of the Douglas County, Kansas, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Plumbing Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Plumbing Code."

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies. [HR-12-9-3]

13-402 **COPIES**. Not less than one copy of the International Plumbing Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Plumbing Code" shall mean the International Plumbing Code, 2012 Edition, as adopted and amended herein. [HR-12-9-3]

13-403 **AMENDMENTS TO PLUMBING CODE**. The International Plumbing Code, 2012 Edition is amended or supplemented as provided below.

13-403.1 Chapter 1 of the Plumbing Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-403.1 **Section 305.4.1. Sewer Depth.** Amended to read: The minimum building sewer depth is inserted in Section 305.4.1 as (i) 12 inches (304 mm) below finished grade at the point of septic tank connection; and (ii) 12 inches (304 mm) below grade for other building sewers. [Inserted number of inches and millimeters in two locations.]

13-403.2 **Section 312.3. Drainage and vent air test.** The first sentence of Section 312.3, prohibiting use of air for testing plastic piping, is deleted. The remainder of the Section remains as written.

13-403.3 **Section 312.5. Water supply system test.** Amended to read: Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than the working pressure of the system; or by an air test of not less than 50 psi (344 kPa). This pressure test shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107. [Added provision permitting testing of plastic water pipes with air.]

13-403.4 **Section 710.1. Maximum fixture unit load.** Amended to read: The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1); however no building sewer shall be less than four (4) inches in diameter. The maximum number of drainage fixture units connected to a given size of horizontal branch or vertical soil or waste stack shall be determined using table 710.1(2). [Added minimum sewer size requirement of 4 inches.]

13-403.5 **Section 903.1. Roof extension.** The standard minimum vent pipe roof extension is inserted in Section 903.1 as six (6) inches (152mm) above the roof. [HR-12-9-3]

13-404 **SEVERABILITY**. If any section, subsection, sentence, clause or phrase in this Article or in the Plumbing Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. [HR-12-9-3]

13-405 **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Plumbing Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Plumbing Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation. [HR-12-9-3]

ARTICLE 5. MECHANICAL CODE

13-501 **ADOPTION OF INTERNATIONAL MECHANICAL CODE.** The International Mechanical Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of Douglas County, Kansas, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and

collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Mechanical Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Mechanical Code."

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies. [HR-12-9-3]

13-502 **COPIES**. Not less than one copy of the International Mechanical Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Residential Code" shall mean the International Mechanical Code, 2012 Edition, as adopted and amended herein. [HR-12-9-3]

13-503 **AMENDMENTS TO MECHANICAL CODE**. The International Mechanical Code, 2012 Edition is amended or supplemented as provided below.

13-503.1 Chapter 1 of the Mechanical Code is deleted and replaced with the provisions of Article 1 of this Chapter 13. [HR-12-9-3]

13-504 **SEVERABILITY**. If any section, subsection, sentence, clause or phrase in this Article or in the Mechanical Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. [HR-12-9-3]

13-505 **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Mechanical Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Mechanical Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation. [HR-12-9-3]

ARTICLE 6. FUEL GAS CODE

13-601 **ADOPTION OF INTERNATIONAL FUEL GAS CODE.** The International Fuel Gas Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of Douglas County, Kansas, regulating and governing fuel gas systems and gas-fired appliances in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code are hereby

referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Fuel Gas Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Fuel Gas Code."

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies. [HR-12-9-3]

13-602 **COPIES**. Not less than one copy of the International Fuel Gas Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Residential Code" shall mean the International Fuel Gas Code, 2012 Edition, as adopted and amended herein. [HR-12-9-3]

13-603 **AMENDMENTS TO FUEL GAS CODE**. The International Fuel Gas Code, 2012 Edition is amended or supplemented as provided below.

13-603.1 Chapter 1 of the Fuel Gas Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-603.2 **Section 406.4.1. Fuel Gas Test Pressure.** Section 406.4.1 is amended so that the minimum test pressure in is increased from 3 psig (20 kPa gauge) to 10 psig (69 kPa gauge). [HR-12-9-3]

13-604 **SEVERABILITY**. If any section, subsection, sentence, clause or phrase in this Article or in the Fuel Gas Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. [HR-12-9-3]

13-605 **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Fuel Gas Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Fuel Gas Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation. [HR-12-9-3]

ARTICLE 7. ELECTRICAL CODE

13-701 **ADOPTION OF NATIONAL ELECTRIC CODE.** The National Electric Code, 2011 Edition, NFPA 70, including the following Appendix Chapters, as published by the National Fire Protection Association, be and is hereby adopted as the "Electric Code" of the Douglas County, Kansas, regulating and governing electrical systems and appliances in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Electric Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Electric Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Electric Code."

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies. [HR-12-9-3]

13-702 **COPIES**. Not less than one copy of the National Electric Code, 2011 Edition, NFPA 70, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Electric Code" shall mean the National Electric Code, 2011 Edition, NFPA 70, as adopted and amended herein. [HR-12-9-3]

13-703 **AMENDMENTS TO ELECTRIC CODE**. The National Electric Code, 2011 Edition, NFPA 70 is amended or supplemented as provided below.

13-703.1 **Section 230.28 Service Masts as Supports.** Amended to read: Where a service mast is used for the support of service-drop conductors, it shall be a galvanized rigid conduit with a minimum trade size diameter of two (2) inches and of adequate strength to withstand the strain imposed by the service drop. Where the service mast projects above the roof surface in excess of three (3) feet, the mast shall be supported by braces or guys to withstand safely the strain imposed. Where raceway-type service masts are used, all equipment shall be approved. Only power service drop conductors shall b permitted to be attached to a service mast. [Added minimum requirement of 2-inch rigid conduit.]

13-703.2 **Section 230.70(A) (1) Readily Accessible Location.** Amended to read: The service disconnecting means shall be installed at a readily accessible location either outside of the building or structure or inside the building or structure at a point limited to a horizontal distance not to exceed three (3) feet from the point of penetration of the service entrance raceway into the structure. The service entrance conductors shall be protected by a raceway from the point of service to the termination at the service disconnecting means enclosure. [Added 3' horizontal distance limitation.]

13-703.3 **Section 250.94 Bonding for Other Systems.** Amended to read: An intersystem bonding termination for connecting intersystem bonding conductors required for other systems shall be provided external to enclosures at the service or metering equipment enclosure and at the disconnecting means for any additional buildings or structures. The intersystem bonding termination shall comply with the following:

1. Be accessible for connection and inspection.

2. Consist of a set of terminals with the capacity for connection of not less than three intersystem bonding conductors.

3. Not interfere with opening the enclosure for a service, building or structure disconnecting means, or metering equipment.

4. At the service equipment, be securely mounted and electrically connected to an enclosure for the service equipment, or be mounted at one of these enclosures and be connected to the enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.

5. At the disconnecting means for a building or structure, be securely mounted and electrically connected to the metallic enclosure for the building or structure disconnecting means, or be mounted at the disconnecting means or be connected to the metallic enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.

6. The terminals shall be listed as grounding and bonding equipment. [Deleted allowance in #4 for intersystem bonding on meter or raceway.] [HR-12-9-3]

13-704 **Section 4. SEVERABILITY**. If any section, subsection, sentence, clause or phrase in this Article or in the Electric Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid. [HR-12-9-3]

13-705 **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Electric Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Electric Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation. [HR-12-9-3]

CHAPTER 14. DOUGLAS COUNTY HERITAGE CONSERVATION PLAN

Article 1. General Provisions
Article 2. Heritage Conservation Council
Article 3. Surveys and Inventory
Article 4. Landmark and Historic District Regulations
Article 5. Reserved
Article 6. Reserved
Article 7. Public hearings
Article 8. Property Owned By Public Agencies
Article 9. Historic Resource Administrator
Article 10. Incentives and Easements
Article 11. Fees
Article 12. Minimum Maintenance Requirement
Article 13. Civil Action

ARTICLE 1. GENERAL PROVISIONS

14-101 **TITLE.** This Chapter, as amended, shall be known as the Douglas County, Kansas Heritage Conservation Plan, and is referred to herein interchangeably as this "Heritage Conservation Plan" and this "Plan". (HR-13-11-4)

14-102 **ESTABLISHMENT OF HERITAGE CONSERVATION COUNCIL AND STATEMENT OF PURPOSE.** Pursuant to Douglas County Resolution No. 11-19, the Douglas County Commission established and the County Commission hereby affirms the establishment of the Douglas County Heritage Conservation Council, hereinafter referred to as the Council, and the Douglas County Commission hereby modifies Resolution No. 11-19 to amend the Council's authority and responsibilities as set forth herein. If any conflict exists between this Heritage Conservation Plan and Resolution No. 11-19, the provisions of this Plan shall prevail. The purposes of this Heritage Conservation Plan are to:

(A) Ensure the conservation of the County's natural and cultural resources.

(B) Identify, conserve and promote the County's natural resources, prehistoric, historic and cultural heritage through an ongoing surveys and studies of natural and cultural heritage resources.

(C) Implement the strategies and goals contained in Chapter 11 of Horizon 2020 (the County's Comprehensive Plan) for the protection, development and utilization of historic resources.

(D) Foster civic pride and promote tourism, particularly as related to the natural resources, pre-settlement history, settlement history, and the themes encompassed in Freedom's Frontier National Heritage Area.

(E) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 *et seq*., as amended.

(F) Support education programs to increase public awareness of and support

for the County's historic environment.
[HR-13-11-4)

14-103 **APPLICATION.** The Heritage Conservation Plan is designed to be used in the unincorporated territory of Douglas County, Kansas and is to be used in conjunction with any existing zoning regulations. (HR-13-11-4)

14-104 **DEFINITIONS.** For the purpose of implementation of this Heritage Conservation Plan, certain words or terms are hereby defined. Unless specifically defined below, words or terms in this Plan shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Plan its most reasonable application. Words in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word shall is mandatory and not directory. The following words or terms shall be used as defined below in the administration of this Heritage Conservation Plan. For further clarification of commonly used historic conservation terms, refer to the Kansas Historic Preservation Act (K.S.A. 75-2715 et seq.); Kansas Administrative Regulations 118-1-1 *et seq*.; Standards and Guidelines for Evaluating the Effect of Project on Environs (1998), Kansas State Historical Society; The National Historic Preservation Act of 1966 and amendments thereto; the National Register Bulletin #16: Guidelines for Completing National Register of Historic Places Forms, NPS; National Register Bulletin #24: Guidelines for Local Surveys: A Basis for Preservation Planning, NPS; Local Historic Resources Survey Manual, Kansas Historic Preservation Department; Harris, Cyril M., Dictionary of Architecture and Construction, McGraw-Hill, New York 1975.

(A) Accessory Structure - A subordinate structure or portion of the main structure, located on the same property and the use of which is clearly incidental to that of the main structure or to the use of the property on which it is located. Customary accessory structures include, but are not limited to, garages, carports, garden houses, small storage sheds, and children's playhouses.

(B) Adaptive Use

(1) The process of changing the use of a structure or property to a use other than that for which the structure or property was originally designed.

(2) A use for a structure or property other than the use for which it was originally designed. (Sometimes called adaptive reuse.)

(C) Adjacent - A structure or parcel having a common parcel boundary with or located immediately next to a structure or parcel.

(D) Administrator - The designated individual assigned by Douglas County to administer, interpret and enforce this Plan.

(E) Archeological Site - (See Site).

(F) Area - Properties, near to or adjacent to one another, capable of being described with such definiteness that their collective location may be established and boundaries definitely ascertained.

(G) Building - A structure, such as a house, barn, church, hotel, courthouse, city hall, social hall, commercial structure, library, factory, mill, train depot, theater, school, store or similar construction, created to shelter any form of human activity. The term may also refer to a small group of buildings consisting of a main building and subsidiary buildings which constitute an historically and functionally related unit such as a courthouse and jail, house and barn, mansion and carriage house, church and rectory, and farmhouse and related outbuildings.

(H) Certified Local Government (CLG) - A program of the National Park Service designed to promote the preservation of prehistoric and historic sites, structures, objects, buildings, and historic districts by establishing a partnership between the local government, the historic preservation department, a division of the Kansas State Historical Society, and the National Park Service. A certified local government carries out the purposes of the National Historic Preservation Act, as amended. Each certified local government is required to maintain a system of ongoing surveys compatible with the Kansas Historic Preservation Department process.

(I) Conservation (See Historic Preservation).

(J) Code Enforcement – the local regulation of building practices and enforcement of safety and housing code provisions, a principal tool to ensure neighborhood upkeep.

(K) Community Development Block Grant (CDBG) – A federal funding program that provides annual funding to eligible local governments for housing and community revitalization and development programs and for social services, particularly in low- and moderate-income areas.

(L) Comprehensive Plan – A document guiding the future growth and development of a specified geographic area and/or governmental entity. It provides a vision and direction for the governing body and a cohesive framework for decision-making.

(M) Context - A conceptual framework for determining the significant patterns that individual properties represent consisting of components that surround a resource and determine its meaning more clearly.

(N) Contributing (or Contributory) - A significant building, site, structure, or object which adds to the architectural qualities, historic association, or archeological values of an historic district because:

(1) It was present during the pertinent historic time; or

(2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period.

(O) County - The governmental unit named Douglas County, Kansas.

(P) County Commission - The Governing Body of Douglas County, Kansas.

(Q) County Limits - The established governmental boundary of Douglas County, Kansas.

(R) Council - The Douglas County Heritage Conservation Council.

(S) Council Members - Members of the Heritage Conservation Council, unless otherwise indicated.

(T) Demolition - Any act or process that destroys in part or in whole a landmark or a structure within an historic district.

(U) Demolition by Neglect – The destruction of a building through abandonment or lack of maintenance or an act or process that threatens to destroy a building, structure, or object of a site by failure to maintain it in a condition of good repair and maintenance.

(V) Design Guideline - A standard of appropriate activity that guides rehabilitation and new construction efforts that preserve and enhance this historic, architectural, scenic or aesthetic character of an area.

(W) Designation – Official recognition of an historic landmark or historic district by the Council and the County Commission according to the procedures and provisions in this Heritage Conservation Plan.

(X) Developer - Any person who:

(1) Causes real property to be used for development;

(2) Sells, leases or develops; offers to sell, lease, or develop; or advertises for sale, lease or development any lot, plot, parcel, site, unit of interest, or structure for development; or

(3) Engages directly or through an agent in the business or occupation of selling, leasing, developing, or offering for sale, lease or development, any lot, plot, parcel, site, unit of interest, or structure for development.

(Y) Development - A subdivision; the construction or reconstruction of streets and utilities, the construction, expansion or remodeling of structures; a change in the use of a structure or parcel, or the clearing of land.

(Z) District - (See Historic District).
[HR-13-11-4)

14-105 DEFINITIONS, CONTINUED.

(A) Douglas County Register - The current Douglas County Register of Historic Places as prepared, approved and amended by the Heritage Conservation Council and authorized by resolution.

(B) Easement – A less-than-fee interest in real property acquired through donation or purchase and carried as a deed restriction or covenant to protect important open spaces, building facades, and interiors.

(C) Eminent Domain – The power of government to acquire private property for public benefit after payment of just compensation to the owners.

(D) Endangered Resource - A resource under a known or anticipated threat of damage to the integrity or existence of the resource, such as:

(1) Immediate threat which will result in loss of or collapse of structure;

(2) Immediate threat or destruction by private action; and

(3) Condemnation for code violations. (Sometimes referred to as threatened resource.)

(E) Environs – Environment surrounding a historic landmark or within a district.

(F) Exterior Architectural Appearance - The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

(G) Fabric – The physical material of a building, structure, or community connoting an interweaving of component parts.

(H) Facade - The exterior face of a building which is the architectural front, sometimes distinguished by elaboration or architectural or ornamental details.

(I) Green Space – Land not available for construction and designated for conservation, preservation, recreation or landscaping.

(J) Historic District - An area designated as an historic district by the Heritage Conservation Council, pursuant to procedures prescribed herein, and which may contain within definable geographic boundaries one or more significant sites, structures or objects and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the significant sites, structures or objects located within the historic district.

(K) Historic Preservation - The study, identification, protection, restoration and rehabilitation of natural resources, buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of the county, state or nation.

(L) Historic Resources – Historic buildings, structures, objects, districts, areas, sites and archeological sites.

(M) Historically or Architecturally Significant - Possessing that quality present in an area, site, structure, object or district because of:

(1) Its character, interest, or value as part of the development, heritage or cultural characteristics of the community, county, state, or nation;

(2) Its location as a site of a significant local, county, state, or national event;

(3) Its identification with a person or persons who significantly contributed to the development of the community, county, state, or nation;

(4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;

(5) Its identification as a work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or nation;

(6) Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

(7) Its embodiment of design elements that make it structurally or architecturally innovative;

(8) Its unique location or singular physical characteristics that make it an established or familiar visual feature;

(9) Its character as a particularly fine or unique example of a utilitarian structure; including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

(N) Kansas Register - The current Register of Historic Kansas Places as prepared, approved and amended by the Kansas Historic Sites Board of Review and authorized by K.S.A. 75-2715 *et seq*.

(O) Key Contributing (Contributory) - A building, site, structure, or object of such an outstanding quality and state of conservation that it significantly adds to the architectural qualities, historic association, or archeological values of an historic district because:

(1) It was present during the pertinent historic time;

(2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period; and,

(3) It independently meets the standards and criteria of this Plan.

(P) Land Surface - The solid part of the exterior of the earth.

(Q) Landmark - A site, structure or object designated as a landmark by the Heritage Conservation Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the County.

(R) Landscape – Natural or made-made features, including, but not limited to farmland, and natural resources changed for human purposes.

(S) Landscape Feature - Any element or component of outdoor open space including, but not limited to, fences, walls, retaining walls, gates, wells, sidewalks, walkways, driveways, parking lots, patios, terraces, decks, ground cover, trees, plants, outdoor furniture, exterior light standards, fountains, statuary, detached signs and other such elements.

(T) Marker - A sign used to label or identify a designated landmark or historic district as an architecturally significant property.

(U) National Register - The current National Register of Historic Places established by passage of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 *et seq*., as amended.

(V) Natural Resources – Prairies, woodlands, waterways, habitats, wildlife corridors, open spaces, riparian areas, forest and environmentally sensitive areas, i.e., those areas which contain overlapping natural features such as steep slopes, woodlands, natural prairies, wetlands, hydric soils, lakes, streams and prominent ridgelines.

(W) Noncontributing (or noncontributory) - A building, site, structure, or object that does not add to the architectural qualities, historic association, or archeological values of a landmark or historic district because:

(1) It was not present during the pertinent time; or

(2) Due to alterations, disturbances, additions, or other changes, it no longer possesses integrity nor reflects its significant historic character or is incapable of yielding important information about the pertinent historic period.

(X) Normal Maintenance and Repair - Any improvement or work for which a building permit is not required by county resolution or city ordinance, designed to

correct deterioration, decay or damage and restore, as may be practical, a structure or property to the condition that existed prior to the deterioration, decay or damage.

(Y) Nuisances - Physical conditions (affecting land, water, groundwater, the air, noise levels, or other elements of the environment) that endanger human health or safety, injure persons or property, or constitute a clear danger to property.

(Z) Object - Those physical items that have functional, aesthetic, cultural, historical or scientific value and are relatively small in scale and simply constructed. While an object may be, by nature or design, movable, it should be located in a specific setting or environment appropriate to its significant historic use, role or character. Objects include, but are not limited to, sculptures, monuments, street signs, fence posts, hitching posts, mileposts, boundary markers, statuary, and fountains.
(HR-13-11-4)

14-106 DEFINITIONS, CONTINUED.

(A) Owner(s) of Record - Those individuals, partnerships, firms, corporations, public agencies, or any other legal entity holding title to property but not including legal entities holding mere easements or leasehold interests. (May also be referred to as property owner(s).) Current owner(s) of record are those listed as owners on the records of the register of deeds.

(B) Period - A chronological division identified in the analysis of the historical development to an area or region (i.e., Victorian, Modern).

(C) Person - Any individual, firm, association, organization, partnership, business, trust, corporation, or company.

(D) Preservation - (See Historic Preservation).

(E) Preservation Easement - (See Easement).

(F) Project - Activities involving the issuance of a lease, permit, license, certificate or other entitlements for use, to any party by the County.

(G) Property - An area of land, undivided by any street, alley, railroad, stream, or similar physical feature, under common ownership or control, which is or will be occupied by one structure or land use, and any accessory structures and uses. A property could be made up of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof. The term shall include landscape features.

(H) Protection - The application of measures to defend, guard, cover or shield a building, site, structure, or object from deterioration, loss, attack, danger, or injury. In the case of buildings, structures or objects such measures generally are of a temporary nature and usually precede preservation measures. In the case of archeological sites, the protective measures may be temporary or permanent.

(I) Reconstruction/Reconstruct - The reproduction of the exact form and detail of a vanished building, site, structure or object or a part thereof, as it appeared at a pertinent time using both original and modern materials and based on precise historical documentation and physical evidence.

(J) Register - (See Douglas County Register.)

(K) Rehabilitation/Rehabilitate - The act of returning a building, site, structure or object to a useful state through its repair and/or alteration while retaining the characteristic features of the property which are significant to its historical and architectural value.

(L) Remodeling - Modification and modernization of a structure or property without striving to return to or replicate the original historical and architectural character of the structure or property.

(M) Removal - Any relocation of a structure in whole or in part on its site or to another site.

(N) Repair - Any change to a structure or object that is not construction, removal or alteration.

(O) Resource - Any building, site, structure, object or area that constitutes a source of present and future usefulness.

(P) Restoration/Restore - The act of accurately recovering the form and details, based on precise historical documentation and physical evidence, of a building, site, structure or object as it appeared at a pertinent time including the removal of improvements that are not appropriate and the replacement of missing or deteriorated features.

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

(R) Sign - Any surface, fabric, device or display designed to visually convey information to the general public.

(S) Significant - (See Historically or Architecturally Significant).

(T) Site - The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value regardless of the value of any existing structure. Examples of sites include habitation sites, burial sites, village sites, hunting and fishing sites, ceremonial sites, battlefields, ruins of historic buildings and structures, campsites, designed landscapes, natural features, springs, and landscapes having cultural significance.

(U) Stabilization - Taking measures to return an unsafe or deteriorated building, site, structure or object to a safe and secure condition while maintaining the existing form and detail of the building, site, structure or object.

(V) Street - A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.

(W) Structure - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing: buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

(X) Studies – In-depth efforts to understand the history of Douglas County through surveys of buildings and natural resources with additional research into the stories of residents and communities with the County.

(Y) Style - The specific identifying characteristics of a building both as it appears to the eye and as it is known to exist in design and structure.

(Z) Survey - An architectural and historical examination of historic resources to identify historic properties within an area.
[HR-13-11-4)

14-107 DEFINITIONS, CONTINUED

(A) Threatened Resource - (See Endangered Resource).

(B) Use - The specific purpose for which a structure or property is utilized.

(C) Utilitarian Structure - A category of structures intended primarily to serve a utilitarian or useful function rather than for beauty. Utilitarian structures may include, but are not limited to, structures used for agriculture, transportation and industry and certain moderate residential buildings.
(HR-13-11-4)

ARTICLE 2. HERITAGE CONSERVATION COUNCIL

14-201 MEMBERSHIP. The Heritage Conservation Council shall consist of seven (7) members who are Douglas County residents, and who demonstrate an interest in historic preservation and conservation of the County's natural and cultural heritage. Efforts should be made to balance the representation of all communities and unincorporated areas in the County. All members will be appointed and approved by the Douglas County Commission. Three (3) members shall be a diversity of preservation-related professionals, as defined by the National Park Service and recognized by the relevant standards of their respective profession, such as architect, architectural historian, archeologist, historian, landscape architect, and planner. The remaining four (4) members shall be a diversity of either professionals or lay persons with interest infields closely related to agriculture, tourism, unique and significant lands, ecology, geography, natural science, economic development, history or environment. At least one (1) preservation professional shall be on each subcommittee of the Council. The requirement of preservation-related professionals may

be waived if Douglas County can provide acceptable written documentation to the Historic Preservation Office that it has made a reasonable effort to fill those positions. [HR-13-11-4)

14-202 **TERMS OF OFFICE.** Appointments to the Heritage Conservation Council shall be for three (3) years, excepting the first Council which shall consist of two (2) members serving for one (1) year, two (2) members serving for two (2) years, and three (3) members serving for three (3) years. A member may not serve more than two (2) full consecutive terms. The County Commission shall fill vacancies within sixty (60) days. Vacancies shall be filled for the unexpired term only. (HR-13-11-4)

14-203 **OFFICERS.** Officers shall consist of a Chair and Vice-Chair elected by the members of the Council who shall each serve a term of one year and shall be eligible for re-election; but no member shall serve as Chair for more than two consecutive years. The Chair shall preside over meetings. In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair. If both are absent, a Temporary Chair shall be elected by those present. [HR-13-11-4)

14-204 **MEETINGS; QUORUM; VOTING; MINUTES.**

(A) A quorum shall consist of a majority of the members. Decisions or actions of the Council shall be made using the consensus decision making rule, or by a majority vote if consensus cannot be reached. Meetings shall be held at the discretion of the Council, with at least two of the meetings at the beginning of each calendar year; additional meetings shall be on the call of the Chair. No member of the Council shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No member of the Council may vote by proxy. Final decisions regarding property will be made by the County Commission. The Chair, and in his or her absence the Acting Chair, may request the attendance of witnesses.

(B) All meetings of the Heritage Conservation Council shall be open to the public. The Council shall keep records of its examinations and other official actions, all of which shall be filed in the office of the County Planning Department, and with the State Historic Preservation Office at the same time distributed to the members, and shall be a public record.
(HR-13-11-4)

14-205 **POWERS & DUTIES.**

(A) All of the powers and duties enumerated herein are subject to the approval, denial, or modification by the County Commission. All quasi-judicial decisions made by the County Commission are subject to appeal to the District Court, pursuant to K.S.A. 19-223. Further, all funds necessary to carry out the purpose of this Plan shall be approved and appropriated only by the County Commission.

(B) In addition to other responsibilities, the Heritage Conservation Council shall:

(1) Adopt its own bylaws and other procedural regulations, to be

made available to the public, subject to the laws of the State of Kansas and Douglas County, which shall include attendance requirements and cover potential conflicts of interests;

(2) Keep a register of all properties, lands, and structures that have been designated as landmarks or historic districts, including all information required for each designation;

(3) Administer and preside over all aspects of the Natural & Cultural Heritage Grant Program. This includes evaluating and recommending to the County Commission which projects shall receive funding;

(a) Final recommendations and decisions by the council are subject to an appeal process before the County Commission;

(4) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 *et seq*., as amended and comply with the provisions of the National Historic Preservation Act of 1966, including the provisions protecting access to sensitive areas contained at 16 U.S. C. 470w-3(b), and the corresponding state law provisions contained in the Open Records Act, K.S.A. 45-215, *et seq*., as amended;

(5) Comply with all requirements of the State Historic Preservation Officer to maintain its status as a Certified Local Government;

(6) Make recommendations regarding any National Register nominations upon request of the State Historic Preservation Officer;

(7) Investigate and recommend to the County Commission the adoption of County resolutions designating sites, structures, land, and objects having special historical, natural, community, or architectural value as landmarks to the Douglas County Register of Historic Places;

(8) Investigate and recommend to the County Commission the adoption of resolutions designating areas having special historic, community, agricultural, natural, or architectural value as historic districts to the Douglas County Register of Historic Places; and

(9) Review this Heritage Conservation Plan at least every two (2) years and make a report containing the following:

(a) An assessment of progress in preserving the architecturally, historically, and naturally important resources of the County;

(b) An analysis of numbers, types, locations, and dispositions of applications for designation and certificates of appropriateness, appeals, and variances as provided for in this Plan;

(c) An assessment of the progress and performance in educating the citizenry about the value of heritage preservation; and

(d) An analysis of the validity of this Heritage Conservation Plan and recommendations for changes.

(C) In addition to other responsibilities, the Heritage Conservation Council may:

(1) Conduct ongoing studies of natural and cultural heritage resources, including but not limited to historically and architecturally significant properties and lands, structures, and areas that exemplify the cultural, social, economic, political, agricultural, environment, or architectural history of the nation, region, state, or county;

(2) Determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or heritage district to another;

(3) Advise and assist owners of properties or structures within the County on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the Douglas County, Kansas and National Registers of Historic Places;

(4) Review and comment on any Kansas and National Register nominations submitted to the Council upon request of the County Commission and/or the State Historic Preservation Officer;

(5) Inform and educate the citizens of the County concerning the historic, natural, and architectural heritage of the County by producing maps, newsletters, brochures, pamphlets, books, and/or other appropriate materials, and hold public programs at least twice a year available, and free of charge, to the general public;

(6) Review and comment upon proposed zoning amendments, applications for special use permits, applications for zoning variances, or subdivision applications that affect proposed or designated landmarks and heritage districts. The Director of Planning or the Director of Zoning & Codes, depending upon who is responsible for scheduling the hearing, shall cause copies of all applications for zoning amendments, subdivision approvals, and variances for sites designated as landmarks or within the area of a designated heritage district, to be sent to the Council no less than ten (10) days prior to the date of the hearing by the Lawrence-Douglas County Planning Commission or the Board of Zoning Appeals;

(7) Administer on behalf of the County any full or partial property interest in real property, including easements, that the County may have or accept as a gift or otherwise, upon acceptance of the interest in real

property and authorization and approval of such administration by the County Commission;

(8) Seek, accept, and administer on behalf of the County such gifts, grants, and money as may be appropriate for the purposes of this Plan. Such money may be expended for publishing maps and brochures or for hiring a staff person(s) or consultants or performing other appropriate functions for the purpose of carrying out the duties and powers of the Council;

(9) Call upon available County staff members, citizens and other experts for technical advice;

(10) Recommend retaining such specialists or consultants or recommend the appointment of such *ad hoc* citizen advisory committees as may be required or helpful from time to time;

(11) Testify before all boards and commissions, including the Lawrence-Douglas County Planning Commission and Board of Zoning Appeals, on any matter affecting historic, natural, and architecturally significant property, structures, and areas;

(12) Confer recognition upon the owners of landmarks, property or structures within heritage districts by means of certificates, plaques or markers;

(13) Periodically review the County's Zoning Regulations and Subdivision Regulations and recommend to the Lawrence-Douglas County Planning Commission and the County Commission any amendments appropriate for the protection and continued use of landmarks or property and structures within heritage districts;

(14) Attend a heritage preservation-related workshop each year with the aid of County funds, if available; and

(15) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or implementation of the purpose of the Heritage Conservation Council.

[HR-13-11-4)

ARTICLE 3. SURVEYS AND INVENTORY

14-301 **SURVEYS.** The Council shall conduct ongoing County-wide surveys of natural and cultural heritage resources, including but not limited to historically and architecturally significant properties and lands, structures, sites and areas that exemplify the cultural, social, economic, political, agricultural, environmental, or architectural history of the nation, region, state or county. All properties surveyed shall be inventoried in a form compatible with the current Kansas Historic Resources Inventory Form and with the State comprehensive historic preservation planning process. All inventory material shall be available to the public and kept up-to-date. (HR-13-11-4)

ARTICLE 4. LANDMARK AND HISTORIC DISTRICT REGULATIONS

14-401 DOUGLAS COUNTY REGISTER OF HISTORIC PLACES.

(A) There is hereby established a Douglas County Register of Historic Places, which shall include:

(1) A description of all buildings, structures, sites, landscapes and objects designated as landmarks.

(2) A description of the boundaries of each area designated as an historic district.

(3) The boundaries of landmarks and historic districts shall be recorded on the zoning map of the County. A current copy of the Douglas County Register of Historic Places shall be kept on file in the office of the planning administrator.

(B) Landmarks may include, but are not limited to, any:

(1) Exterior of a structure;

(2) Landscape feature or object.

(C) Historic district may include, but are not limited to, two (2) or more structures and/or properties. Individual buildings, sites, structures and objects within designated historic districts shall be classified as key contributing, contributing or noncontributing.

(D) The Register shall be maintained by the Council as an Appendix to this Plan as if fully set out herein.

(E) Maps of each historic district shall be prepared by the applicants, and approved by the Council, identifying each building, site, structure and object with respective classification, and provided to property owners within the district, and filed with the Register of Deeds of Douglas County, Kansas.

(F) Designation to the Douglas County Register of Historic Places will be made by the Douglas County Commission, on recommendation of the Council. [HR-13-11-4)

14-402 NOMINATION OF LANDMARKS AND HISTORIC DISTRICTS.

(A) Nominations may be made only by application in the form approved by the Heritage Conservation Council. Application for nomination of a site, structure or object for designation as a landmark or of an area for designation as an historic district may be made by the consent of the owner(s) of record of the nominated property or structure; or in the case of an historic district, by the unanimous consent of the owners of record of property in a proposed historic district.

(B) The application shall contain, at the least:

(1) The legal description and addresses of the pertinent structures

and/or properties and a description of the environs thereof; and

(2) A statement of historic significance of the nominated property, using the criteria for designation, listed below.

(HR-13-11-4)

14-403 CRITERIA FOR DESIGNATION.

(A) The Heritage Conservation Council shall, upon such investigation as it deems necessary, make a determination as to whether a nominated site, structure, object or area possesses significant historical, archeological and/or architectural qualities and thus qualifies for designation pursuant to one (1) or more of the following criteria:

(1) Its character, interest or value as part of the development, heritage or cultural characteristics of the community, county, state or nation;

(2) Its location as a site of a significant local, county, state or national event;

(3) Its identification with a person or persons who significantly contributed to the development of the community, county, state or nation;

(4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period type, method of construction or use of indigenous materials;

(5) Its identification as a work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, county, state or nation;

(6) Its embodiment of elements of design, detailing, materials or craftsmanship that render it architecturally significant;

(7) Its embodiment of design elements that make it structurally or architecturally innovative;

(8) Its unique location or singular physical characteristics that make it an established or familiar visual feature;

(9) Its character as a particularly fine or unique example of a utilitarian structure; including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

(10) Its significance as a site of prehistoric or historic occupation or activity possessing significant archeological value; and

(11) Its character, interest, or value as a cultural or natural resource.

(B) Any site, structure, object or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials, feeling, association and setting to make it worthy of preservation or restoration.

[HR-13-11-4)

14-404 DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

14-404.1 Same; Procedures After Application Submission.

Upon receipt of an application nominating a site, structure or object for designation as a landmark, or nominating an area for designation as an historic district, the following procedures shall apply:

(A) The Administrator shall set the date of a public hearing before the Council concerning the application. The hearing shall be held within sixty (60) days following receipt of a completed application. The hearing may be held during a regular meeting of the Council or during a special meeting of the Council called in part for that purpose, and may be continued for good cause shown.

(B) The Administrator shall publish a notice of the public hearing in the official County newspaper, as required. The notice shall specify the time and place of the hearing, the subject matter of the hearing, and invite all interested persons to appear and be heard.

(C) Within ten (10) days after publication of the public notice, the Administrator shall cause a copy of the public notice to be served as follows:

(1) By first class mail to all record owners of property within an owner-nominated landmark or historic district;

(2) By first class mail, hand delivery, or e-mail to the Lawrence-Douglas County Metropolitan Planning Commission and all organizations that have submitted a written request to the Administrator within the last year to receive such notices.

(D) The Administrator shall prepare a staff report in conjunction with Lawrence-Douglas County Metropolitan Planning Commission (Planning Commission). The staff report shall be completed and available to the public at the office of the Planning Commission at least seven (7) days prior to the public hearing before the Council. The staff report shall contain a legal description of the proposed landmark or historic district, public hearing date and location, name(s) of the applicant and owner(s), requested action, history summary, architectural integrity summary, context description, planning and zoning considerations, positive or negative effects of the designation, fiscal comments, summary of applicable designation criteria, and any other information deemed pertinent by the Administrator.

(E) Prior to the hearing of the completed application before the Council, the Administrator shall notify the Council and the Planning Commission of the case and shall transmit to them copies of the application and staff report, proof of service of notice required by subsections (D) 1, and 2 above, copies of any associated correspondence, and such other reports and materials as are deemed pertinent by the Administrator. The application shall not be considered complete until each of the public notice requirements and time requirements have been met.

(HR-13-11-4)

14-404.2 Same; Public Hearing Before Council.

(A) The public hearing before the Council may be adjourned from time to time. The Administrator shall make what recommendations the Administrator deems appropriate. Comments shall also be received from the Lawrence-Douglas County Planning Commission, owners of affected property, and all other persons who have an interest in the proceedings.

(B) Following the hearing, the Council shall adopt by resolution a recommendation to be submitted to the County Commission for either (a) designation as a landmark or historic district; (b) denial of designation as a landmark or historic district; or, (c) not to make a recommendation. The resolution shall be accompanied by a report to the County Commission containing the following information:

(1) Explanation of the significance or lack of significance of the nominated landmark or historic district as it relates to the criteria for designation as set forth in Section 403;

(2) Explanation of the integrity or lack of integrity of the nominated landmark or historic district;

(3) In the case of a nominated landmark found to meet the criteria for designation, the Council shall identify the significant exterior architectural features of the nominated landmark that should be protected;

(4) In the case of a nominated historic district found to meet the criteria for designation, the staff shall identify:

(a) The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;

(b) A list of all key contributing, contributing and noncontributing sites, structures, objects and natural resources within the historic district;

(5) The relationship of the nominated landmark or historic district to the ongoing effort of the Council to identity and nominate all potential areas and sites, structures, objects and natural resources that meet the criteria for designation; and

(6) A map showing the location of the nominated landmark or the boundaries of the nominated historic district.

(C) If the Council recommends denial of a nomination, the recommendation may be accompanied by a statement of the reasons for the denial. The Council may make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the Council to reconsider its recommendation

of denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the Council.

(1) The applicant may resubmit an amended nomination which addresses the reasons for the denial of the Council's recommendation, or the applicant may appeal the recommendations for denial to the County Commission in accordance with the appeals procedures set out herein.

(D) The Council may recommend and the County Commission may amend or rescind designation of a landmark or historic district in the same manner and procedure as is followed in a designation of a landmark or historic district. A designated landmark or historic district may only be considered for amendment or rescission in the event that the integrity of the designated landmark or historic district is substantially impaired or destroyed by accidental or natural causes.
[HR-13-11-4)

14-404.3 Same; Public Hearing Before County Commission.

(A) The County Commission shall consider the application at a public hearing. The public hearing may be during a regularly scheduled meeting. Prior to that hearing, the County Commission shall be provided with the record of the proceedings before the Council. The County Commission may approve a resolution designating a nominated site, structure or object as a landmark, or designating an area as an historic district in accordance with the findings of the Council. The County Commission may also recommend submittal of an application to nominate the proposed landmark or historic district for listing on the Kansas or National Registers of Historic Places. (HR-13-11-4)

14-404.4 Same; Notice of Designation.

(A) Within seven (7) days after approval of the nomination by the County Commission, the Administrator shall notify in writing the owner of each structure or property designated as a landmark or included within an historic district. The notice shall outline the results of such designation. The Administrator, as soon as reasonably possible, shall notify the County Building Official and the County Director of Planning of the designation in the manner requested by the county officials.

(B) The Administrator shall cause to be recorded in a timely manner at the Douglas County Register of Deeds a record of any designation of a landmark, historic district, amendment of such designation, or rescission of such a designation.

(C) The designation of a landmark or historic district shall in no way alter the uses permitted by the existing zoning classification or district of the properties so designated. A desire to change permitted uses shall require the filing of an application requesting a zoning change as provided by the County Zoning Regulations.
[HR-13-11-4)

14-405 RESERVED

14-406 RESERVED.

ARTICLE 5. RESERVED.

ARTICLE 6. RESERVED.

ARTICLE 7. PUBLIC HEARINGS

14-701 NOTICE. Whenever a public hearing is required by this Plan, and unless otherwise provided by this Plan, notice of the time, place and subject of such public hearing shall be given as provided in this Plan and, and as otherwise required by the rules and procedures of the Douglas County Commission:

(A) By publication in the official County newspaper at least once prior to the date of such public hearing, as required.

(B) If the hearing concerns an appeal, notice of such hearing shall also be given by mail to the person(s) filing such appeal or application.
(HR-13-11-4)

14-702 BURDEN OF PROOF.

(A) In all hearings the burden of establishing that the requirements and criteria are met for any action shall be upon the party requesting that such action be taken.

(B) A matter on appeal to the County Commission shall be heard de novo.
[HR-13-11-4)

14-703 CONDUCT OF HEARINGS.

(A) Public hearings shall be conducted in a manner which allows all interested persons an opportunity to present relevant and non-repetitious information concerning the subject matter of the hearing. The body conducting the hearing may impose reasonable time limitation on comments by the general public.

(B) Minutes shall be kept of such hearings and shall identify the subject matter of the hearing, the persons who testified at such hearing, and the determination made by the body conducting the hearing.

(C) Applicants and appellants may be represented by counsel and shall be allowed a reasonable opportunity to rebut any information presented in opposition to their application or appeal. However, this shall not be construed to require that applicants or appellants be allowed to question opposing witnesses.
(HR-13-11-4)

ARTICLE 8. PROPERTY OWNED BY PUBLIC AGENCIES

14-801 **PROPERTY OWNED BY PUBLIC AGENCIES.** Many of the historically and architecturally important buildings, sites, structures, and objects are owned by government entities. The preservation of buildings, sites, structures, objects, natural resources and districts significant in American history, architecture, archeology, engineering, and culture is established as national policy in the National Historic Preservation Act of 1966, as amended. The Kansas Historic Preservation Act, as amended, declares that the historical, architectural, archeological, and cultural heritage of Kansas is an important asset of the state and that its preservation and maintenance should be among the highest priorities of government. To accomplish the adopted policies of the federal and state governments and to accomplish the purposes of this Plan, the following regulations promote the preservation of publicly-owned historically and architecturally significant buildings, sites, structures, and objects, and natural resources.

(A) For properties owned by the County and located in the unincorporated territory of the County, the Council may recommend, and the County Commission may authorize, the submittal of a proposed nomination of a building, site, structure, object, or district to the Douglas County Register of Historic Places, the Register of Historic Kansas Places, or the National Register of Historic Places.

(B) To further the purposes of this Plan, the Council may enter into agreements with other units of government. The Council may recommend and the County Commission may authorize on behalf of the County, entering into such agreements. Such agreements may address:

(1) Designation of landmarks and historic districts;

(2) Administration of the use of preservation fund resources;

(3) Improvements to landmarks, properties in historic districts, and properties adjacent to landmarks or historic districts;

(4) Efforts to encourage the maintenance of landmarks and properties in historic districts;

(5) Other mutually acceptable provisions.

[HR-13-11-4)

ARTICLE 9. HISTORIC RESOURCE ADMINISTRATOR

14-901 **DUTIES OF ADMINISTRATOR.** The Administrator shall have the following responsibilities:

(A) Develop application forms and establish procedures consistent with this Plan;

(B) Be responsible for recording/taking minutes at each Council meeting;

(C) Be responsible for publication and distribution of copies of the minutes, reports and decisions of the Council to the members of the Commission;

(D) Give notice as provided in this Plan or by law for all public hearings conducted by the Council;

(E) Advise the County Commission of vacancies on the Council and expiring terms of members;

(F) Prepare and submit to the County Commission a complete record of the proceedings before the Council on any matter requiring County Commission consideration;

(G) Receive, review, process, and refer to the Council and the County Commission applications for designation of landmarks and historic districts, preservation easements, and appeals provided for in this Plan;

(H) Record and file approved landmark and historic district designations, preservation easements, and decisions on appeal;

(I) Maintain an up-to-date copy of the map of landmarks and historic districts, as necessary;

(J) Maintain agenda, minutes, and records of all meetings of the Council including voting records, attendance, resolutions, findings, determinations, and decisions; and

(K) Educate, communicate and inform the residents of Douglas County pursuant to the purpose of this Plan.
(HR-13-11-4)

ARTICLE 10. INCENTIVES AND EASEMENTS

14-1001 **CONDITIONAL USE PERMIT.** To make the preservation of historically significant structures more economically feasible, the Council may recommend to the Lawrence-Douglas County Planning Commission and the County Commission that a conditional use permit be granted for landmark or historic districts as an alternative zoning category to permit appropriate functions such as bed and breakfast accommodations, house museums, art galleries, and other appropriate specialty uses. [HR-13-11-4)

14-1002 **PRESERVATION EASEMENTS.** Conservation easements for land designated as landmarks or included in historic districts or preservation easements on the facades of buildings designated as landmarks or structures of merit may be acquired by the County or other appropriate groups of persons through purchase, donation or condemnation pursuant to the laws of the State of Kansas. A preservation easement would include any easement, restriction, covenant or condition running with the land designed to preserve or maintain the significant features of such landmarks or structures. (HR-13-11-4)

14-1003 **RESERVED.**

14-1004 PRESERVATION FUND.

(A) There is hereby established a preservation fund. The fund shall be administered as directed by and according to any limitations and regulations imposed by the County Commission and according to state law. The County may apply for, receive, and place in the fund any federal, state, local, or private gifts, grants, fees, grants-in-aid or bequests. The County Commission may budget and incorporate County revenues into the fund. Fees and fines imposed according to this Plan shall be placed in the fund.

(B) The Council may recommend, and the County Commission may approve, on a case by case basis, that the resources of the Douglas County preservation fund be used for:

(1) The purchase of fee simple title to landmarks or properties located in an historic district;

(2) The purchase of conservation or preservation easements regarding landmarks or properties located in an historic district;

(3) The purchase of fee simple title to landmarks or properties located in an historic district with the eventual objective of property resale subject to a preservation easement;

(4) Payment of installments and fees according to a contract to purchase fee simple title to landmarks or properties located in an historic district or a preservation easement regarding a landmark or properties located in an historic district;

(5) Grants and/or loans to owners, developers, and organizations for preservation and/or rehabilitation of landmarks and properties in an historic district;

(6) Grants and/or loans to organizations for programs and projects designed to achieve one or more of the purposes of this Plan;

(7) The maintenance of landmarks and properties in historic districts or maintenance of preservation easements;

(8) The costs of conducting and preparing surveys of historically and architecturally important buildings, sites, structures and objects;

(9) The costs of preparing nominations of buildings, sites, structures or objects to the State Register or the National Register;

(10) The costs of the preparation and preservation of reports, instructions, brochures, meetings, maps, press releases, conferences, and other measures designed to acquaint citizens, owners, and developers of the purposes and provisions of this Plan; and

(11) Reasonable administrative, planning, architectural, engineering, financial, real estate, appraisal, and/or legal costs associated with the purchase of property, the purchase and enforcement of preservation easements, the sale of property, the negotiation of contracts, the preparation of a grant application, and legal actions.

(C) The Council may recommend, and the County Commission may approve, criteria, standards, rules, limitations, and regulations for projects and programs established pursuant to the requirements of this section.
[HR-13-11-4)

14-1005 **HISTORIC CONSERVATION AWARD PROGRAM.** Preservation-related activities may be reviewed and awards given at appropriate times and may be given in some or all of the following categories as the Council deems appropriate:

Adaptive Use

Preservation Project

Restoration/Renovation

(A) Residential
(B) Commercial

Exterior Paint

Architectural Design

Contractor

Real Estate Sales Person

Significant Preservation Contributor

The Council may add other appropriate categories to the award program. Winners of the awards may receive plaques and/or certificates.
(HR-13-11-4)

ARTICLE 11. FEES

14-1101 **FEES.**

(A) There shall be a $50 fee to be paid by the persons nominating an historic district, and a $10 fee to be paid by persons nominating a landmark. These fees shall be paid at the time of filing the application for nomination. All fees received shall be placed in the preservation fund. Fees may be waived for good cause. [HR-13-11-4)

ARTICLE 12. MINIMUM MAINTENANCE REQUIREMENT

14-1201 **MINIMUM MAINTENANCE REQUIREMENT.** All real property, and any building,

structure, or utility thereon designated as an historic landmark or contributory and key contributory properties located within an historic district, whether owned or controlled privately or by any public body, shall receive reasonable care, maintenance and upkeep appropriate or its protection, preservation, enhancement, perpetuation, or use in compliance with the terms of this Plan and the applicable resolutions and other regulations of the County. (HR-13-11-4)

ARTICLE 13. CIVIL ACTION

14-1301 **CIVIL ACTION.** Any person who willfully constructs, reconstructs, alters, restores, renovates, relocates, stabilizes, repairs or demolishes any building, object, site, or structure in violation of this Plan shall be required to return the building, object, site, or structure to its appearance and setting prior to the violation. Any action to enforce this provision shall be brought by the County. In the event that the cost of returning the building, object, site or structure to its appearance or setting prior to the violation exceeds fifty percent (50%) of the value of the building, object, site or structure, the offender shall make restitution in the form of either reconstructing the building, object, site or structure to its appearance and setting prior to the violation or paying to the preservation fund a dollar amount equivalent to the cost of reconstruction. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty otherwise authorized by state law or county resolution. [HR-13-11-4)