

**ZONING  
REGULATIONS**

of

**PRATT COUNTY**

**KANSAS**

**ZONING REGULATIONS**  
**of**  
**PRATT COUNTY, KANSAS**

**Official Copy as Incorporated  
by Resolution No. 5-7-2012**

**Model Code**  
**prepared by the**  
**PRATT COUNTY PLANNING BOARD**

**Technical Assistance by**

**Foster & Associates  
Planning Consultants  
Wichita, Kansas**

**in Association with**

**Rice Foster Associates  
Landscape Architecture & Planning  
Wichita, Kansas**

**and**

**County Planning Administrator**

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ZONING REGULATIONS  
of  
PRATT COUNTY, KANSAS

**ARTICLE 1. TITLE, PURPOSE, AUTHORITY AND JURISDICTION**

100 **Title.** These regulations, including the zoning district maps made a part hereof, shall be known and may be cited as the "Zoning Regulations of Pratt County, Kansas," and shall hereinafter be referred to as "these regulations."

101 **Purpose.** These regulations are intended to serve the following purposes:

- A. To promote the public health, safety, morals, comfort and general welfare in the County;
- B. To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;
- C. To regulate and restrict the location, use and appearance of buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes including floodplains while exempting agricultural uses and structures except in floodplains.
- D. To regulate and restrict the height, number of stories and size of buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;
- E. To protect property values and conserve energy and natural resources;
- F. To provide for adequate light and air and acceptable noise levels;
- G. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities.
- H. To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;
- I. To provide adequate public notice on proposed changes in these regulations and zoning maps and an opportunity to be heard on such zoning matters;
- J. To establish and provide procedures for the Board of Zoning Appeals to consider appeals, variances and conditional uses as exceptions; and
- K. To implement the goals, policies and proposals of the comprehensive plan for the zoning jurisdiction.

102 **Authority.** These regulations are adopted under authority established by K.S.A., 12-741 et seq., as amended, 12-736, 12-3301 and 12-3303 through 12-3305.

103 **Zoning Jurisdiction.** These regulations shall apply to all buildings, structures and land in the unincorporated area of Pratt County except in the following described areas of land around specified cities for no more than three miles from the nearest point of the city limits and extending not more than one-half the distance between such city and another city which has adopted zoning regulations: provided, that the city within any such areas shall have: (1) officially adopted by their governing body by ordinance a comprehensive plan for the city and surrounding area; and (2) adopted zoning regulations for the city and for an extraterritorial area around the city not exceeding the limits of the description below:

City of Pratt

That land in Townships Nos. 6 and 12 of Pratt County, Kansas excluding the City of Pratt, which contains the following area:

TR BEG SE COR SE4 SEC 07, TWP 28, RNG 12,  
FOLLOWING THE SECTION LINES, TH W 1 MILE  
ALONG SE 20TH ST, S 1 MILE, W 5 MILES ALONG  
SE/SW 30TH ST, N 1 MILE, W 1 MILE, TH N 4 MILES  
ALONG SW/NW 30TH AVE, E 1 MILE, N 1 MILES, E 5  
MILES ALONG NW/NE 30TH ST, S 2 MILES, E 1  
MILE, S 3MILES ALONG NE/SE 40TH AVE TO POB.

104 **Notification to Cities** To facilitate the mutual interest in proper planning for the urbanizing area around all cities in the County, notice of any public hearing including proposed amendments to the text of these regulations before the Planning Board or the Board of Zoning Appeals which would affect real property within three miles of a city shall be mailed to such city so that at least **20 days** shall elapse before such hearing. In lieu of such a three-mile area of notification, a designated Planning Area not exceeding a distance of more than three miles from the city limits may be proposed by any city for approval by the Planning Board as an area of notification.

## ARTICLE 2. INTERPRETATION, CONSTRUCTION AND DEFINITIONS

### 100 Rules of Interpretation.

- A. Minimum Requirements. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.
- B. Overlapping or Contradictory Regulations. Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- C. Private Agreements. The provisions of these regulations are not intended to abrogate any easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The County does not have a responsibility to enforce such private agreements.
- D. Unlawful Uses. No use of land or structure which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful use or structure is in conflict with the requirements of these regulations, said use or structure remains unlawful hereunder.
- E. Not a Licensing Regulation. Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.
- F. Effect on Existing Permits. For all purposes, nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any land or structure in the event that: (See Section 2-100G.)
1. A zoning permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof; and
  2. Such permit had not by its own terms expired prior to such effective date; and
  3. Such permit were issued on the basis of an application showing complete plans for proposed construction and/or use; and

4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans; and
5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and
6. Construction pursuant to such permit is completed prior to the expiration of such permit; and
7. When the use of land or a structure is completed under a permit to which this Section 2-100F applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

For all purposes other than residential developments, if substantial amounts of work have not been completed within 10 years of the issuance of such a permit, the development rights shall expire and current regulations shall apply if work is to continue under new permit.

- G. Vesting of Development Rights. For the purpose of single-family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principal structure is not commenced on such land within five years of recording a final plat before July 01, 2009, the development rights in such land shall expire and, thus, all revisions to zoning or subdivision regulations becoming effective during the period vested shall then apply to such platted land. For such plats recorded on or after July 01, 2009, such construction must take place within 10 years to be vested.

## 101 Rules of Construction.

- A. In the construction of these regulations, the provisions and rules of this Section shall be preserved and applied, except when the context clearly requires otherwise:
1. The singular number includes the plural and the plural the singular.
  2. The present tense includes the past and future tenses and the future tense the present.
  3. The word "**shall**" is mandatory while the word "**may**" is permissive.
  4. The phrase "**used for**" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

5. The word "**person**" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
  6. The word "**County**" means Pratt County, Kansas.
  7. The words "**Governing Body**" mean the Board of Commissioners of Pratt County, Kansas.
  8. The word "**Clerk**" means the Clerk of Pratt County.
  9. The words "**Planning Board**" mean the Pratt County Planning Board.
  10. The words "**Comprehensive Plan**" mean the adopted and approved Comprehensive Development Plan for Pratt County, Kansas, which includes, among other elements, a plan for land use.
  11. The word "**Board**" as referred to in Article 10 means the Board of Zoning Appeals of Pratt County.
  12. The words "**zoning jurisdiction**" mean the area as defined in Section 1-103 for which the jurisdiction of these regulations is applicable for zoning purposes.
  13. Unless otherwise specified, all distances shall be measured horizontally.
- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary.

102 **Definitions.** The following definitions shall be used in the interpretation and construction of these regulations:

**ACCESSORY DWELLING:** An accessory use dwelling unit that may be constructed wholly within, or may be detached from, a principal single-family dwelling unit which shall be subject to the following standards:

1. A maximum of one accessory dwelling may be allowed on the same zoning lot as a single-family dwelling unit:
2. The appearance of an accessory dwelling shall be compatible with the principal dwelling and the character of the neighborhood:
3. The lot on which the accessory dwelling is to be located must meet the minimum lot area as required for the lot size in the relevant zoning district:

4. The off-street parking space and standards required for Section 5-101A1 must be met:
5. Separate or shared utility connections may be utilized subject to the regulations of the County Sanitary Code.
6. Temporary, prefabricated structures may be used as accessory dwellings for limited periods of time: and
7. An accessory dwelling shall remain accessory to and under the same ownership as the principal single-family dwelling unit and not be subdivided or sold as a condominium. A suitable deed restriction stating this restriction must be filed with the County Register of Deeds prior to issuance of any occupancy certificate for the accessory dwelling.

**ACCESSORY USE OR STRUCTURE:** As defined in Article 6.

**ADULT CARE CENTER:** A facility in which care and activities are provided on an hourly or daily basis for adults of all ages. The latter arrangement is not construed to be a "nursing home". It may also be referred to as an "adult day care" facility. Such centers are licensed under regulations established and administered by the Kansas Department of Health and Environment.

**ADULT CARE HOME:** A residential facility operated as a home occupation for not more than six adults wherein care and activities are provided on an hourly or daily basis or limited nursing care is provided on a 24-hour basis. Such homes may also be referred to as "home plus" and are licensed under regulations established and administered by the Kansas Department of Health and Environment. Standards for such definitions may be periodically amended by changes in state regulations. Care for more than six adults may be approved as a conditional use by the Board of Zoning Appeals.

**AGRICULTURE:** The use of a tract of land under one ownership where the principle activity is to produce income from the growing of crops, horticulture, nurseries, truck farms or the raising of fish, poultry and cattle or other livestock, including feedlots. Such definition includes the structures which are **not** in a designated floodplain that are necessary for carrying on farming operations including greenhouses and, as accessory uses, the dwelling of the owner or operator of the premises including modular and manufactured and mobile homes used as the principal farm dwelling. Application may be made to the Board of Zoning Appeals for a conditional use for locating a manufactured or mobile home with such an existing dwelling for additional assistance on the farm or ranch. The retail sale of items produced as part of the farming operation is permitted. Such definition shall not include lands used for recreational purposes or rural home sites whose primary purpose is for residential use

and not the production of income from a farming operation. Privately owned natural wildlife habitats and reserves are also considered an agriculture use.

So long as such land, related structures and accessory dwelling(s) are used for such bona fide agricultural purposes, these regulations do not require a zoning permit or occupancy certificate, nor do they establish any other rule or regulation contrary to the provisions of K.S.A. 12-758. To assist the Zoning Administrator in determining if a proposed building, structure or use meets the definition of agriculture, any applicant seeking agricultural exempt status may be asked to complete a certificate of compliance. Any person aggrieved by a decision of the Zoning Administrator in interpreting the definition of agriculture may appeal to the Board of Zoning Appeals for a determination. Surrounding nonagricultural landowners should be aware that Kansas is a "right-to-farm" state under K.S.A. 2-3201, *et seq.*, which limits nuisance suits and injunctions if an agricultural activity is being conducted in conformity with federal, state and local laws. (See definition for FEEDLOT, Section 3-100E4 for Exemptions to agricultural purposes and Section 3-104E for an accessory manufactured or mobile home to a principal farm dwelling on agricultural land as a conditional use.)

**AIRCRAFT:** Any contrivance now known or hereafter invented for use in or designed for navigation of or flight in the air.

**AIRPORT:** (Including Landing Strip, Heliport or Helistop.) Any premises which are used, or intended for use, for the landing and take-off of aircraft; and any appurtenant areas which are used, or intended for use, for airport buildings or other airport structures or rights of way, together with all airport buildings and structures located thereon.

**ALLEY:** A minor right of way along the side of or in the rear of lots intended to provide a secondary means of access to abutting lots and to and from streets.

**ALTERATION:** See STRUCTURAL ALTERATION.

**ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted principally for examination, treatment, board or care, by a doctor of Veterinary Medicine. This does not include open kennels or runs, unless specifically permitted by the district regulations.

**APPEAL:** See Section 10-106 for description.

**AUTOMOBILE SERVICE STATION:** A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the

performing of minor repairs, but not including tire recapping, body repairs or major overhaul. Such use does not include open sales lots for new or used vehicles or provide rental equipment, unless specifically permitted by the district regulations.

**BASEMENT:** That portion of a building located wholly or partially underground, but having more than one-half of its clear floor-to-ceiling height below the average grade of the adjoining ground.

**BED AND BREAKFAST HOME OR INN:** A dwelling where for compensation one or more rooms are available for lodging and breakfast served to lodgers only. When conducted as a home occupation, such facilities are designated as "homes." When designated as an "inn," such facilities may be operated as a home occupation or as a business enterprise. When specifically permitted, tea rooms for a limited number of customers may be operated in conjunction with bed and breakfast inns.

**BLOCK:** A tract of land bounded by streets or by a combination of streets, public parks, cemeteries, railroad rights of way, waterways, city limits or other property lines.

**BOARDING OR ROOMING HOUSE:** A building other than a hotel where, for compensation and by prearrangement for definite periods, lodging only or with meals are provided for four or more boarders and/or roomers exclusive of the occupant's family. Individual cooking facilities are not provided. (See FAMILY.)

**BUILDING:** Any covered structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, horticultural products or chattels. Interconnected buildings shall be considered as one building.

**BULK REGULATIONS:** Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling: (1) maximum height, (2) maximum lot coverage, and (3) minimum size of yards and setbacks.

**BUSINESS AND PROFESSIONAL OFFICE:** The office of an architect, attorney, dentist, doctor, engineer, landscape architect, real estate or insurance agent or other similar professional person, and any office used primarily for accounting, correspondence, research, editing or administration.

**CAMPGROUND:** Any parcel of ground which provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailers, tents or similar recreational vehicles. No camper

shall occupy a campground for a period exceeding 60 consecutive days. The term campground does not include sales lots on which unoccupied camping trailers, whether new or used, are parked for the purpose of storage, inspection or sale.

**CANOPY:** Any structure, movable or stationary, open on three sides without supporting posts, which is attached to and projects from a wall of a building for the purpose of sheltering a drive-up facility, platform, stoop, entranceway or sidewalk from the elements including a motor vehicle; or an independent roof-like structure supported by posts with no sidewalls for the purpose of sheltering a gasoline service area, drive-in facility or motor vehicles. In any event, the sheltering of motor vehicles is for temporary parking and unloading only and not a permanent parking space. (See Section 3-103F1 for Permitted Obstructions.)

**CAPACITY IN PERSONS:** The maximum number of persons that can avail themselves of the services or goods of an establishment, at any one time, with reasonable comfort.

**CARPORT:** A structure for shelter and temporary or permanent parking space for motor vehicles and recreational vehicles either attached to a building or independent thereof which is enclosed on at least one side. Such carports are not permitted obstructions under Section 3-103F1. (See CANOPY.)

**CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.

**CHILD CARE FACILITIES:** Standards and requirements for facilities which provide care for children are established by State law and promulgated by regulations of the Kansas Department of Health and Environment. The following facilities are licensed or registered by the department and all requirements, as may be amended from time to time, must be met:

1. **Group Boarding Home:** A non-secure facility providing 24-hour residential care for not less than five nor more than 10 persons unrelated to the caregivers. Emergency shelter and maternity care may be provided.
2. **Child Care Center:** A facility in which care and educational activities for 13 or more children two weeks to 16 years of age are provided for more than three, but less than 24 hours per day, including before and after school care for school age children.
3. **Preschool:** A facility such as a "nursery school" providing learning experiences for children of less than kindergarten age, but who are 30 months or older, where sessions do not exceed three hours per day.
4. **Day Care Home:** A home or facility in which care is provided for a maximum of 10 children under 16 years of age.
5. **Group Day Care Home:** Similar to day care homes except that care is provided to a maximum of 12 children under 16 years of age.

6. Family Day Care Home: A home in which care is provided for less than 24 hours per day for a maximum of six children who are less than 16 years of age, but of whom not more than three children are less than 18 months.

(See Section 6-100B11 for child care facilities for employees and Sections 6-102C and D for home occupations permitted and prohibited.)

**CLUB**: An organization licensed as a Class A or B club for the purpose of consuming alcoholic beverages either for or not for profit under K.S.A. 41-2601, et seq., as amended. (See FRATERNAL OR SERVICE CLUB and TAVERN AND DRINKING ESTABLISHMENT.)

**CONDITIONAL USE**: The use of a structure or use that is not permitted outright within any zoning district, but when specifically authorized and listed in these regulations as a conditional use such use may be granted as an "exception" by the Board of Zoning Appeals. Conditions may be attached to the approval of such uses by the Board so that they may be more compatible to the particular location within a district. (See Section 10-108 for Conditional Uses.)

**CONDOMINIUM**: A structure and related common areas and facilities designed to meet the provisions of the Apartment Ownership Act cited in K.S.A. 58-3101 et seq., which governs the ownership, management, taxation, contents of the declaration and other matters related to the sale and operation of such structures and the independent units therein. Independent condominium units, as defined in the Act, may be used for residential, office, business, industrial and other uses as permitted by the respective zoning districts. The contents of the declaration as required by K.S.A. 58-3111 shall also include a provision for the County to carry out the obligation to maintain the common areas and facilities in order to avoid having them become a public nuisance. In the event that such common areas and facilities are all or a portion of declared to be a public nuisance by the Governing Body and such responsibilities are assumed by the County, the costs for such maintenance shall be assessed against the condominium units and shall become a tax lien thereon. The Zoning Administrator must be satisfied that such a provision is included in the declaration before a zoning permit or occupancy certificate will be approved.

**DENSITY**: Restrictions on the number of dwelling units that may be constructed per acre or per square feet of a zoning lot area.

**DEVELOPER**: The legal or beneficial owner or owners of all of the land proposed to be included in a planned development or the duly authorized agent thereof. The holder of an option or contract or purchase, a lessee having a remaining term of not less than 40 years or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purpose of these regulations.

**DISTRICT**: A section or sections of the zoning jurisdiction for which the regulations governing the use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.

**DOG KENNEL:** Any place where eight or more dogs are kept, maintained, boarded, bred for a fee or offered for sale. A "dog" is defined as any member of any canine species over six months of age. This definition includes dogs which are kept or maintained as pets.

**DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business or view motion pictures or other entertainment. Such definition does not include a drive-through facility such as located at banks or restaurants.

**DWELLING:** A building, or portion thereof, which is designed or used for residential occupancy including a condominium and a modular home, but not a group home as herein defined, an earth-sheltered dwelling, a residential-design manufactured home or a manufactured or mobile home, unless any of the latter are specifically permitted.

**DWELLING, DETACHED:** A residential building which is entirely surrounded by open space on the same lot.

**DWELLING, SINGLE-FAMILY:** A residential building containing one dwelling unit only or a group home as defined herein.

**DWELLING UNIT:** One or more rooms in a residential building or residential portion of a building which are arranged, designed, used or intended for use by one family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

**EARTH-SHELTERED DWELLING:** A single-family dwelling constructed so that 50% or more of the exterior surface area of the building, excluding garages and other accessory structures, is covered with earth. Such a dwelling is a complete structure that does not serve just as a foundation or substructure for above-grade construction. A partially completed building shall not be considered earth-sheltered. Bulk regulations shall be measured from the structural part of the dwelling as distinguished from the earth covering.

**EASEMENT:** A public dedication or private grant by the property owner of the specific use of a strip of land by others. Limitations apply on what type of principal or accessory buildings or structures can be located on a public easement. (See Section 9-101A for Zoning Permits.)

**EXOTIC ANIMALS OR BIRDS:** Animals or birds not commonly kept domestically or that are not native to the County and/or the United States. Exotic animals or birds include, but are not limited to, wolves including all wolf/canine hybrids, bears, lions, tigers, cougars, all other large carnivorous animals, tropical birds not authorized within the United States and poisonous or dangerous snakes and reptiles. Birds in the ratite family such as emus, ostriches and rheas as well as llamas and potbellied pigs shall not be considered as exotic birds or animals.

**FAMILY:** Either (1) an individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or (2) a group of not more than four adult persons who need not be related by blood, marriage or adoption, living together as a single, nonprofit housekeeping unit in a dwelling unit; plus in either case, domestic servants. A family may include any number of gratuitous guests or children not related by blood, marriage or adoption. No more than three boarders or roomers are permitted as part of a housekeeping unit. (See Boarding or Rooming House and Section 6-102B3 for home occupation limitations.)

**FENCE:** A free-standing structure of customary materials such as metal, masonry, glass, plastic or wood or any combination thereof, resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes, but which does not pose a threat to public safety or health and is designed and constructed in such a manner as to produce an aesthetically pleasing appearance. Fences constructed of metal roofing materials, fork-lift pallets, portions of vehicles or appliances, concrete bags and the like are not permitted. In determining the location of a fence, consideration must be given to its affect upon proper drainage. (See Section 3-103 F2-5 for fences as permitted obstructions.)

**FLOODPLAIN:** See Appendix for definitions in the Floodplain Management Regulations.

**FLOOR AREA:** For computing off-street parking requirements, floor area shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include all floors, except that space which is used for storage or for group meeting rooms.

**FRATERNAL OR SERVICE CLUB:** An association formally organized for either fraternal, social, educational, philanthropic or other similar purposes, including union and professional organizations and operated not for profit for persons who are bona fide members paying annual dues, which owns, hires or leases premises, the use of which premises is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee or similar body chosen by the members. Food, meals and beverages may be served on such premises, provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold or served to members and their guests, provided such service is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all federal, state, county and local laws. (See CLUB.)

**FRONTAGE:** The property on one side of a street between two intersecting streets (crossing or terminating) measured along the line of the street; or with a dead-end street, all property abutting one side of such street measured from the nearest intersecting street and the end of the dead-end street.

**GARAGE, PRIVATE:** A building for the private use of the owner or occupant of a principal building situated on the same lot as the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial or public nature.

**GARAGE, REPAIR:** A building designed and used for the storage, care, repair or refinishing of motor vehicles including both minor and major mechanical overhauling, paint and body work.

**GARDEN STORE:** A store which sells growing plants, seeds, bulbs, shrubs and gardening and landscaping tools, implements and supplies, including lawn furniture.

**GROUP HOME:** A dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability which is a physical or mental impairment as defined by K.S.A. 12-736. The two staff residents need not be related by blood or marriage to each other or to the other residents of the home. Such a dwelling must be licensed by the Kansas Department of Social and Rehabilitation Services or the Kansas Department of Health and Environment. (See DWELLING, SINGLE-FAMILY.)

**GUEST HOUSE:** A facility catering to social and business groups for the pursuit of common activities and interests which may or may not include sleeping accommodations or meals. Such use may not exceed 30 continuous days and shall be limited to specific numbers of participants. The facility may or may not be occupied by the owner(s) or manager(s).

**HAZARDOUS WASTE FACILITY:** An on-site or off-site facility or part of a facility or modification of an existing facility which includes all contiguous land, structures and other appurtenances and improvements on the land utilized for the purpose of treating, storing or disposing of hazardous waste. Such term shall also mean a hazardous waste injection well. In addition to this definition of facility, all related definitions pertaining to hazardous wastes as contained in K.S.A. 65-3430 and as may be amended from time to time are hereby incorporated by reference into the definitions of these regulations.

**HEIGHT, MAXIMUM:** A horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. No part of any structure shall project through such plane except:

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located and signs where permitted by Article 7. (See Section 7-102C for Height of Sign.);
2. Flagpoles, water towers and tanks, steeples, bell towers, carillons, monuments, cupolas, electric transmission line towers, commercial wind energy projects (CWEP) and private wind energy conversion systems as principal and accessory uses not to exceed 200 feet in height; and

3. Communication structures as an accessory structure without white strobe lights at night which do not exceed 60 feet in height in agricultural and industrial districts only. Also an exception to the maximum height in all districts are antennas for licensed amateur radio and citizens band operators as well as wireless cable TV antennas on masts. Communication structures include (1) antennas, and (2) broadcasting and microwave transmitting and relay towers for television, radio and cellular telephone systems and other similar forms of electronic communication. In districts where allowed, applicants may apply for a special use to construct a communication structure as a principal use which may exceed the height limitations for such structures. The Planning Board may adopt criteria in the form of a policy statement to assist in the review of such special use applications. (See Section 6-100B6 for satellite dish antennas, Section 6-100B7 for communication structures, antennas and aerials and Section 3-103G for lot size and bulk regulations exemption.)
4. Within an eight-mile radius of the Airport Reference Point (ARP) of the Pratt Municipal Airport no communication structure or commercial wind energy project shall exceed 200 feet in height. No variance from that limitation shall be permitted for the erection of any such structures in such area which would be an obstruction to air navigation under the standards set out in 14 C.F.R. Sec. 77.17(a)(2). (See Official Zoning Map for jurisdictional and locational information.)
5. Within an area bounded on the sides by lines parallel to and one half mile from the center line of a private airstrip and bounded on the ends by semicircles with a radius of two miles from the ends of the centerline of such private airstrip, no communication structure or commercial wind energy project shall: (a) respect to the area within the semicircles extending from the ends of the runway, be erected that penetrates above a line extending from the ground at the end of the runway upward at an angle of three degrees; or (b) within the remaining area, be erected that penetrates a line running upward from the centerline of the runway at an angle of 10 degrees.

**HOME OCCUPATION:** As defined in Article 6.

**HOMEOWNERS' ASSOCIATION:** A community association, other than a condominium association, that is organized in a subdivision in which individual owners share common interests, ownership and responsibilities for costs and upkeep of common open space, reserves, facilities or infrastructure and may enforce certain covenants and restrictions. The incorporation document shall contain provisions for the ownership and maintenance of the common open space, reserves, facilities and infrastructure as are reasonably necessary to ensure their continuity, care, conservation and maintenance, and to ensure that remedial measures will be available to the County if such responsibilities are permitted to deteriorate or are not maintained in a condition consistent with the best interest of the subdivision or the County. If the County finds it necessary to carry out the obligations required to maintain such responsibilities in order to avoid having them become a public nuisance, the costs shall be assessed against the properties within the development and shall become a tax lien on said properties.

**HOTEL:** A building or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, tourist cabin, tourist court or otherwise, but not a bed and breakfast home or inn.

**LANDFILL, SANITARY:** A disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading and compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day in accordance with a definite plan. All such landfills must be approved by the Kansas Department of Health and Environment.

**LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

**LOT:** See LOT, ZONING.

**LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines. Such area shall not include any land located in an identified right of way.

**LOT, CORNER:** A lot abutting upon two or more streets at their intersection. (See LOT LINE, REAR and YARD, FRONT.)

**LOT COVERAGE:** That percentage of a lot which, when viewed directly from above, would be covered by a principal or accessory building(s) or any part thereof, excluding projecting roof eaves. (See BUILDING.)

**LOT DEPTH:** The distance between the midpoint of the front lot line and the midpoint of the rear lot line.

**LOT, INTERIOR:** A lot other than a corner lot, i.e., one whose side lot lines do not abut upon any street.

**LOT LINE:** The boundary line of a zoning lot. (See LOT, ZONING.)

**LOT LINE, FRONT:** A street right of way line forming the boundary of a lot. (See LOT, CORNER.)

**LOT LINE, REAR:** The lot line that is most distant from and is or is most nearly parallel to the front lot line. If a rear lot line is less than 10 feet long or if the lot comes to a point at the rear, the rear lot line shall be a line at least 10 feet long, lying wholly within the lot, parallel to the front line. If a zoning lot has two or more front lot lines, the owner or developer shall designate the yard which is to be the rear yard and/or the side yard.

**LOT LINE, SIDE:** A lot line which is neither a front lot line nor a rear lot line. (See LOT LINE, REAR.)

**LOT OF RECORD:** A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Deeds or a parcel of land described by metes and bounds of which the deed was recorded prior to adoption of these regulations.

**LOT, REVERSE FRONTAGE:** A lot whose rear lot line also serves as the street line for a limited access highway or street. With complete access control on the rear lot line, the abutting yard is considered to be a rear yard. (See LOT, THROUGH and YARD, REAR.)

**LOT SIZE REQUIREMENTS:** Restrictions on the dimensions of lots including (1) minimum lot area, width and depth; and (2) maximum density. Lot area, width and depth establish the minimum size of the zoning lot on which a structure or use or two or more structures or uses, may be constructed or established. (See Section 3-103G for utility and communication facilities exemption.)

**LOT, THROUGH:** A lot which has a pair of opposite lot lines along two substantially parallel streets and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines, but in the case of two or more contiguous through lots, there shall be a common front lot line. Sometimes referred to as a double frontage lot. (See LOT, REVERSE FRONTAGE.)

**LOT WIDTH:** The distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the established front yard setback line.

**LOT, ZONING:** A parcel of land that is designated by its owner or developer at the time of applying for a zoning permit as a tract all of which is to be used, developed or built upon as a unit under single ownership. As long as it satisfies the above requirements, such lot may consist of: (1) a single lot of record, or (2) a portion of a lot of record, or (3) a combination of complete lots of record, complete lots and portions of lots of record, or portions of lots of record.

**MANUFACTURED HOME:** A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall also include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and

construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, et seq., as amended, shall be anchored to the ground or secured to a permanent-type foundation. All manufactured homes must meet the standards of the National Manufactured Home Construction and Safety Standards of 1976, otherwise referred to as the "HUD Code". Additions may be made to such homes for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable County building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (See MOBILE HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

**MINI-STORAGE FACILITY:** A building or group of buildings that contain varying sizes of individual, compartmentalized and controlled-access stalls and/or lockers for the indoor storage of customer's goods or wares. Outdoor storage may be permitted, but only when specifically permitted by these regulations. The operation shall not include a transfer and storage business where the use of vehicles is part of such a business.

**MOBILE HOME:** A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall also include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirting according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, et seq., as amended, shall be anchored to the ground or secured to a permanent-type foundation. Additions may be made to such homes for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet applicable County building codes. Overhead structures which cover or enclose a home are not permitted; however, a protective roof covering which is used to remedy a deteriorating roof condition is permitted. Under no circumstances shall two or more single-wide homes be permitted to connect together in any manner on the same zoning lot, nor shall such homes be attached to or integrated with the design of a site-built dwelling unit. (See MANUFACTURED HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

**MODULAR HOME:** A single-family dwelling or duplex building located on a permanent foundation and connected to public utilities, consisting of pre-selected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contrast to a residential building which is custom built on the site of its permanent location; and also in contrast to a manufactured or mobile home of any width which is located on a permanent foundation. In general, such modular homes shall have exterior building materials and somewhat similar appearance to custom built residential buildings and meet the standards of the County building codes.

**NONCONFORMING LOT OF RECORD:** A zoning lot which does not comply with the lot size requirements for any permitted use in the district in which it is located. (See Sections 8-100A and 101 for Nonconforming Lots of Record.)

**NONCONFORMING STRUCTURE OR USE:** A lawfully existing structure or use at the time these regulations or any amendments thereto became effective which does not conform to the requirements of the zone in which it is located. (See Sections 8-100B and C, 102 and 103 for Nonconforming Structures and Uses.)

**NURSING OR CONVALESCENT HOME:** An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not including institutions for the care and treatment of mental illness, alcoholism or narcotics addiction. Regulations of the Kansas Department of Health and Environment designate such homes as "Adult Care Homes".

**OCCUPANCY CERTIFICATE:** A certificate by which the Zoning Administrator certifies that upon completion of an applicant's proposed structure and/or use that it complies with these regulations and, therefore, may be occupied and/or used. When applicable, such a certificate may be combined with the issuance of a certificate of occupancy as required by a building code. (See Section 8-103H for Change in Use and Section 9-101B for Occupancy Certificates.)

**PERMITTED USE:** A use of a structure or land which is permitted outright within a zoning district because of its suitability to the purpose of the other uses so designated. When a use may appear to be classified under more than one permitted use as well as a special or conditional use in any zoning district, the most specific or restrictive description or narrowly defined meaning is applicable. The Zoning Administrator is authorized to issue zoning permits and occupancy certificates for such permitted uses when all other requirements of the regulations have been met.

**PORTABLE STORAGE UNIT:** A container specifically designed for storage or a converted former metal shipping container which are used for general storage purposes and painted a neutral color. Such a unit requires location on the ground, but is not permanently attached to the ground or

to anything on the ground. Access is gained by doors on one or both ends. No other signage is permitted on the unit other than a business identification sign of modest size. (See Section 2-102 for definition of STRUCTURE.)

**PREMISES:** A lot or tract of land together with all buildings and structures thereon.

**PRINCIPAL STRUCTURE:** A structure in which a principal use of the lot on which the structure is located is conducted.

**PRINCIPAL USE:** The main use of land or structures as distinguished from a subordinate or accessory use.

**RECREATIONAL VEHICLE, (RV):** A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle, which is primarily designed and used for travel, camping, recreation, temporary living or occasional use. Recreational vehicles include motor homes, mini-motor homes, converted buses, converted camper vans, pickup and truck campers, camping trailers, fifth-wheel trailers, boats and boat trailers, jet skis, jet ski trailers, all terrain vehicles (ATV) and similar vehicles. Conventional vans and pickup trucks with or without slide-in pickup campers or "toppers" are not considered to be recreational vehicles nor are small trailers used for hauling animals, equipment or household goods of the occupant of the dwelling whereon such trailer is parked.

**RECYCLING CENTER:** A location where clean, source-separated, recyclable materials are accepted or deposited by the public for transfer elsewhere. As distinguished from the operation of salvage yards or hazardous waste facilities, such recyclable materials consist only of aluminum and steel cans, glass, paper, plastic, reusable containers and materials capable of being composted. A center must be maintained in a litter-free condition on a daily basis. The name and phone number of a responsible party must be clearly posted in case a problem occurs. Such a center may be further classified as follows:

1. **Small recycling collection center:** A center for collection containers or reverse vending machines not exceeding 100 square feet in ground area which may be approved by the Zoning Administrator as an accessory use in all business and industrial districts and on church and public property. Such a center may be located in the required front yard in business and industrial districts and on public property if proper vehicular safety and parking standards can be maintained.
2. **Large recycling collection center:** A center for collection containers larger than 100 square feet in ground area, on-site trailers, bulk-feed reverse vending machines, vehicles on-site during operating hours only and the like. As an accessory use, such a center may be approved by the Board of Zoning Appeals as a conditional use in all business and industrial districts and on church and public property.

3. Recycling processing center: A principal use in industrial districts only for handling the collection and processing of large volumes of bulky materials, some of which may originate at other recycling centers. Mechanical equipment may be used such as forklifts, balers, smashers and other related equipment. Outdoor storage may be permitted including composting operations.

**RESIDENTIAL-DESIGN MANUFACTURED HOME**: A structure manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to water supply and sewage disposal systems in conformance with the County Sanitary Code. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width, a pitched roof, siding and roofing materials which are customarily used on site-built homes, and which complies with the following architectural or aesthetic standards so as to ensure their compatibility with site-built housing:

1. The roof must be predominantly double-pitched and have a minimum vertical rise of 2.2 inches for every 12 inches of horizontal run, and must be covered with material that is customarily used on site-built dwellings, including but not limited to approved wood, asphalt composition shingles or fiberglass, but excluding corrugated aluminum, corrugated fiberglass or metal roof. The roof shall have a minimum eave projection and roof overhang on at least two sides of 10 inches which may include a gutter.
2. Exterior siding shall be of a nonreflective material customarily used on site-built dwellings such as wood, composition, simulated wood, clapboards, conventional vinyl or metal siding, brick, stucco, or similar materials, but excluding smooth, ribbed or corrugated metal or plastic panels. Siding material shall extend below the top of the exterior of the foundation or curtain wall or the joint between siding and enclosure wall shall be flashed in accordance with applicable building codes.
3. The home shall be installed in accordance with the recommended installation procedures of the manufacturer and a continuous, permanent concrete or masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, shall be installed under the perimeter of the home which shall be similar in material and appearance to a site-built home.
4. At the main entrance door there shall be a landing that is a minimum of 25 square feet which is constructed to meet the requirements of applicable building code standards.
5. The moving hitch, axles, wheels and transporting lights must be removed at the time of installation of the home on the lot.

6. The finished floor of the home shall be a maximum of 24 inches above the exterior finish grade of the lot on which it is located, as measured at the main entrance into the dwelling.
7. Any attached addition to such a home shall comply with all construction requirements of applicable building code standards, unless designed and constructed by a manufactured home factory.
8. If 50% or more of the frontage of existing site-built housing on both sides of the street on which the residential-design manufactured home is to be installed have a garage and/or a similar percentage have a covered porch or recessed entry, such a home shall also provide a garage and/or porch or entry based on the percentages determined by the Zoning Administrator. On a corner lot, the street shall mean that street on which the frontage of the facade has been designated for the household address number. External roofing and siding material of such garage, porch or entry shall be similar in appearance to the materials on the roofing and siding of the residential-design manufactured home.

For purposes of these regulations, the term "manufactured home", when used by itself, shall not include a "residential-design manufactured home" as herein defined. Nothing in these regulations shall be construed to preempt or supersede valid restrictive covenants running with the land as to the placement or location of a residential-design manufactured home. (See MANUFACTURED HOME and MOBILE HOME.)

**RESTAURANT:** A public eating house, including but not limited to the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, fast food restaurants and soda fountains, but not a drive-in establishment unless specifically permitted by the district regulations. Drive-through facilities such as service from a window, however, are permitted. (See DRIVE-IN ESTABLISHMENT.)

**RETAIL:** Selling on the premises in small quantities to the ultimate consumer for direct consumption and/or use and not for resale. Sales at auctions and sales lots for motorized vehicles and recreational vehicles and the like are not considered as retail sales.

**RIGHT OF WAY:** The area between boundary lines of a street, alley or other easement of access.

**SALVAGE YARD:**

1. Any land or building used for the collection or storage or sale of wastepaper, trash, rags, fibrous material, scrap metal or other discarded material; or for the collecting or dismantling or storing or salvaging of machinery or unlicensed motor vehicles not in operating condition, or for the sale of parts thereof, or materials from the demolition of buildings or structures.

2. In residential districts, this definition shall prevent the storing of any more than two inoperable or unlicensed motor vehicles on the premises for a period of more than 72 hours which are in the process of restoration to operating conditions, unless such vehicles are stored inside a structure or screened from public view including adjacent properties. Similar provisions apply to nonfarm dwellings in the agricultural districts, except that after the time period has expired, such vehicles must be stored out of public view, i.e., from a roadway or adjacent property.

**SCREENING:** Fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fences or evergreen vegetation. When fencing is used for screening, it shall be not less than six nor more than eight feet high, unless otherwise provided.

**SETBACK, BUILDING:** A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the front street right of way. The setback distance shall be measured from the existing right of way line or the proposed right of way line, whichever is the greater. (Note: Proposed right of way lines are based on the Comprehensive Plan and are further specified in applicable Subdivision Regulations for arterial, collector, local and marginal access streets.) (See definition for YARD, FRONT.)

**SIGN:** Any writing (including letters, words or numerals), pictorial representation (including illustrations or decorations), emblem (including devices, symbols or trademarks), flag, banner, streamer, pennant, string of lights or display calculated to attract the attention of the public or any other figure of similar character which:

- a. Is a structure or any part thereof or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground;
- b. Is used to announce, direct attention to, or advertise; and
- c. Is not located inside a building.

**SPECIAL USE:** A use of a structure or land which is not permitted outright within a zoning district because of characteristics that might have an adverse affect upon nearby properties or the future development of the district unless certain conditions can be placed on the use which would make it suitable to the purpose of the district and compatible to the other uses so designated. Such uses are "special" in that they are often large, one-of-a-kind, private or public uses serving as community facilities and/or whose location would have planning implications for a large area. Designated special uses are processed in the same manner as zoning amendments except they do not amend the Official Zoning Map(s) and a particular use is applied for within a district for which conditions may be recommended by the Planning Board and attached to their approval by the Governing Body. (See Section 11-101 for Special Uses.)

**STORAGE, OUTDOOR:** The storage of goods and materials outside of any building or structure when specifically permitted by these regulations, but not including storage of a temporary or emergency nature or of new or used goods and materials on display for sale except when such display is permitted. Such storage does not permit the storing or parking of motor vehicles including recreational vehicles or utility trailers for sale at any location in any agricultural and residential district. (See Section 5-100A1 for utilization of parking facilities exemption.)

**STRUCTURAL ALTERATION:** Any change in a structure other than normal repairs and maintenance which may prolong its useful life; or the useful life of its supporting members such as bearing walls or partitions, columns, beams, girders or foundations; or any complete rebuilding of the roof; or the exterior walls; or the construction of any addition to or enlargement of a structure; or the removal of any portion of a structure. For the purpose of these regulations, the following shall not be considered a structural alteration:

- a. Attachment of a new front where structural supports are not changed.
- b. Addition of fire escapes where structural supports are not changed.
- c. New windows where lintels and support walls are not materially changed.
- d. Repair or replacement of non-structural members.

(See Section 3-100C for Structural Alterations.)

**STRUCTURE:** Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, but not including hard surfaced walks, mail boxes or public items such as street or road surfacing, utility poles, fire hydrants, street light fixtures or street signs. Fences, driveways, parking spaces and signs not otherwise identified as street signs are considered to be structures. (See Section 3-100E1 for Exemptions.)

**TAVERN AND DRINKING ESTABLISHMENT:** An establishment which may be open to the general public wherein alcoholic liquor or cereal malt beverages are sold by the individual drink to customers for consumption on the premises. Such establishments shall include a Class B club. (See CLUB.)

**USE:** Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.

**USE REGULATIONS:** The provisions of these regulations which identify permitted, special and conditional uses, impose use limitations, and regulate accessory and temporary uses and home occupations.

**VARIANCE:** See Section 10-107 for description.

**VISION TRIANGLE:** A triangular area at the intersection of streets maintained in such a manner as to provide a safe and open line of vision for drivers of vehicles approaching the intersection. Within the vision triangle, no one shall install, construct, plant, park or maintain any sign, fence, hedge, shrubbery, tree, natural growth or other obstruction including automobiles, trucks and other large vehicles or trailers which would materially impede vision between the heights of 33 inches and eight feet above the street level. These restrictions shall not apply to signs as provided for in Section 7-102J2 as well as official traffic signs, signals and utility poles. Such area on a corner lot shall have two sides which are measured from the intersection of the lot lines and a third side across the lot joining the ends of the other two sides. Where the lot lines at intersections have rounded corners, the lot lines will be extended in a straight line to a point of intersection. In all districts, the two sides forming the lot line intersection shall be a minimum distance of 30 feet.

**YARD:** Open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for the permitted obstructions listed in Section 3-103F.

**YARD, FRONT:** A yard extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front yard. On a corner lot, each yard that abuts a front lot line shall be considered a front yard. (See LOT LINE, FRONT and SETBACK, BUILDING.)

**YARD, REAR:** A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard. (See LOT LINE, REAR and LOT, REVERSE FRONTAGE.)

**YARD, SIDE:** A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of a required minimum side yard, but excluding any area encompassed within a front yard or rear yard. Dimensions of minimum side yards specified in the district regulations of these regulations refer to the required width of each side yard rather than to the total width of both side yards, unless otherwise specified. (See LOT LINE, SIDE.)

**ZONING ADMINISTRATOR:** The person appointed and authorized by the Governing Body to administer and enforce the requirements of these regulations. (See Section 9-100 for Office of the Zoning Administrator.)

**ZONING PERMIT:** A certificate by which the Zoning Administrator certifies to an applicant that their proposed structure and/or use are in conformance with these regulations. When applicable, such a certificate may be combined with the issuance of a building permit as required by a building code. (See Section 9-101A for Zoning Permits.)

## ARTICLE 3. GENERAL PROVISIONS

### 100 Activities Governed by these Regulations.

- A. New Structures. All structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage, by any means, shall be considered to be a structure built hereafter, unless Article 8 of these regulations permits such structures to be rebuilt or restored. (See Appendix for floodplain regulations.)
- B. New Uses of Old Structures. If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations, unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations.
- C. Structural Alterations. If any structure is hereafter structurally altered as defined in Section 2-102:
1. The entire structure as altered shall comply with the use regulations of these regulations.
  2. Any alterations, enlargements or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by Section 8-102B for nonconforming structures.
  3. The off-street parking facilities shall not be reduced below or if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.
- D. Uses of Open Land. If any use of open land is hereafter established or if any use of open land is hereafter changed to another use, such new use shall comply with all the provisions of these regulations, unless permitted by Sections 8-103 and 106.
- E. Exemptions. The following structures and uses shall be exempt from the provisions of these regulations:
1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including major utility substations located on or above the surface of the ground. (See Section 3-103G for lot size and bulk regulations for utility facilities.)
  2. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad rights of way, and maintenance and repair work on such facilities and equipment.

3. Buildings, structures or land used, but not just leased, by the federal government.
4. Use of land for agricultural purposes as defined in Section 2-102, including accessory buildings and structures thereon which are not in a designated floodplain. When any land or accessory buildings or structures cease to be used only for agriculture, then it shall be subject to the applicable provisions of these regulations.
5. Drilling and operating oil or gas wells: provided, that they are not located within 500 feet of a habitable dwelling unit or an active barn without the permission of the affected property owner.

## 101 Districts, Zoning Maps and Boundaries.

- A. Establishment of Districts. The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to "agricultural districts" shall mean those districts in which agricultural uses are the predominant activity. References to "residential districts" shall mean those districts in which residential uses are the main permitted use. References to "commercial districts" shall mean those districts in which commercial uses are the main permitted use. References to "industrial districts" shall mean those districts in which industrial uses are the main permitted use. The "floodplain district" is considered an overlay zone to be used in conjunction with the other districts.
- B. Zoning Maps.
  1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations, references and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. (See Section 9-100A9 for zoning map(s) certificate and revisions.)
  2. It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, streets, alleys and railroads and other rights of way, be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.
- C. Boundaries. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning Map(s), the following rules shall apply:
  1. Where boundary lines are indicated as approximately following streets, alleys, easements, railroads, rivers, streams or bodies of water, such boundaries shall be construed as following the centerlines thereof or otherwise are construed to coincide with lot or tract lines, unless otherwise indicated.

2. Where the district boundaries do not coincide with the location of boundaries as stated in Section 3-101C1 above, the district boundaries shall be determined by the use of the scale shown on the zoning map, unless an exact distance is shown.
  3. Where a district boundary line divides a lot or unsubdivided property in single ownership, the regulations for either portion of the lot may, at the owner's discretion, extend to the entire lot, but not more than 25 feet beyond the boundary line of the district.
- D. Zoning of Rights of Way. All roads, streets, alleys, public ways, waterways and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a road, street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

## 102 General Requirements for All Zoning Districts.

- A. Permitted Uses. No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations. (See Section 2-102 for definition of PERMITTED USE.)
- B. Special Uses. No use of a structure or land that is designated as a special use in any zoning district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district, unless a special use is approved in the same manner as for an amendment to a zoning district except that the Official Zoning Map(s) is not amended. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating resolution. (See Section 2-102 for definition of SPECIAL USE.)
- C. Conditional Uses. No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district, unless a conditional use as an exception is approved by the Board of Zoning Appeals as provided for in Section 10-108. (See Section 2-102 for definition of CONDITIONAL USE.)

D. Lot Sizes.

1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied, arranged or designed for use of occupancy on a zoning lot, unless otherwise provided for in these regulations, which in its district is:
  - a. Smaller area than the minimum area or minimum lot area per dwelling unit required;
  - b. Narrower than the minimum lot width required; or
  - c. Shallower than the minimum lot depth required.
2. Where independent dwelling units are to be sold as condominiums, minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively to the common open space surrounding the structure(s) such that the total open space is an aggregate of the minimum lot area required for each dwelling unit; however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.

E. Bulk Regulations. In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards.

1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy:
  - a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located, unless exempted by the definition of MAXIMUM HEIGHT, or
  - b. That would provide any minimum setback of a front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103B and C and front and side yard setbacks for nonconforming structures and uses in Article 8.
2. Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.

F. Use Limitations. No permitted, special or conditional use hereafter established, altered, extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is, or will be located. No permitted.

special, conditional use or exception already established on the effective date of these regulations shall be altered, extended or enlarged so as to conflict, or further conflict with, the use limitations for the zoning district in which such use is located. (See Sections 8-102, 103 or 106.)

- G. Off-Street Parking and Loading. No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and off-street loading space required by Article 5 are provided. No structure or use already established on the effective date of these regulations shall be enlarged unless the minimum off-street parking and loading space which would be required by Article 5 are provided.
- H. Accessory Structures or Uses. No accessory structures or use, as defined in Article 6, shall hereafter be built, altered, extended, enlarged or moved, unless such accessory structure or use is permitted by Article 6.
- I. Temporary Structures or Uses. No temporary structure or use shall hereafter be built, altered, extended, enlarged or moved, unless such temporary structure or use is permitted by Article 6 of these regulations.
- J. Home Occupations. No home occupation shall hereafter be established, altered, extended, enlarged or moved in any residential district unless such home occupation complies with Article 6.
- K. Signs. No signs shall hereafter be built, and no existing signs shall be altered, enlarged or moved, unless such sign complies, or will thereafter comply, with the restrictions imposed by Article 7.

### 103 Supplemental Requirements.

- A. Number of Structures and Uses on a Zoning Lot.
  - 1. Whenever a zoning lot is not developed as a condominium, but is used for a single-family detached or attached dwelling or any type of manufactured or mobile home, only one principal structure and use may be located on the lot, but only when the structure and use conform to all requirements of the district in which the lot is located.
  - 2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above, more than one principal structure and use may be located on the lot in common ownership, but only when the structures and uses conform to all requirements of the district in which the lot is located.

3. Whenever any structures are developed as condominiums, more than one principal structure may be located on the lot; provided, the definition of a condominium in Section 2-102 is met as well as the requirements of Sections 3-102D2 and E2.
- B. Platted Building Setback Lines. If a recorded subdivision plat imposes a building setback line or a front yard for a lot which is different from the minimum setback or yard required by the applicable section of these regulations, then, notwithstanding any other provision of these regulations, the minimum building setback or front yard shall be the same as that shown on such subdivision plat; provided, that it has been recorded and not otherwise been officially vacated.
- C. Average Setback in Existing Residential Districts.
1. On streets where a front yard more than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, there shall be maintained a front yard setback of not less than the average setback of the existing structures; provided, that these regulations shall not be interpreted to require a front yard setback of more than 50 feet.
  2. On streets where a front yard less than that required by these regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, the front yard setback need not be greater than the average setback of the existing structures; provided, that these regulations shall not be interpreted to permit a front yard setback of less than 20 feet.
- D. Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.
- E. Restrictions on Allocation and Disposition of Required Yards or Open Space.
1. No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area, or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.

2. All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these regulations shall be located on the same zoning lot as such structure or use.
3. No part of the lot area, or of the yard, other open space, or off-street parking or loading space provided in connection with any structure or use (including but not limited to, any structure or use existing on the effective date of these regulations or of any amendment thereof) shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these regulations for the equivalent new construction.

F. Permitted Obstructions in Required Yards. The following shall not be considered to be obstructions when located in a required yard:

1. In all yards: Open terraces or patios not over four feet above the average level of the adjoining ground, but not including a permanent roof over a terrace or patio; awnings; canopies including underlying islands for petroleum pumps; steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot or to a lot from a street or alley including access to conform to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes; fire escapes, one story bay windows and overhanging eaves and gutters projecting 36 inches or less into the yard; chimneys, entrance hoods, window wells, wing walls and daylight windows projecting 36 inches or less into the yard; arbors and trellises; flagpoles and basketball goals; ornamental light or gas fixtures; parking, when permitted by Article 5; accessory and temporary uses, when permitted by Article 6; signs, when permitted by Article 7; and when otherwise specifically permitted by the district regulations. Attached garages, carports, patio covers, porches and decks are not permitted obstructions.
2. In any yard except a front yard: Accessory uses permitted by Article 6; children's recreational and laundry drying equipment; and open and closed fences not exceeding six feet in height with additional height permitted for security design measures.
3. Fences in a front yard: On lots in residential districts only with single-family dwellings and all types of manufactured and mobile homes, fences not exceeding four feet in height are permitted which are constructed with at least 75% open space. In all other circumstances, including decorative walls as perimeters boundaries and entryways to subdivisions, open and closed fences not exceeding six feet in height with additional height permitted for security design measures.
4. Construction standard for all fences: No fence shall be constructed which will constitute a hazard to traffic or a danger to persons or animals.

5. Conditional use for fences: The Board of Zoning Appeals may as a conditional use approve the construction of higher fences and/or less open space in all yards and in any district if the Board finds that the public welfare is preserved.
- G. Lot Size Requirements and Bulk Regulations for Utility Facilities. Notwithstanding any other provision of these regulations, none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located, except as may be determined where ever a special or conditional use is approved in certain districts and by subsection three of the definition for height, maximum in Section 2-102: (See Section 3-100E1 for Exemptions.)
1. Communication structures.
  2. Electric and telephone substations.
  3. Gas regulator stations.
  4. Pumping stations.
  5. Water towers or standpipes.
- H. Access to Business and Industrial Districts. No land which is located in a residential district shall be used for a driveway, walkway or access purpose to any land which is located in any business or industrial district.
- I. Protection of Utility Lines. No building or addition thereto shall be erected over or across any public water, sewer or other utility line, nor upon any platted or recorded easement, unless permission is granted in writing by the County and the public utility whose lines are involved, if any. (See Section 9-101A3 for zoning permits.)
- J. Sewer and Water Facilities.
1. In all districts except agriculture, it is the intention of these regulations to encourage the installation of public water supplies and sewage disposal systems or to connect to such systems if available for use and provided within an economically feasible distance.
  2. In areas where such public facilities are not yet available and on-site wells, cisterns and septic tank systems or wastewater lagoons are necessary, the suitability of the lot and the standards for installation of such on-site water supply and sewage disposal systems shall be governed by the County Sanitary Code.

- K. Dedication of Rights of Way and Easements. As a condition related to a rezoning amendment or a special use, the dedication of additional street rights of way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to the County Subdivision Regulations or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the zoning amendment or special use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the zoning amendment or special use null and void. No extension of the time period may be granted without reapplication.
- L. Vacated Rights of Way. Whenever any road, street, alley, railroad or other right of way is vacated by official action of the Governing Body, the current zoning district(s) for such right of way as provided for by Section 3-101B2 remains in effect after such vacation, unless procedures are initiated to amend the district classification.
- M. Moving Structures. No structure shall be moved into the jurisdiction, nor from one location to another location within the jurisdiction unless such structure shall, when relocated, be made to conform fully with these regulations and other applicable codes of the County including any building codes. No zoning permit shall be issued, unless in the opinion of the Zoning Administrator the height, age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block or surrounding area to which it is to be moved and in the block or area opposite, to such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance.

104 Location or Replacement of Manufactured or Mobile Homes. Notwithstanding other provisions of these regulations, the Zoning Administrator is authorized to issue a zoning permit for a manufactured or mobile home under the following provisions:

- A. Wherever a manufactured or mobile home is moved from a zoning lot within a district in which it is a permitted use, another manufactured or mobile home meeting the requirements of the district may be moved onto the lot at any time.

- B. In the case of a lawful, nonconforming manufactured or mobile home use, such a move must take place within 180 days from the date that the previous manufactured or mobile home was moved off the lot, otherwise such use shall not thereafter be reestablished and, when so moved in, only a manufactured home is permitted as a replacement which must be skirted or placed on a permanent-type, enclosed perimeter foundation. In reestablishing such a home use, any existing nonconforming lot size requirements or bulk regulations shall not be increased in nonconformity and no newly acquired land can be used for placement of such a home.
- C. No manufactured or mobile home, or portion thereof, shall be moved onto any lot or parcel or an existing home converted for storage or any other purpose than for a residence in any district. No such home shall be temporarily or permanently located in any district not otherwise permitting such homes. These provisions do not preclude the use of prefabricated mobile structures for offices in business or industrial districts, but not manufactured or mobile homes unless specifically permitted.
- D. As an accessory use for a watchman or custodian (including a family), a zoning permit may be approved for a manufactured or mobile home in all business and industrial districts and on land used for nonagricultural and nonresidential purposes in agricultural districts.
- E. As an accessory use to a principal farm dwelling on agricultural land as defined herein, application may be made to the Board of Zoning Appeals for a conditional use for locating a manufactured or mobile home with such an existing dwelling. (See Section 2-102 for definition of AGRICULTURE.)
- F. In the event of disasters, such as fires, tornados or floods, whereby expediency is an important factor, a manufactured or mobile home may be located temporarily in any district at the discretion of the Zoning Administrator with appropriate conditions attached for a stated period of time.
- G. As an accessory use to a principal residential building under construction or reconstruction for not more than 18 months. Such manufactured or mobile home must be removed from the premises at the end of the permitted period or at the end of the construction period, whichever occurs first, unless a renewal of the permit is approved.
- H. Where an unusual hardship is shown, the Board of Zoning Appeals may approve a conditional use for a manufactured or mobile home to be located on a lot or tract with an existing dwelling for a stated period of time. A time period may be extended upon request to the Board of Zoning Appeals without further notice or fee.

105 **Screening Requirements.** Landscaping, fencing and other design methods for screening one property from others is a proper subject to be discussed and the need determined at any hearing of the Planning Board for a change in zoning district classification or boundary or a special use as well as by the Board of Zoning Appeals when considering a variance or a conditional use.

A. Location. Unless otherwise exempted or waived by Section 3-105B, screening may also be required in the following circumstances:

1. Whenever application is made for a zoning permit for nonresidential structures and/or uses located adjacent to or across the street from:
  - a. Any residential district: and/or
  - b. Any existing uses which in the opinion of the Board may necessitate proper screening: and/or
  - c. Any adjacent land which in the opinion of the Board may develop into such uses that screening may be necessary now in order to preserve the integrity of the potential uses.

B. Exemptions and Waivers.

1. All applications for zoning permits for exceptions and variances approved prior to the effective date of these regulations are exempted from any additional requirements of screening.
2. The Planning Board may, in its discretion, temporarily or permanently waive the requirements for screenings and/or landscaping if:
  - a. The existing use in the residential district may not necessitate nor benefit from such a requirement: or
  - b. The adjacent land use may already have provided adequate screening for which additional screening may be a duplication: or
  - c. The future land use for the adjacent area can not readily be determined at this time and that upon mutual agreement of the Board and the applicant, that the requirements may be waived and the matter reviewed at a specified date in the future. In the meanwhile, the Board shall require that either a letter of assurance or a covenant be submitted to run with the land: or a guarantee in the form of a corporate security bond, cashier's check, escrow account or other security be submitted to ensure that such requirements will be met when a determination is made. The Planning Board may determine the sufficiency of the assurance based on the length of time anticipated before a decision, the size and cost of the potential work involved, and the need to ensure that the requirement is met regardless of any change in ownership.

4. Section 3-105B2 above shall not prevent the Planning Board from requiring temporary screening on all or a portion of a side or rear yard wherein a nonresidential use is proposed for development adjacent to an existing single-family dwelling and, thereby, a potential nuisance or hazard may be created for the homeowner.

C. Standards, Plan and Maintenance.

1. Screening may consist of fencing and/or landscaping provided that such screening will serve to adequately reduce:
  - a. The visual effects on the environment caused by adjacent nonresidential or higher density residential uses;
  - b. Noise;
  - c. Air pollution;
  - d. Lighting and glare;
  - e. Blowing trash; and
  - f. Potential nuisances and hazardous conditions.
2. The type of fencing should be compatible with the kind and intensity of the land use and the architectural style of the development and adjacent properties.
3. The selection of landscape materials shall consider the "mature" growth and habit of such plants so that vegetation will not overhang or obstruct the public right of way in such a manner as to conflict with vehicular and pedestrian access.
4. Whenever such screening is required, a screening plan for the area shall accompany the application for a zoning permit. Such plan shall be transmitted to the Planning Board for their review and approval or be specifically delegated to the Zoning Administrator.
5. The screening plan shall be in such detail as to provide enough information to determine if the plan meets the above criteria. Such plan shall contain the location, type and height of any fence and the location, mature size and the type of all plant materials along with their common and botanical names. The sizing, grading and condition shall be specified according to the American Association of Nurserymen Standards.
6. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation; provided, written assurances are given which are satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives. (See Section 2-102 for definition of VISION TRIANGLE.)

7. Maintenance.

- a. It shall be the responsibility of the property owner to maintain in good condition all of the required screening and landscaping improvements on their property. When it is determined by the Zoning Administrator that improvements required by Section 3-105 are not being maintained, it is his or her duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than 30 days to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal under Section 10-106 within the 30-day filing period with the Board of Zoning Appeals.
- b. If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board, then the Zoning Administrator shall cause such maintenance to be done to the property. The cost of maintenance shall be certified by the Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.

D. Design Criteria. To assist in reviewing screening plans, the Planning Board may from time to time adopt design criteria in the form of policy statements which may include illustrations.



## ARTICLE 4. ZONING DISTRICTS

### 100 Permitted Uses in All Districts.

- A. Off-street parking and loading as required by Article 5.
- B. Accessory and temporary uses and home occupations as permitted by Article 6.
- C. Signs as permitted by Article 7.

### 101 A-1 Agricultural District. This district is established to: (1) preserve productive farm and ranch land; (2) permit limited nonagricultural uses and low-density dwellings which would not be incompatible to the rural area and require minimum public services; and (3) encourage the compact development of the urban areas.

#### A. Permitted Uses.

- 1. Single-family detached dwellings, earth-sheltered dwellings, modulars, residential-design manufactured homes and manufactured homes skirted or on enclosed, perimeter permanent-type foundations.
- 2. Churches, chapels, temples and synagogues.
- 3. Golf courses, including accessory club houses, but not commercial driving ranges or miniature golf courses.

#### B. Special Uses.

- 1. Airports, heliports, ultralite landing areas and aircraft landing fields, publicly and privately owned.
- 2. Animal clinics or hospitals with outside runs where permitted.
- 3. Campgrounds, subject to the following regulations and accompanied by a plot plan:
  - a. Campgrounds shall be utilized only for the accommodations of camping trailers, tents and other similar camping vehicles, and under no circumstances shall a campground be utilized for the occupancy of manufactured or mobile homes.
  - b. The tract to be used for a campground shall not be less than two acres in area and be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.

- c. Campgrounds shall have a maximum density of 20 camping spaces per gross acre, a minimum area of 1,250 square feet for each space, and maintain a setback of no less than 25 feet from any public street or highway right of way or property line.
  - d. If deemed necessary to screen adjoining property and provide privacy to the campground, a solid or semi-solid fence or wall at least six feet high, but not more than eight feet high, may be required. In lieu of a fence or wall, a landscape buffer may be provided not less than 20 feet in width and planted with coniferous and other plant materials. The fence, wall or landscape buffer shall be properly maintained by the operator.
  - e. The campgrounds shall have an accessible, adequate, safe and potable water supply and, if a public water supply is reasonably available to the campgrounds, it shall be used. Also, it must have an adequate method for on-site sewage disposal as provided for in these regulations; however, if a public sewer system is reasonably available, it shall be used. (See Section 3-103J for sewer and water facilities.)
  - f. The campground and any service buildings and refuse disposal systems must be maintained in a clean, sanitary condition and kept free of any condition that will harm the health of the occupants or the public or constitute a nuisance.
4. Cemeteries including crematories and mausoleums.
  5. Commercial development of natural resources and extraction of raw materials such as rock, gravel or sand: provided, that fencing may be required where deemed necessary and that it is the intent of these regulations to require an orderly continuing use of all land permitted to be excavated for its resources. At the time an application is made for a special use, the applicant shall submit a general plan for restoration of the area to be excavated or to be used in any way as part of the operations. A special use shall be required for all new or expanded operations or reopening of previously abandoned operations. Information to be submitted with the application includes the following:
    - a. A plan showing the boundary of the entire tract, vehicular access routes and surfacing, prevailing wind directions, existing and proposed street rights of way, easements, water bodies, mining area and proposed fencing.
    - b. A general plan of operation, including blasting hours, removal plan and hours of operation.
    - c. A plan showing the finished topography of the restored areas including grades and slopes.
    - d. A general timing for restoring the various excavation pits and overburden for a continuing use.

- e. A general description of the methods and materials proposed to provide for a continuing use.
  - f. Amount and type of planting to be done on the restored area or other approved restoration uses or methods.
6. Commercial storage and/or sale of anhydrous ammonia, propane or butane in bulk and the wholesale storage of gasoline and other manufactured petroleum products above ground level.
  7. Communication structures, antennas and aerials. (See Section 2-102 for HEIGHT, MAXIMUM.)
  8. Grain elevators and storage bins, including the sale of related items such as seed, feed, fertilizer and pesticide.
  9. Kennels for breeding and boarding dogs, provided that:
    - a. No kennel buildings or runs or open areas shall be located closer than 300 feet to any property line.
    - b. All kennel runs or open areas shall be screened around such areas or at the property lines. Such screening may be densely planted evergreen foliage or a solid wall or fence of masonry, wood or metal designed so as to reduce noise and prevent the distraction or excitement of the dogs.
  10. Natural wildlife habitats and reserves, publicly owned. (See Section 2-102 for definition of AGRICULTURE.)
  11. Privately owned seasonal or temporary or permanent parks and recreational areas such as youth camps, adult and family retreat or resort areas, gun clubs, archery ranges, rodeos, race tracks, musical festivals or hunting and/or fishing lodges and preserves.
  12. Public buildings erected or land used by any agency of a city, township, county or state government.
  13. Riding stables and academies providing no structure housing horses shall be located nearer than 500 feet to the boundary of any residential district.
  14. Roadside stands for the sale of agricultural products by an operator other than the producer of the product. (See Sections 2-102 for definition of AGRICULTURE and Section 6-101D for seasonal sale of farm products.)
  15. Salvage yards, subject to the following conditions:
    - a. Located on a tract of land at least 300 feet from a residential district.

- b. The operation shall be conducted wholly within an enclosed, noncombustible building or within an area screened where necessary by a fence or wall at least eight feet high, but not more than 10 feet high. Such fence or wall shall be of uniform texture and color and shall be properly maintained by the owner.
  - c. No salvage materials shall be loaded, unloaded or otherwise placed temporarily or permanently outside the enclosed building, fence, wall or within the public right of way.
  - d. No salvage materials shall be piled higher than the top of the required fence or wall.
  - e. Burning of salvage materials shall be subject to applicable county, state and federal laws.
- 16. Sanitary landfills, incineration plants, large recycling collection and processing centers, refuse transfer stations and hazardous waste facilities, all publicly and privately owned.
  - 17. Utility substations, pumping stations and water towers, publicly and privately owned. (See Section 3-103G for lot size and bulk regulations.)
  - 18. Wind energy projects (Commercial). (See Commercial Wind Energy Projects (CWEP) Criteria and Conditions in the Appendix.)
  - 19. Other uses not specifically listed as a permitted, special or conditional use, but which are in keeping with the intent of Section 4-101 and compatible with the uses permitted in Section 4-101A.

C. Conditional Uses.

- 1. Accessory apartments.
- 2. Bed and breakfast homes and inns.
- 3. Boarding and rooming houses.

D. Lot Size Requirements.

- 1. Minimum lot area: (See Section 2-102 for definition of LOT AREA.)
  - a. Residential uses: Five acres.
  - b. Other uses: 40,000 square feet.
- 2. Minimum lot width: 100 feet.
- 3. Minimum lot depth: 150 feet.

E. Bulk Regulations.

1. Maximum structure height: 45 feet, except grain elevators.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yards:
    - (1) Residential: 25 feet.
    - (2) Other uses: 25 feet.
  - c. Minimum rear yards: 30 feet.
3. Maximum lot coverage: A building, structure or use may occupy all that portion of a zoning lot not otherwise required for off-street parking, loading or yard requirements.

F. Use Limitations.

1. Outdoor storage shall be permitted as defined by Section 2-102 for goods and materials as accessory uses related to the operation of the principal use as well as the display of new and used goods when the latter is approved as part of a special or conditional use.
2. (See Section 3-104D for watchman or custodian residing on the premises.)

102 V-1 Village District. This district is intended to encourage the continued existence of small unincorporated "villages" by placing very minimal restrictions on their development. No development of new villages is contemplated under these provisions and only fill-in type development of existing villages with low intensity uses is intended.

A. Permitted Uses.

1. Single-family detached dwellings, modulars and manufactured homes on land owned by the homeowner.
2. Business uses comparable to the permitted uses listed in the C-1 General Commercial District.
3. Industrial uses comparable to the permitted uses listed in the I-1 Industrial District.

B. Special Uses.

1. Other uses not specifically listed as a permitted use, but which are in keeping with the intent of Section 4-102 and compatible with the uses permitted in Section 4-102A.

C. Standards. No restrictions are placed on lot size requirements or bulk regulations except that a ten-foot setback on all zoning lots is required for all front, side and rear yards.

103 **RR-1 Single-Family Rural Residential District.** This district is established to provide for low density rural subdivisions of single-family housing and to allow certain community facilities. It is intended that no uses be allowed in this district that will tend to devalue property for residential purposes or interfere with the health, safety, order or general welfare of persons residing therein. Regulations are intended to control density of population and to provide adequate open space around buildings and structures to accomplish these purposes.

A. Permitted Uses.

1. Single-family detached dwellings, earth-sheltered dwellings, modulars, residential-design manufactured homes, multiple-wide manufactured homes on enclosed, perimeter permanent-type foundations and group homes.
2. Churches, chapels, temples and synagogues.
3. Golf courses, including accessory club houses, but not commercial driving ranges or miniature golf courses.

B. Special Uses.

1. Public buildings erected or land used by any agency of a city, township, county or state government.

C. Conditional Uses.

1. Any conditional use allowed in the A-1 Agricultural District.
2. Child care centers and preschools.

D. Lot Size Requirements.

1. Minimum lot area: (See Section 2-102 for definition of LOT AREA.)
  - a. Residential uses: Three acres.\*
  - b. Other uses: 40,000 square feet.
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 150 feet.

\* **Note:** The minimum lot area requirement shall be increased as necessary to meet the standards for the County Sanitary Code for Environmental Protection especially if a wastewater lagoon is required.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
  - a. Minimum front yard: 30 feet on all sides abutting a street.
  - b. Minimum side yards:
    - (1) Residential: 15 feet.
    - (2) Other uses: 15 feet.
  - c. Minimum rear yards: 30 feet.
3. Maximum lot coverage: 35%

F. Use Limitations.

1. No outdoor storage shall be permitted as defined by Section 2-102. (See Section 2-102 for SALVAGE YARD.)
2. Animal husbandry, including the maintenance of horses, cows, swine, goats, cats, dogs, rabbits, chinchillas, guinea pigs, pigeons, poultry and the like shall be subject to all applicable County and state health and sanitation requirements.

104 **C-1 General Commercial District.** This district is established for a selected group of retail and service businesses catering to the motoring public and providing a limited range of commercial services to rural and urban residents. Such uses should be located on major roads, particularly at intersections and/or adjacent to cities. It is not intended that this district would commercially "strip out" the roadways, nor would it create shopping centers or unduly compete with commercial urban centers in cities.

A. Permitted Uses.

1. Animal clinics and hospitals.
2. Antique, gift and souvenir shops.
3. Automobile and truck service stations with minor repair work.
4. Bait shops including hunting and fishing supplies and equipment.
5. Business and professional offices.
6. Commercial auction yards and barns.
7. Commercial recreational activities.
8. Contractor and construction offices and shops including electrical, plumbing, woodworking, heating and air conditioning, and like services. (See Section 4-104C4 for STORAGE, OUTDOOR.)
9. Convenience food stores.
10. Farmers co-ops.
11. Garden stores, greenhouses and nurseries.
12. Hotels and motels.
13. Mini-storage facilities.
14. Pottery and statuary sales.
15. Restaurants.

B. Special Uses.

1. Public buildings erected or land used by any agency of a city, township, county or state government.
2. Butane and propane bulk storage and distribution.
3. Communication structures, antennas and aerials. (See Section 2-102 for HEIGHT, MAXIMUM.)

4. Fraternal and service clubs and clubs and taverns.
5. Sexually oriented businesses as defined in K.S.A. 12-770 (A) (2) through (15) for which the premises is located at least 1,500 feet from any: (1) land being used for a public or private school, college, church or park; or (2) building being used for a residence. If such uses are established after such a business is properly approved to operate, the premises shall remain eligible for approving such a business. (See Section 2-102 for definition of PREMISES.)
6. Utility substations, pumping stations and water towers.
7. Welding and blacksmith shops.
8. Other uses not specifically listed as a permitted, special or other conditional use, but which are in keeping with the intent of Section 4-104 and compatible with the uses permitted in Section 4-104A.

C. Conditional Uses.

1. Car washes.
2. Garages, repair.
3. Outdoor storage, display, operations or activity area of a permitted use.
4. Sales lots for motor vehicles, recreational vehicles, manufactured or mobile homes and boats.

D. Lot Size Requirements.

1. Minimum lot area: 20,000 square feet or not less than sufficient lot size to meet the minimum standards of the County Sanitary Code. (See Section 2-102 for definition of LOT AREA.)
2. Minimum lot width: 90 feet.
3. Minimum lot depth: 100 feet.

E. Bulk Regulations.

1. Maximum structure height: 35 feet.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yard: 20 feet.
  - c. Minimum rear yard: 30 feet.
3. Maximum lot coverage: 60%.

F. Use Limitations.

1. No new building shall be used for residential purposes except for the use of the owner or operator of a business located on the premises.
2. All business, servicing, storage and display of goods, except for the sale of self-service gasoline and the operation of automobile service stations, shall be conducted within completely enclosed structures or screened from public view, unless approved as a conditional use by the Board of Zoning Appeals or as part of an application for a special or conditional use.

105 **I-1 Industrial District.** This district is established for industrial uses which may not require large amounts of land; generate modest amounts of traffic; are consistent with the capacity and availability of public and private services; create limited environmental problems in the way of sounds, glare, dust, smoke, odor or vibration; and do not permit the intermixing of residential uses.

A. Permitted Uses.

1. Agricultural and oil equipment and machinery sales, repairs and storage.
2. Agricultural feed, seed, grain and fertilizer mixing, blending, sales and storage.
3. Automobile, truck, motorcycle, recreational vehicles and boat sales, repairs and refinishing.
4. Automobile and truck service stations.
5. Building material, production, sales and storage including lumber-yards, but not the operation of concrete and asphalt plants.
6. Ceramic or pottery manufacturing, sales and storage.
7. Construction contractor's offices, shops and related equipment and material storage yards including excavating contractors.
8. Dog kennels, including outside runs.
9. Food processing, distribution and storage.
10. Greenhouses, hydroponic farming and nurseries, wholesale and retail.
11. Livestock sales, yards and barns.
12. Manufacturing of housing, recreation vehicles and boats including sales, repair and storage.
13. Manufacturing of plastic products.
14. Metal fabrication and assembly.
15. Mini-storage facilities including outside storage.
16. Monument engraving and sales.
17. Rental equipment centers.
18. Utility substations, pumping stations and water towers.

19. Warehouses operations and the storage of equipment, vehicles and materials indoors and outdoors, except salvage equipment, vehicles or materials.
20. Welding or blacksmith shops,

B. Uses Not Permitted.

1. Acid manufacture.
2. Cement, lime, gypsum or plaster of Paris manufacture.
3. Creosote or tar treatment.
4. Distillation of bones.
5. Explosives manufacture or storage, including fireworks.
6. Fat rendering.
7. Garbage, offal or dead animal incineration or reduction.
8. Glue or soap manufacture.
9. Primary smelting of base metals from ore.
10. Slaughterhouses.
11. Tanning, curing or storage of rawhides or skins.

C. Special Uses.

1. Public buildings erected or land used by any agency of a city, township, county or state government.
2. Communication structures, antennas and aerials.  
(See Section 2-102 for HEIGHT, MAXIMUM.)
2. Fertilizer manufacturers.
3. Hazardous waste facilities.
4. Salvage yards. (See Section 4-101B15 for standards.)
5. Storage in quantity and not used as part of a normal manufacturing process of such items as anhydrous ammonia, oil, gas, explosives and other products which may be considered as highly explosive, combustible or of a volatile nature.
6. Other industrial type uses not specifically listed as a permitted, special or other conditional use, but which are in keeping with the intent of Section 4-105 and compatible with the uses permitted in Section 4-105A.

D. Conditional Uses.

1. Asphalt and concrete mixing plants.

E. Lot Size Requirements.

1. Minimum lot area: 40,000 square feet or not less than sufficient lot size to meet the minimum standards of the County Sanitary Code.) (See Section 2-102 for definition of LOT AREA.)
2. Minimum lot width: 100 feet.
3. Minimum lot depth: 150 feet.

F. Bulk Regulations.

1. Maximum structure height: 45 feet exclusive of grain elevators.
2. Yard requirements:
  - a. Minimum front yard: 35 feet on all sides abutting a street.
  - b. Minimum side yard: 10 feet, but if adjacent to a residential district, 20 feet.
  - c. Minimum rear yard: 20 feet, but if adjacent to a residential district 30 feet.
3. Maximum lot coverage: 50%.

G. Use Limitations.

1. No new building shall be used for residential purposes, except that a watchman or custodian may reside on the premises in a residential building or a manufactured or mobile home. (See Section 3-104D.)
2. Outdoor operations, display and storage are permitted which are related activities to the principal use, except that only parking and display areas for new products are permitted in the minimum front yard setback.
3. There shall be no emission of dust, noise, odor or vibration which shall be detectable as a nuisance beyond the lot line.

## ARTICLE 5. OFF-STREET PARKING AND LOADING

100 **Off-Street Parking.** In any applicable zoning district, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations. When an existing structure or use is expanded, accessory off-street parking shall be provided in accordance with the following regulations for the area or capacity of such expansion. Plans showing the layout and design of all off-street parking spaces and loading areas must be submitted and approved by the Zoning Administrator before a zoning permit is issued for such spaces or area.

### A. General Provisions.

1. Utilization: Accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants or employees of such uses. Such parking facilities or any vacant lot shall not be used to display or store motor vehicles including recreational vehicles and utility trailers for sale other than where permitted specifically in a district. Such provision shall not prevent the display of a small temporary for sale sign not exceeding two square feet in size on a personal vehicle when parked periodically on the driveway or an identifiable parking area on a zoning lot of the owner's residence or place of employment. (See Section 2-102 for definition of STORAGE, OUTDOOR.)
2. Parking space dimension: An off-street parking space shall be at least eight feet six inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps or columns, unless special parking is designated for variable sizes of vehicles.
3. Access: Each off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. No parking space shall be designed to exit or back directly onto a public road or street or use the public right of way for parking space.
4. Open and enclosed parking: Off-street parking spaces open to the sky may be located in any yard, except that in residential districts no required spaces shall be located in a front yard setback. Principal buildings with private garages and carports integrated into or attached to the buildings which contain or shelter off-street parking spaces shall be subject to the yard setback requirements applicable in the district wherein the buildings are located. Detached garages and carports which contain or shelter off-street parking spaces shall be subject to the provisions of the accessory uses contained in Section 6-100 and, in particular, the bulk regulations of Section 6-100C. (See Section 3-103F1 for canopies.)

5. Design and Maintenance:

- a. Design: Off-street parking spaces shall comply with such design standards relating to curb cuts and curb length, stall depth, driveway width, island width, barriers, and the location of ingress and egress as may be established from time to time by the County. Off-street parking spaces may be open to the sky or enclosed in a building or structure. Parking on driveways for single-family dwellings and all types of manufactured and mobile homes is considered to be permitted temporary parking and required parking spaces on such lots are not to be in the front yard setback. All parking spaces must be in an identifiable area where all spaces are contained thereon. (See Section 5-100A5c for screening.)
- b. Surfacing: All open off-street parking spaces, whether required spaces or not, and driveways shall be graded and paved or graveled and maintained in good condition. Driveways, parking spaces and display areas for all open sales or rental lots for motor vehicles, trailers, recreational vehicles and manufactured and mobile homes shall be paved or graveled.
- c. Screening: Screening for parking spaces and loading areas is incorporated into the general screening provisions of Section 3-105.
- d. Lighting: Any lighting used to illuminate off-street parking spaces shall be shaded so that direct light is not cast upon property located in a residential district and so that glare is not a problem to traffic on any public street.
- e. Repair and service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking spaces or structures, except as incidental repairs to a personal vehicle. (See Section 2-102 for definition of SALVAGE YARD.)
- f. Computation: when determination of the number of off-street parking spaces required by these regulations results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.
- g. Collective provisions: Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each such use; provided, that wherever there is a common plan of parking for land in single ownership that the amount of required parking shall consider the joint use of such space whenever large places of assembly are present which vary in their times of use and season of the year to the end that all parking is contained on the site or on accessory

parking lots except for infrequent periods of peak use. The off-street parking spaces required by Section 5-101 may be increased; however, where it is anticipated that peak parking periods will be a consistently reoccurring problem. All regulations must be adhered to which cover the location of accessory parking spaces in relation to the use served.

- h. Location: All parking spaces required to serve structures or uses shall be located on the same zoning lot as the structure or use served unless a conditional use permit is obtained under Section 5-102.
  - i. Employee parking: Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.
  - j. Handicapped parking: Parking spaces according to the number of spaces and their designated signage shall be provided for persons with a disability in conformance to the standards of the federal Americans with Disabilities Act of 1990 as incorporated into state statutes. (See K.S.A. 58-1311 and 42 USCA 12101 et seq.)
6. Plans and approval required: Plans showing the layout and design of all off-street parking spaces, whether required spaces or not, including driveway and loading areas shall be submitted to and approved by the Zoning Administrator prior to issuance of a zoning permit for the parking layout itself or as part of an application for a larger related project. Before approving any parking layout, the Administrator shall determine that the spaces provided are usable and meet County design standards as well as all parking requirements of these regulations. Parking spaces shall be clearly indicated or otherwise marked on the ground to designate the individual spaces. (See Section 5-100A 1-5 for design standards.)

101 **Required Parking Spaces.** Off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

A. Dwelling and Lodging Uses:

- 1. Single-family dwellings, earth-sheltered dwellings, residential-designed manufactured homes and manufactured and mobile homes: At least one parking space for each dwelling unit.
- 2. Hotels, motels, guest houses and bed and breakfast homes and inns: One parking space for each rental unit, plus such additional spaces as are required for restaurants, assembly rooms and affiliated facilities.
- 3. Boarding or rooming houses: One parking space for each two rooms.

B. Business and Industrial Uses:

1. Automobile service stations: One parking space for each employee, plus two spaces for each service bay.
2. Automobile, truck, trailer, and manufactured and mobile home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of such vehicles, plus one parking space for each service bay and employee.
3. Business and professional offices: One parking space for each 300 square feet of floor area, not including meeting rooms.
4. Bowling alleys: Four parking spaces for each lane.
5. Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees.
6. Car washes: Two holding spaces for each car washing stall, plus one drying space for each car washing stall.
7. Furniture or appliance stores and service or repair shops: One parking space for each 400 square feet of floor area.
8. Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing, or repairing of goods, materials or products: One parking space per two employees.
9. Restaurants, private clubs and taverns: One parking space for each 2.5 seats based on the maximum designed seating capacity; provided, however, that drive-in restaurants shall have a minimum of least 10 parking spaces.
10. Retail stores and financial institutions: One space per 250 square feet of floor area, not including meeting rooms. (See Section 5-101B12 for places of assembly.)
11. Service stations: One parking space for each employee, plus two spaces for each service bay.
12. Theaters, auditoriums and places of assembly: One space for each four seats.
13. Warehouse, storage and wholesale establishments: One parking space for each two employees.

C. Other Uses:

1. Child care centers and preschools: One parking space for each employee plus such temporary parking spaces as determined necessary by the Zoning Administrator for customer parking depending upon the number of children.
2. Churches: One parking space for each four seats based upon the maximum designed seating capacity in the main worship area, including choir lofts.
3. Elementary and junior high public schools and equivalent parochial and private schools: One space for each faculty and staff person plus places of assembly. Regular parking spaces must be provided off the street for all buses serving the school. (See Section 5-100A5g for collective provisions.)
4. Private social and hobby clubs, associations and lodges: One parking space for each three seats based upon the maximum designed seating capacity.
5. Secondary public and private schools: One parking space for every four persons based on the maximum design capacity for pupils, faculty and staff, plus places of assembly. Regular parking spaces must be provided off the street for all buses serving the school. (See Section 5-100A5g for collective provisions.)

Parking spaces for other permitted uses not listed above shall be provided in accordance with the determination of the Zoning Administrator with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use. Parking for special and conditional uses may be established as part of processing their application or when issuing the zoning permit.

102 Conditional Use for Parking. In order to provide off-premises required or additional off-street parking areas, the Board of Zoning Appeals may grant as a conditional use for the establishment of parking areas in any zoning district under the following provisions: (See Section 2-102 for definition of PREMISES.)

- A. Location: The nearest access to the parking area provided under this section must be within 300 feet (along lines of public access) from the boundary of the nearest entrance to the structure for which the parking is provided.
- B. Use: The parking area shall be used for vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

C. Improvements:

1. Parking spaces and driveways on private property providing ingress and egress to parking areas shall be provided with an all-weather surface which meets the approval of the Board and shall be maintained in good condition and free of weeds, dust, trash and other debris.
2. Parking areas shall have adequate guards to prevent extension or the overhanging of vehicles beyond property lines or parking spaces. Such areas shall have adequate markings for channelization and movement of vehicles.
3. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent dwelling or residential district.
4. A fence (such as solid-wall masonry, wood, plastic, metal or other similar materials) not less than six feet high, may be required to be erected along any property line adjacent to or adjoining any residential district to reduce noise, eliminate the passage of light from vehicles and prevent the blowing of debris. Whenever a fence shall be required along a front yard which includes a driveway area, such fence shall not be higher than four feet.
5. When located in a residential district, parking shall not be located within a front yard and the front yard shall remain unpaved and shall be landscaped, unless a waiver by the Board is warranted due to the nature and arrangement of the adjacent land use.
6. The Board shall determine the necessity of additional improvements in order to protect adjacent property owners and the public interest. Such improvements shall include, but not be limited to proper drainage, setbacks, screening, grass, shrubs, trees and the maintenance thereof, and the extent of access permitted to public roads, streets and alleys.

103 **Off-Street Loading and Unloading.** In all zoning districts, loading and unloading space shall be provided off-street and on the same premises with every building, structure or part thereof, hereafter erected, established, or enlarged and occupied which requires the receipt or distribution of materials or merchandise by motor vehicle. The loading and unloading space shall be so located as to avoid undue interference with public use of roads, streets, alleys and walkways. Such vehicular access shall be maintained in good condition and surfaced in such manner as required in Section 5-100A5b for parking spaces. When off-street parking space is used to fulfill this loading and unloading requirement, the latter shall be scheduled so as not to interfere with meeting the parking needs.

## ARTICLE 6. ACCESSORY USES

100 **Accessory Uses Authorization.** Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

- A. **Definitions.** An accessory use is a structure or use which:
1. Is subordinate to and serves a principal building or use;
  2. Is subordinate in purpose to the principal building or use served.
  3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or use served; and
  4. Is located on the same zoning lot as the principal building or use served. (See Section 6-100D1 regarding beginning any accessory structure or use prior to the principal structure or use.)
- B. **Permitted Accessory Uses.** Any structure or use that complies with the terms of Section 6-100A may be allowed as an accessory use or structure and may also include parking spaces and sign.\*
- C. **Bulk Regulations.**
1. Accessory structures and uses shall maintain the same side and front yard setback as is required for the principal structure, unless they are a permitted obstruction within the provisions of Section 3-103F. (See Section 5-100A4 for parking space.)
  2. Accessory buildings shall be set back five feet from the rear lot line, except that garages with entrances facing alleys shall be set back at least 20 feet. (See Sections 9-101A for zoning permits on easements.)
  3. No part of any accessory buildings shall be located closer than 10 feet to any principal structure. (Note: Additions or attachments to principal structures are not considered accessory buildings and are regulated by the bulk regulations for the principal structure.)
  4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located, except that in residential districts no accessory building shall be more than one story high nor exceed 25 feet in height unless a conditional use is approved by the Board of Zoning Appeals to exceed such height limitation for living space only above such an accessory building.

\* Zoning permits are not required for accessory structures except for parking spaces and signs. (See Section 5-100 for parking spaces and loading areas and Article 7 for signs.)

D. Use Limitations. All accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located with the following additional use limitations:

1. No accessory structure shall be constructed and occupied or a use started on any zoning lot prior to the time construction begins on the principal structure or use to which it is accessory. Conversely, no accessory structure shall continue to be used or occupied after the principal structure has been removed from a zoning lot. (See Section 6-100A4 regarding same zoning lot.)

## ARTICLE 7. SIGNS

- 100 **Sign Permits.** No sign, except for signs listed in Section 7-103, shall be constructed, erected, enlarged, relocated or structurally altered until a zoning permit for such sign has been obtained in accordance with the procedure set out in Article 9 of these regulations. No zoning permit for any sign shall be issued unless the sign complies with the regulations of this Article 7. All signs lawfully existing at the time of passage of these regulations may remain in use, including those in the status of legal nonconformance. The purpose of this article is to safeguard the public use of the roads and streets and to equitably enhance the visual environment of the County. (See Section 2-102 for definition of SIGN.)

In addition to these sign regulations, all provisions of the Kansas Highway Advertising Control Act administered by the Kansas Department of Transportation must be met where such provisions exceed the requirements of these regulations. The latter regulations apply to signs visible from the Interstate and Federal Aid Primary Highway Systems. (See K.S.A. 68-2231, et seq. for state sign regulations.)

### 101 **Classification of Signs.**

#### A. **Functional Types:**

1. **Advertising Sign:** A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered at a location other than the premises on which the sign is located or to which it is affixed. Such a sign may also be used to convey political and public service announcements. No such sign shall be attached to a stationary vehicle or a portion thereof which is publicly displayed on a zoning lot. Advertising signs along state or federal highways must receive prior approval from the Kansas Department of Transportation before a zoning permit can be issued.
2. **Bulletin Board Sign:** A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name or names of persons connected with it, and announcements of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
3. **Business Sign:** A sign which directs attention to a business or profession conducted; or to a commodity or service sold, offered or manufactured; or an entertainment offered on the premises where the sign is located or to which it is affixed.
4. **Construction Sign:** A temporary sign indicating the names of designers and contractors involved in the construction of a project during the construction period and only on the premises on which the construction is taking place.

5. Identification Sign: A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
6. Nameplate Sign: A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, their professional status.
7. Real Estate Sign: A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof located thereon, including auction signs.

B: Structural Types:

1. Awning, Canopy or Marquee Sign: A sign that is mounted or painted on, or attached to, an awning, canopy or marquee that is otherwise permitted by these regulations. No such sign shall project further below than seven feet from the ground level or beyond the physical dimensions of the awning, canopy or marquee.
2. Ground Sign: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property. A sign on accessory structures shall be considered a ground sign. Portable signs do not numerically count as ground signs for the district regulations.
3. Pole Sign: A sign that is mounted on a free-standing pole, the bottom edge of which sign is seven feet or more above ground level.
4. Projecting Sign: A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
5. Roof Sign: A sign totally supported on the roof of a building which does not project more than 12 inches beyond the face of the structure.
6. Temporary Sign: A sign in the form of a banner, pennant, valance or advertising display constructed of fabric, cardboard, wall-board or other light weight materials, with or without a frame, intended for temporary display of not more than 20 days at a time.
7. Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than twelve inches from such building.

102 General Standards.

- A. Gross Surface Area of Sign. The entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between any adjacent elements of same. Such perimeter shall not include any structural elements lying outside the limits of such sign and which do not form an integral part of the display. When two or more signs are located on a zoning lot, the gross surface area of all signs on the lot shall not exceed the maximum gross surface per street frontage set by the applicable district regulations, except as is provided by Section 7-102B. Signs on interior lots which may be viewed from both directions of the adjacent street are considered to have a single gross surface area.
- B. Corner and Through Lots. On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are worded in terms of the number of signs per zoning lot shall be deemed to permit the allowable number of signs to face each street or highway that abuts the lot.
- C. Height of Sign. The maximum height of signs shall be measured from ground level at the base of or below the sign to the highest element of the sign and shall be determined for purposes of Article 7 as independent from the maximum structure height for zoning districts.
- D. Building and Electrical Codes Applicable. All signs must conform to the structural design standards of any applicable building code. Wiring of all electrical signs must conform to any applicable electrical code.
- E. Illuminated Signs. Signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park. Any brightly illuminated sign, located on a lot adjacent to or across the street from any residential district, which is not otherwise shaded and visible from such residential district, shall not be illuminated between the hours of 11 P.M. and 7 A.M.
- F. Flashing or Moving Signs. No flashing signs, rotating or moving signs, animated signs, signs with moving lights or signs which create the illusion of movement shall be permitted in any residential district.
- G. Metal and Nonmetal Signs. Signs constructed of metal and illuminated by any means requiring internal wiring or electrically wired accessory fixtures attached to a metal sign shall maintain a free clearance to grade of nine feet. Accessory lighting fixtures attached to a nonmetal frame sign shall maintain a clearance of nine feet to grade. Metal or nonmetal signs, whether illuminated or not, shall maintain a clearance of at least eight feet underneath awnings, canopies or marquees.

- H. Accessway or Window. No sign shall block any accessway or window required by any applicable building, housing, fire or other codes or regulations.
- I. Signs on Trees or Utility Poles. No private sign shall be attached to a tree or utility pole whether on public or private property.
- J. Traffic Safety.
1. No sign shall be maintained at any location where by reason of its position, size, shape or color: it may obstruct, impair, obscure, interfere with the view of, or be confused with: any traffic control sign, signal or device: or where it may interfere with, mislead or confuse traffic.
  2. No sign shall be located in any vision triangle as defined in Section 2-102, except official traffic signs and signs mounted eight feet or more above the ground whose supports, not exceeding two, do not exceed 12 inches at the widest dimension and, thus, do not constitute an obstruction.
- K. Location. No sign or structure thereof shall be permitted on a public right of way or public easement, except temporary real estate and garage sale signs may be placed on the public right of way with the approval of the adjacent landowner to provide direction to the property: provided, that such signs do not obstruct traffic visibility. Such signs may only be displayed during an open house or a garage sale and must be removed at the conclusion of such open house or sale. No sign shall be permitted to project over a public right of way or public easement, except with the approval of the Board of Zoning Appeals as a conditional use. (See Section 7-102G for clearance of Metal and Nonmetal Signs, Section 7-102L2 for portable signs, Section 7-103A5 for garage sale signs and Section 7-103B5 for real estate signs.)
- L. Portable Signs. Notwithstanding any other provisions of these regulations and, in particular, Article 7, the following provisions apply to the use of portable signs:
1. A portable sign is defined as a temporary on-site sign designed in such a manner as to be readily movable and not permanently attached to the premises, such as A-frames or trailer signs, but not to include signs placed on stationary vehicles, beacon lights and other similar signs. Removal of any wheels shall not change the definition of being readily moveable. Any such sign shall not exceed a height of 10 feet above grade level nor 60 square feet in gross surface area. Such signs shall not be used as advertising signs. (See Section 7-101A1 for advertising sign.)
  2. All the general standards of Sections 7-102A through K are applicable to portable signs, except that in Section 7-102K such signs may project over or be located on public easements, but not the public street right of way. No such signs shall be placed on the roof of structures.

3. Whereas portable signs are not required to set back any minimum distance from lot lines in any zoning district, the Zoning Administrator shall, in his or her discretion, strictly enforce the traffic safety provisions of Section 7-102J1, especially at corner intersections and driveway entrances and exits.
4. In all zoning districts, except residential districts, portable signs are permitted; however, any such sign shall not be located closer than 50 feet to another such sign when measured along the frontage whether the latter is located on the same or another zoning lot, except that each business firm shall be permitted at least one such sign notwithstanding the 50 foot minimum spacing standard.
5. In all residential districts only portable signs are permitted which limit their messages to the following subjects:
  - a. Announcements of special occasions or activities of nonprofit organizations such as churches and fraternal and service clubs.
  - b. Announcements related to personal or family events such as "Happy Birthday" and the like.

The above signs are limited to a display period of not more than 30 days for any one announcement with the gross surface area not to exceed 60 square feet and only one sign at a time permitted on the premises of the party making the announcement.

6. In addition to the provisions of Sections 7-102D and E, strobe light sources or flashing bulbs or signs which create the illusion of movement shall not be permitted on portable signs in any district. Electrified portable signs shall not be connected to any electrical power source except during the hours when the business, office or institution is open. Electrical lines shall not be permitted to lay on the ground where vehicular traffic or pedestrian passage is allowed and the use of extension cords for portable signs is prohibited. Ground Fault Circuit Interrupters (G.F.C.I.) are required on all electrified signs.
7. A zoning permit for each portable sign shall be obtained for each period when the sign remains on the zoning lot. Annual permits may be obtained for the use of such signs at one or more locations during the year. All portable signs shall bear an identification marker to indicate the owner's name and some system of identifying the individual sign, e.g. by number.
8. Any unauthorized portable sign placed on public property, including the public street right of way, is declared to be a public nuisance and be the cause of its removal and impoundment without notice. If not redeemed within 30 days by the owner paying a service charge, the County may dispose of the sign in any manner deemed appropriate. The Zoning Administrator may revoke the

permit for any sign deemed to be in violation of this Section, i.e., 7-102L, or of any condition on which the permit was based and order its removal within a reasonable period consistent with public safety.

- M. Damaged or Unsafe Signs. The Zoning Administrator shall require the immediate repair or removal of any conforming or nonconforming sign or sign structure which has been damaged or deteriorated so as to become a public hazard. Such a sign or sign structure may be restored to its original condition without obtaining a zoning permit, unless the sign is replaced and, thus, must conform to the current regulations.

### 103 Exemptions.

- A. The following signs shall be exempt from the requirements of this Article:
1. Signs of a duly constituted governmental body including school districts such as traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping, etc.
  2. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, when displayed on private property.
  3. Small signs, not exceeding five square feet in gross surface area, displayed on private property for the convenience of the public, including signs to identify entrance and exit drives, parking areas, one-way drives, rest rooms, freight entrances and the like.
  4. Address numerals and other signs required to be maintained by law, rule or regulation; provided, that the content and size of a sign does not exceed such requirements.
  5. Garage sale signs not exceeding four square feet in gross surface area. (See Section 7-102K for location on right of way.)
  6. Memorial signs which are displayed on private property.
  7. Scoreboards in athletic fields or stadiums.
  8. Political campaign signs, not exceeding eight square feet in gross surface area, which are displayed on private property and not otherwise in the public right of way. Such signs must be removed 48 hours after a candidate is elected to office or is eliminated from further participation in the election as a candidate with similar provisions for bond issues and other ballot issues. Such signs may also be displayed as advertising signs where permitted by Section 7-104.

9. Ideological signs such as may pertain to religious or political expressions or personal beliefs when located on private property of the proponent and not otherwise in a public right of way, a sight obstruction in a vision triangle or on public property or structures such as utility poles.
- B. The following signs are exempt from the zoning permit requirements of Section 7-100, but shall comply with all of the other regulations imposed by this Article:
1. Nameplate signs not exceeding two square feet in gross surface area accessory to a residential building, including all types of manufactured and mobile homes.
  2. Identification signs not exceeding 40 square feet in gross surface area, but not to be used as a home occupation sign.
  3. Bulletin board signs not exceeding 40 square feet in gross surface area accessory to a church, private school or public or nonprofit institution.
  4. Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.
  5. Real estate signs not exceeding 40 square feet in gross surface area and which pertain to the sale or lease of the lot or tract or structure on which the sign is located, except for the provision of Section 7-102K. (See Section 7-101A7 for auction signs.)
  6. Temporary signs which do not exceed 40 square feet in gross surface area and are displayed not more than 12 times per calendar year.

104 District Regulations.

A. A-1 Agricultural District.

1. Functional Types Permitted:
  - a. Advertising signs.
  - b. Bulletin board signs.
  - c. Business signs pertaining to agricultural products produced on the premises, home occupations and other businesses.
  - d. Construction signs.
  - e. Identification signs.
  - f. Nameplate signs.
  - g. Real estate signs.
2. Structural Types Permitted:
  - a. Ground signs.
  - b. Pole signs.
  - c. Wall signs.
3. Number of Signs Permitted: One of each functional type per zoning lot. (See Section 7-102B for Corner and Through Lots.)
4. Maximum Gross Surface Area.
  - a. Advertising signs: 1,200 square feet.
  - b. Bulletin board signs: 40 square feet.
  - c. Business signs: Home occupations 4 square feet or the minimum required by state statutes; agricultural, 20 square feet; and other businesses, 100 square feet.
  - d. Construction signs: 20 square feet.
  - e. Identification signs: 15 square feet.
  - f. Nameplate signs: Two square feet.
  - g. Real estate signs: 40 square feet.
5. Maximum Height: 15 feet.
6. Required Setback: None.
7. Illumination: No sign shall be illuminated, except that advertising and bulletin board signs may be indirectly illuminated with incandescent or fluorescent light and business signs may be illuminated, but only during business hours.

B. RR-1 Residential District.

1. Functional Types Permitted:

- a. Bulletin board signs.
- b. Business signs pertaining to home occupations.
- c. Construction signs.
- d. Identification signs.
- e. Nameplate signs.
- f. Real estate signs.

2. Structural Types Permitted:

- a. Ground signs.
- b. Pole signs.
- c. Wall signs.
- d. Business signs pertaining to home occupations shall be affixed flush to the wall of a building.

3. Number of Signs Permitted: One of each functional type per zoning lot.

4. Maximum Gross Surface Area.

- a. Bulletin board and identification signs: 16 square feet.
- b. Business signs pertaining to a home occupation only: Three square feet or the minimum required by state statutes.
- c. Construction signs: 40 square feet.
- d. Nameplate signs: Two square feet.
- e. Real estate signs: 40 square feet per lot; provided, that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on such development. Such sign shall be removed when 75% of the lots in the subdivision have been sold.

5. Maximum Height: 15 feet; provided, that signs associated with single-family dwellings and manufactured and modular homes shall not be located at a height greater than eight feet above ground floor elevation.

6. Required Setback: 10 feet from the front lot line, except nameplate signs on mail boxes and temporary real estate and garage sale signs, and none from the side yard setbacks.

7. Illumination: No sign shall be illuminated, except that bulletin board and identification signs may be indirectly illuminated with incandescent or fluorescent light.

C. V-1 Village District.

1. No restrictions placed on signs except the provisions of Section 7-102. General Standards. and Section 7-103. Exemptions.

D. C-1 General Commercial District.

1. Functional Types Permitted: Any type listed in Section 7-101A.
2. Structural Types Permitted: Any type listed in Section 7-101B.
3. Number of Signs Permitted: One of each functional type per zoning lot.
4. Maximum Gross Surface Area: One square foot of sign area for each one foot lineal street frontage; provided, no single sign shall exceed a gross surface area of more than 100 square feet, except for advertising signs that shall not exceed 300 square feet.
5. Maximum Height: 30 feet, except that roof signs may not exceed a height of five feet above the highest point of the roof.
6. Required Setback: No minimum required.
7. Illumination: Illuminated signs shall be permitted.

E. I-1 Industrial District.

1. Functional Types Permitted: Any types listed in Section 7-101A.
2. Structural Types Permitted: Any types listed in Section 7-101B.
3. Number of Signs Permitted: One of each functional type per zoning lot.
4. Maximum Gross Surface Area: Two square foot of sign area for each one foot lineal street frontage; provided that no single sign shall exceed a gross surface area of more than 120 square feet, except for advertising signs that shall not exceed 400 square feet.
5. Maximum Height: 30 feet, except that roof signs may not exceed a height of five feet above the highest point of the roof.
6. Required Setback: No minimum required.
7. Illumination: Illuminated signs shall be permitted.

## ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES

100 **Purpose.** The purpose of this Article is to (1) provide for the regulation of nonconforming lots, buildings, structures and uses; and (2) specify those circumstances and conditions under which such nonconformities shall be permitted to continue. The right to continue a nonconforming lot, building, structure or use shall not be affected by a change in ownership or operator of the structure or use unless such ownership or operator is a condition attached to an approval for a special or conditional use. Definitions of such nonconformities are as follow:

- A. Nonconforming Lot of Record: A zoning lot which is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations and such lot now neither complies with the lot area requirements or the width for any permitted uses in the zoning district in which it is located.
- B. Nonconforming Structure: An existing building or structure which does not comply with the maximum lot coverage and height or the minimum yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. Nonconforming Use: An existing use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
- D. Nonconformity. A nonconforming lot, use or structure that does not comply with currently applicable regulations, but that complied with zoning regulations in effect at the time it was legally established. (See Sections 8-100 A, B and C.)

### 101 Nonconforming Lots of Record.

- A. Notwithstanding the regulations imposed by any other provision of these regulations, if the lot area, width and depth or all three of a zoning lot is less than the minimum required by these regulations for the district within which it is located, any of the following specified lots or parcels of land may be used as a building site for a single-family detached dwelling or any type of manufactured or mobile home when such uses are permitted by the applicable district regulations and meet the provisions of the County Sanitary Code: provided, that the requirement of Section 8-101B is met.
  - 1. Any lot shown on a plat which has been legally platted or replatted and recorded prior to the effective date of these regulations.

2. Any parcel of land purchased prior to the effective date of these regulations by the present owner or by a person from whom the present owner acquired it through purchase, testamentary disposition or intestate succession and which was owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width would not have been prohibited by any prior zoning or subdivision regulations. (See Section 8-100A for Nonconforming Lot of Record.)
  3. Any lot or parcel of land where the deficiency is due exclusively to the condemnation of a portion thereof for a public purpose or the sale thereof to any agency or political subdivision of a city, township, county, state or federal government.
- B. Construction permitted by Section 8-101A shall comply with all of the regulations except minimum lot area, width and depth applicable in the zoning district in which the lot is located; provided, that the width (w) of any side yard required must not be less than that derived by applying the following formula:

$$w = \frac{\text{Actual lot width} \times \text{Minimum side yard required by district regulations}}{\text{Minimum lot width required by district regulations}}$$

## 102 Nonconforming Structures.

- A. Authority to Continue. Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions in Section 8-102B through 8-102D.
- B. Enlargement, Repair or Alterations. Any such structure described in Section 8-102A may be enlarged, maintained, repaired or structurally altered; provided, however, that no such enlargement, maintenance, repair or alteration shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure, except that as to structures located on a lot that does not comply with the applicable lot size requirements, the side yard requirements shall be determined by Section 8-101B.
- C. Damage. In the event that any structure described in Section 8-102A is damaged, by any means except flooding, to the extent of more than 50% of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located; provided, that structures located on a lot that does not comply with the applicable lot size requirements shall not in any event be required to provide a side yard that exceeds the yard requirements in Sections 8-101B. When a structure is damaged to the extent of 50% or less of its fair market value, no repairs or

restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percent of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for a determination. (See Section 8-105 for Nonconforming Nonresidential Structures and Uses and Appendix for Substantial-Damage and Substantial-Improvement in the Floodplain Management Regulations.)

- D. Moving. No structure described in Section 8-102A shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved. (See Section 3-103M for Moving Structures.)

### 103 Nonconforming Uses.

- A. Authority to Continue. Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in Sections 8-103B through 8-103J.
- B. Ordinary Repair and Maintenance.
1. Normal maintenance and incidental repair or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this subsection shall not be deemed to authorize any violation of Sections 8-103C through I of these regulations.
  2. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition provided that such restoration will not be in violation of Section 8-103F of these regulations.
- C. Structural Alteration. No structure that is devoted in whole or in part to a nonconforming use shall be structurally altered unless the entire structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located.

D. Extension.

1. Extension of a nonconforming use is permitted within a nonconforming structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations or on the effective date of the original County Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming; provided, however, that no structural alterations shall be made unless such changes, and the use thereof, conform to the regulations of the district in which the structure is located.
2. Extension of a nonconforming use of a part of a structure is not permitted if all or substantially all of the structure is designed or intended for a use which is permitted in the district in which the structure is located, nor shall the use be changed to any other nonconforming use.
3. Extension of a nonconforming use is not permitted to any structure or land area other than the one actually occupied or used by such nonconforming use on the effective date of these regulations or on the effective date of the original County Zoning Regulations or a subsequent amendment heretofore that caused such use to become nonconforming.

E. Enlargement. No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.

F. Damage. In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged, by any means except flooding, to the extent of more than 50% of its fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage is 50% or less of the fair market value, no repairs or restoration shall be made unless a zoning permit is obtained, and restoration is actually begun within one year after the date of such partial damage and is diligently pursued to completion. If the applicant is aggrieved by the decision of the Zoning Administrator in approving the percent of damage to the value of the structure based on data submitted by the applicant, an appeal may be made to the Board of Zoning Appeals for a determination. (See Section 8-105 for Nonconforming Nonresidential Structures and Uses and Appendix for Substantial-Damage and Substantial-Improvement in the Floodplain Management Regulations.)

G. Moving. No structure that is devoted in whole or in part to a nonconforming use shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless

the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. (See Section 3-103M for Moving Structures.)

H. Change in Use. If no structural alterations are made other than those necessary to repair or maintain the structure as described in Section 8-103B1, a nonconforming use of a structure may be changed to another nonconforming use of the same or of a similar type of use or more restrictive use. Similarly, a nonconforming use of land not involving a structure or involving only an accessory structure may also be changed. When a nonconforming use has been changed to a more restrictive use or to any permitted use, it shall not thereafter be changed back to a less restrictive use or to a nonconforming use. In determining whether a change in use is the same, similar or more restrictive, the Zoning Administrator shall consider the changes in environmental factors such as outdoor storage, loading, traffic, parking, noise, lighting, air pollution, hours of operation, screening and other factors, as well as the provisions available in Section 8-105. (See Section 9-101A for Zoning Permits and Section 9-101B for Occupancy Certificates.)

I. Abandonment.

1. When a nonconforming use of land, not involving a structure, or involving only a structure which is accessory to the nonconforming use of land, is abandoned for a period of six consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
2. When a nonconforming use of a part or all of a structure which was designed and intended for any use which is permitted in the zoning district in which such structure is located, is abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
3. When a nonconforming use of a part or all of a structure which was not designed and intended for any use which is permitted in the zoning district in which such structure is located, is abandoned for a period of 12 consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.

J. Nonconforming Accessory Uses. No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

- 104 **Nonconforming Residential Structures.** Notwithstanding the provisions of Sections 8-103C, D and E, any structure which is devoted to a residential use and which is located in a business or industrial district, may be structurally altered, extended, expanded and enlarged; provided, that after any such alteration, extension, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work unless specifically permitted by the district.
- 105 **Nonconforming Nonresidential Structures and Uses.** Notwithstanding any other provisions of these regulations and, in particular, Sections 8-102 B and C and 8-103C, D, E, and F, nonconforming nonresidential structures and uses that existed on the day prior to the effective date of these regulations, may apply on a one time basis only to the Board of Zoning Appeals for a conditional use to structurally alter, enlarge or reconstruct after damage, or make extensions to structures or uses including the use of additional land when properly zoned for the use, so long as in the opinion of the Board under stated conditions that the effect upon adjacent areas is protected to the extent feasible and the public interest served. (See Section 10-107C6 for Authorized Variances.)
- 106 **Classification of Existing Uses.** Where a use existed prior to the effective date of these regulations and any prior regulations and is now classified as a special use or as a conditional use, it shall be considered to be a lawful, conforming special or conditional use. Enlargement, extension or alterations to existing structures or land improvements for expansion of such lawful uses may be made within the area of the zoning lot which was actually used or occupied for such use on the effective date of these regulations and shall be subject to all requirements set forth in these regulations as a permitted use, unless application is made for special or conditional use status.

107 **Discontinuance of Nonconforming Uses.** The nonconforming use of a building or premises for the purpose of (1) dismantling or wrecking automobiles or other vehicles of any kind or (2) storing junk, scrap iron and scrap material including dismantled and wrecked automobiles or other vehicles and which are located in other than an industrial district, shall be discontinued and the buildings or premises thereafter devoted to a use permitted in the district in which such buildings or premises are located within five years from the effective date of these regulations, unless properly zoned.

108 **Registration of Nonconformities and Exemptions.** (See Sections 8-100 for Nonconformities and 3-100E for Exemptions.)

A. **Purpose.** Registration of nonconformities and exemptions, among other purposes, is to provide a property owner with a record of their nonconformity or exemption which may be in effect for many years. Such a record is very desirable since most nonconformities or exemptions are established in the past and the availability of personal witnesses and written documentation to confirm their status becomes more difficult due to the passage of time. This is particularly important since the person claiming the nonconformity or exemption has the burden to prove their claim by the preponderance of the evidence. Registration can be especially useful to property owners who may have a nonconformity or exemption created by changing their zoning status from the unincorporated area of the County to any city regulations.

B. **Rights Conditioned.** A lawfully established nonconformity including exemptions is a vested right protected by due process which is sometimes referred to as being "grandfathered-in". In order to establish such a right, it is essential that it be created or commenced prior to the enactment of the regulations which restricted its establishment. A nonconformity or exemption which violated the zoning regulations at its inception has no lawful right to continue. Once the validity of the nonconformity or exemption has been determined, it has the right to be sold, inherited, transferred or assigned unless restricted by a condition attached to a special or conditional use. Certain limitations, however, may be placed on the expansion, repair, maintenance and continuance of such nonconformities or exemption as may be determined by the provisions of Article 8 in these regulations. For example, continuance may be subject to abandonment or limited amortization of certain uses.

C. **Registration Process.** The Zoning Administrator shall establish a process for registration of nonconformities and exemptions and a system for making determinations thereof and keeping records of the same. While there shall be no deadline for registration, property owners anticipating the need for registration should do so at their earliest convenience.

- D. Registration Determination. The Zoning Administrator shall determine the qualifications of the lot, use or structure for registration as to its legal, nonconforming status. Such determination in writing shall be based on the evidence submitted by the property owner requesting the registration.
  
- E. Appeal. An aggrieved party may appeal the Zoning Administrator's determination whether to register or not register the nonconformity or exemption to the Board of Zoning Appeals. (See Section 10-106 pertaining to Appeals.)

## ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

100 Office of the Zoning Administrator. A Zoning Administrator shall be appointed by the Governing Body. The Zoning Administrator and clerical assistance as shall be approved from time to time shall administer and enforce these regulations, except for those duties specifically assigned to the Clerk.

A. Duties of the Zoning Administrator. (See Section 9-102 for Enforcement and Liability.)

1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.
2. Conduct inspections of buildings, structures and uses of land as necessary to determine compliance with the provisions of these regulations.
3. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Board, Board of Zoning Appeals and Governing Body.
4. Receive, file and forward to the Planning Board the applications and records for all amendments and special uses which are initially filed with the Zoning Administrator.
5. Receive, file and forward to the Board of Zoning Appeals the applications and records for all variances and conditional uses which are initially filed with the Zoning Administrator and forward all records of appeals to the Chairperson of the Board.
6. Maintain permanent and current public records of the zoning regulations, including but not limited to the Official Zoning Map(s), amendments, special uses, appeals, variances, conditional uses and applications thereof and records of hearing thereon.
7. Provide such technical and clerical assistance as may be required by the Planning Board, the Board of Zoning Appeals, the Governing Body and other agencies and officials in the exercise of their duties relating to these regulations.
8. Maintain for distribution to the public a supply of the current zoning regulations, zoning map(s) and any rules of the Planning Board and the Board of Zoning Appeals. A fee may be charged to defray the cost of printing and distribution.
9. Maintain the official copy of the zoning map(s) showing the district boundaries. Such map(s) shall be marked "Official copy of zoning district map(s) incorporated into zoning regulations by adoption of Resolution No. \_\_\_\_\_ by the Board of County Commissioners on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_" and shall be

open to inspection and available to the public at all reasonable business hours. Each map shall be signed by the Chairman of the Governing Body and attested to by the Clerk. Periodic changes to the map(s) shall be noted by a revision date.

- B. Duties of the Clerk. The Clerk shall maintain certain official records and carry out certain responsibilities in the administration of these regulations as follows:
1. That not less than three copies of these model regulations shall be marked by the Clerk as "Official Copy as Incorporated by Resolution No. \_\_\_\_\_". (i.e., the resolution approved by the Governing Body) and all sections or portions thereof intended to be omitted clearly marked to show any such omissions or showing the sections, articles, chapters, parts or portions that are incorporated and to which shall be attached a copy of the incorporating resolution. Such copies maintained by the Clerk shall be open to inspection and available to the public at all reasonable business hours.
  2. That the Clerk supply the applicable sheriff's department, court, Zoning Administrator and all administrative departments of the County charged with the enforcement of these regulations official copies similarly marked as described in Section 9-100B1 and at the cost to the County. Subsequent amendments to these regulations shall be appended to such copies.
  3. That such clerical assistance be provided by the Clerk to the Governing Body as to facilitate and record the actions of the Governing Body in the exercise of their duties relating to these regulations.

## 101 Zoning Permits and Occupancy Certificates.\*

### A. Zoning Permits.

1. Unless a zoning permit shall first have been obtained from the Zoning Administrator, the construction, reconstruction, moving or structural alteration of any building or structure or the improvement of land prior to its use or the use of any land or structure being changed to any other use, shall not be commenced. For permits required on accessory uses, such as plans for parking and loading space and signs, see Articles 5, 6 and 7. Such permits shall not be issued by any other official, employee, department, board or agency of the County. Any zoning permit issued in conflict with the provisions of these regulations shall be null and void. (See Section 8-103H for Change in Use.)

\* The County may issue zoning permits and occupancy certificates concurrently with the process of issuing building and occupancy permits under applicable County building codes.

2. Except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses, permits must also meet the requirements of any applicable Subdivision Regulations and, thus, shall not be issued on land which is not shown on a recorded plat or replat, or a lot split or exempted from the platting requirements. If platting or replatting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required, including dedications in lieu of platting such as for easements and additional rights of way.
3. No principal or accessory building or structure or use, or portion thereof, shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation, unless (1) as a sign permitted by Section 7-102K or, (2) as an accessory structure or use which is moveable, relocatable or poses no significant problem to the maintenance of existing public improvement installations or to such future installations. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces or driveways for which a zoning permit has been or is being issued. In any event, when such structures or uses are permitted to be located on or project over such easements, the property owner assumes the risk and liability for any reconstruction or replacement necessary including fences if any maintenance or other improvements are required by a governmental agency or a utility provider. (See Section 3-103I for Protection of Utility Lines.)
4. A zoning permit is not initially required for grading and/or excavating a proposed construction site unless the site is located in the floodplain boundary and would result in an increase in flood levels. (See Appendix for Floodplain Management Regulations.) (Note: If the site is located in or adjacent to a water body, regulations of the Water Division of the Kansas Department of Agriculture may apply.)
5. Application. Every application for a zoning permit shall be accompanied by the following:
  - a. A drawing or copy of the recorded plat, in duplicate, of the piece or parcel of land, lot(s), block(s), parts or portions thereof, drawn to scale showing the actual dimensions of the zoning lot(s), including any easements thereon.
  - b. A drawing, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height and bulk of (1) all present and proposed structures, (2) driveways, parking spaces and loading areas, (3) building setback lines in

relation to lot lines. (4) waste disposal areas. (5) use to be made of such present and proposed structures on the land, and (6) such other information as may be required for the proper enforcement of these regulations.

One copy of such drawings shall be retained by the Zoning Administrator as a public record.

6. Issuance. A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days after the receipt of an application thereof or within such further period as may be agreed to by the applicant. When the Administrator refuses to issue a zoning permit, he shall advise the applicant in writing of the reasons for the disapproval.

7. Period of Validity. A zoning permit shall become null and void 180 days after the date on which it is issued, unless within said period construction, reconstruction, moving or structural alteration of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued, then application must be made to the Zoning Administrator for an extension of time to continue the project. The Administrator may grant reasonable extensions of time provided no changes have been made in any applicable regulations. If such changes have occurred, application must be made for a new permit based on the provisions of the new or amended regulations in order to continue the project, unless Section 2-101G applies pertaining to vesting of single-family residential developments. (See Section 2-101F for Effect of Existing Permits.)

B. Occupancy Certificates. No structure or addition thereto constructed, reconstructed, moved or altered after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these regulations. (See Section 8-103H for Change in Use.)

1. Application. Every application for a zoning permit shall be deemed to be an application for an occupancy certificate. Every occupancy certificate shall be in such form and contain such information as the Administrator shall provide by general rule.

2. Issuance.

a. No occupancy certificate for a structure or addition thereto constructed, reconstructed, moved or structurally altered or for the new or changed use of any structure or land shall be

issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the permit was issued including the requirements for utilities, roads, streets and other public improvements in any applicable Subdivision Regulations which must either be installed or guaranteed. Direct access must be available from the frontage of each zoning lot to an opened public road or street or otherwise the improvement of the road or street must be guaranteed by such methods as stated in any applicable Subdivision Regulations.

- b. An occupancy certificate shall be issued or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued within 10 days after the Zoning Administrator is notified that the structures or premises are ready for occupancy or use. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or improvement(s) or during partial occupancy of the premises; provided, satisfactory guarantees are submitted including the possible use of performance bonds or escrow accounts.

C. Agricultural Compliance Certificate. Completion of an agricultural compliance certificate may be requested by the Zoning Administrator when such information is needed to determine the agricultural exemption status described in Section 2-102. No fees shall apply to obtaining this certificate from the Zoning Administrator.

## 102 Enforcement and Liability.

- A. Enforcement. It shall be the duty of the Zoning Administrator or any deputies working under his direction to enforce the provisions of these regulations in consultation with the County Attorney in the following manner:
  1. Refuse Permit. To refuse to issue any zoning permit or occupancy certificate for any building or structure or use of any premises which would violate any of the provisions herein.
  2. Revoke Permit. To revoke a zoning permit and issue a stop order at any time for a building or structure or use for which the same was issued when it shall appear (1) that there is a departure from the plans, specifications or conditions as required under terms of the permit; (2) that the same was procured by false representation; (3) that it was issued by mistake, or (4) that it violates any provisions of the zoning regulations.

3. Conduct Inspection. To cause any building, structure, place or premises to be inspected and examined as required by these regulations and to order in writing the remedying of any condition found to exist therein or threat in violation of any provisions herein.
  4. Institute Legal Action. To institute any appropriate action or proceedings to prevent such unlawful action or use or to restrain, correct, or abate such violation on or about the premises of any building or structure which is constructed, built, moved, structurally altered or reconstructed or land is used in violation of any provisions herein.
- B. Liability. The Zoning Administrator or designee charged with the enforcement of these regulations, acting in good faith and without malice in the discharge of the duties described herein, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reason of an act or omission in the discharge of such duties. A suit brought against the Administrator because of an act or omission performed by the Administrator in the enforcement of any provision of these regulations or other pertinent laws or resolutions implemented through the enforcement of these regulations shall be defended by the County until final termination of such proceedings, and any judgment resulting therefrom shall be assumed by the County. (See K.S.A. 75-6101, et seq. in general and K.S.A. 75-6109 specifically.)

103 Violations. (See Section 5 of Resolution Incorporating and Adopting Zoning Regulations in Appendix for penalties and remedies.)

104 Fees. For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including publication costs, the applicant upon filing an application for an amendment, special use, appeal, conditional use, variance or a zoning permit including occupancy certificate, shall pay the County Treasurer a fee according to the fee schedule approved by the Governing Body. No part of such fee shall thereafter be refunded except for a zoning permit which is not approved.

105 Reports. The Zoning Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Board a summary of all zoning permits issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, special uses, appeals, conditional uses and variances. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Section 11-105.

## ARTICLE 10. BOARD OF ZONING APPEALS

100 **Authorization.** The Planning Board as previously established by the Governing Body has been designated to also serve as the Board of Zoning Appeals as prescribed by K.S.A. 12-759, as amended, and hereinafter in this Article will be referred to as the "Board."

101 **General Procedures.** All members of the Planning Board are voting members of the Board whether they reside inside or outside of city limits and shall serve without compensation, but may be reimbursed for expenses when authorized by the Governing Body. All officers of the Planning Board are officers of the Board including the Recording Secretary. Public records shall be kept of all official actions of the Board which shall be maintained separately from the Planning Board by the Recording Secretary. The Board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote of each member upon each question. If a member is absent, abstaining or disqualified from voting, such fact should be indicated. Special meetings shall be held at the call of the Chairperson and at such other times as the Board may determine in its bylaws. Board meetings may be held separately from a Planning Board meeting or in conjunction with such a meeting wherein the Planning Board may recess a portion of its meeting to conduct business of the Board and to reconvene to continue the Planning Board agenda. When a quorum is declared present, all actions of the Board including appeals, variances and conditional uses as exceptions shall be made by motion and decided by a majority vote of the members present and voting.

The Board shall adopt rules for its operation in the form of bylaws which shall include hearing procedures and will not be in conflict with the ordinance designating the Planning Board as the Board, the applicable state statutes and the provisions of these regulations. Such bylaws shall be subject to the approval of the Governing Body. The Governing Body shall establish a scale of reasonable fees to be paid in advance by the appealing party.

102 **Jurisdiction.** The Board shall have the following jurisdiction and authority as a quasi-judicial body:

- A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination (all hereinafter referred to collectively as "decision") made by the Zoning Administrator in the enforcement of these regulations subject to the procedure and standards set out in Section 10-106.
- B. To hear and decide on variances from specific terms of these regulations subject to the procedure and standards set out in Section 10-107.
- C. To hear and decide on conditional uses as exceptions subject to the procedure and standards set out in Section 10-108.

103. **Notice of Hearing.** For the hearing on each appeal for a decision, variance or conditional use as an exception, public notice of the date, time and place of the hearing, the legal description or a general description sufficient to identify the property under consideration, and a brief description of the subject of such hearing shall be published once in the official newspaper so that at least **20 days shall elapse** between the date of such publication and the date for the hearing. 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 only a general description of the property is provided in the notice. A copy of such notice shall be mailed to each party making the appeal and to the Secretary of the Planning Board.

The Board shall also provide notice to all owners of record of real property located within at least 1,000 feet of the property under consideration which is outside of any city and for 200 feet inside any city which is within any portion of the 1,000-foot notification area. In addition, similar notification shall be given in the unincorporated area and inside any city in an adjacent county if they are within the notification area.

Such notice shall be mailed so that at least **20 days shall elapse** between the mailing date and the hearing date. A list of such owners of record of real property with their addresses and zip codes shall be provided by the applicant. Failure to receive such notice after it has been properly addressed and deposited in the mail shall not invalidate any subsequent action taken by the Board. If there is no quorum present for the meeting or available at the time of the hearing, the members in attendance may agree to hold another meeting in the future at a stated date, time, and place for which, when announced at the present meeting, no further public notice need be given.

The Board may give additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the property to be considered in the appeal application.

104. **Conduct of Hearing.** The Board shall select a reasonable time and place for the hearing on each appeal of a decision, variance or conditional use as an exception. All hearings shall be open to the public; however, when hearing such appeals the Board exercises quasi-judicial functions and, thus, may upon proper motion proceed to deliberate in closed session according to K.S.A. 75-4318(a). No binding action may be taken and all voting must be conducted in an open meeting. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. Every decision of the Board shall be filed without unreasonable delay with the Zoning Administrator and shall be open to public inspection during reasonable business hours.

- 105 **Finality and Judicial Review of Decisions.** Any order or determination of the Board on an appeal for a decision, a variance or a conditional use as an exception, shall be final decisions and shall be subject to judicial review, but not appealable to the Planning Board or the Governing Body. Any person, official or governmental agency, jointly or separately dissatisfied by any decision of the Board, may present to the County District Court, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom based on a determination of the reasonableness of any such order or determination. Such petition shall be filed with the Court within 30 days after the date of filing the final decision with the Zoning Administrator.
- 106 **Appeals.** An appeal from a decision of the Zoning Administrator with respect to the interpretation, application or enforcement of these regulations may be taken to the Board by any person aggrieved, or by any officer of the County, or any governmental agency or body affected by any decision of the Zoning Administrator.
- A. **Time for Appeals.** Appeals shall be made within 30 days after a decision has been made by the Zoning Administrator by filing an application for appeal. Upon the Chairperson's receipt of an application for appeal and notification to the Zoning Administrator, the Administrator shall forthwith transmit to the Chairperson all of the papers constituting the record upon which the decision being appealed was based.
- B. **Application.** An application for an appeal shall (1) be filed with the Chairperson, (2) specify the grounds for such an appeal, (3) include the legal description of any property involved with the appeal, (4) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (5) provide such additional information as may be prescribed by rule of the Board.
- C. **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on petition with notice to the Zoning Administrator and on the basis of due cause shown.
- D. **Hearing and Notice.** A hearing on the application for such an appeal shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.

E. Decision. The Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator, and may issue or direct the issuance of a permit and/or occupancy certificate. No conditions may be attached to such a decision that could not otherwise have been available to the Zoning Administrator in making the initial decision. The Board shall render a written decision in the form of a resolution on the appeal without unreasonable delay after the close of the public portion of the hearing.

107 Variances. The Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest and provided that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done. Variances may be authorized only in those specific instances enumerated in Section 10-107C and then only when the Board has made findings of fact based upon the standards set out in Section 10-107D that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. According to K.S.A. 12-759(e), any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.

A. Application. An application for a variance shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the variance, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:

1. The particular requirements of these regulations which prevent the proposed use or construction:
2. The characteristics of the subject property which prevent compliance with the requirements of these regulations:
3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction:
4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property: and
5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed that necessitate the request.

B. Hearing and Notice. A hearing on the application for such a variance shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.

C. Authorized. Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Section 10-107D, and may be granted only in the following instances and in no others:

1. To vary the applicable minimum lot area, lot width and lot depth requirements.
2. To vary the applicable bulk regulations, including maximum height and minimum lot coverage and yard requirements.
3. To vary the dimensional provisions for permitted obstructions in required yards including fences in Sections 3-103F.
4. To vary the applicable number of required off-street parking and the amount of off-street loading requirements of Article 5.
5. To vary the applicable dimensional sign provisions of Section 7-102 regarding general standards and Section 7-104 regarding district regulations.
6. To vary the applicable requirements in Sections 10-107C1 through 5 above in conjunction with conditional use applications for nonconforming nonresidential structures and uses under provisions of Section 8-105.
7. To vary the applicable provisions permitted by the floodplain regulations. (See Appendix for Floodplain Management Regulations.)
8. To vary numerical dimension standards in the Commercial Wind Energy Project (CWEP) Criteria and Conditions including the Contents of the CWEP Development Plan as submitted by the Applicant for the Special Use. (See Appendix for Commercial Wind Energy Project (CWEP) Criteria and Conditions and Section 2-102 for definition on HEIGHT, MAXIMUM sub-section 4 which limits the height of variances on CWEPs.)

D. Standards:

1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that all the conditions required by K.S.A. 12-759(e) have been met which are listed below:
  - a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant:
  - b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents:

- c. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship 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 these regulations.
2. In determining whether the evidence supports the conclusions required by Section 10-107D1, the Board shall consider the extent to which the evidence demonstrates that:
- a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
  - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
  - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and
  - d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public roads or streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.
- E. Conditions and Restrictions. In granting a variance, the Board may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 10-107D which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations, including methods for guaranteeing performance such as are provided for in Section 10-108D. Failure to comply with any of the conditions for a variance which are later attached to a zoning permit shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original variance; however, only the requested condition is to be reconsidered at the hearing.

- F. Decisions and Records. The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a variance without unreasonable delay after the close of the public portion of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for variances in order to properly issue permits.
- G. Period of Validity. No variance granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the variance, unless within such 180-day period a zoning permit is obtained and the variance requested is started. The Board may grant extensions not exceeding 180 days each during the period of validity, upon written application, without further notice or hearing.

108 Conditional Uses. The Board may grant as an exception to the provisions of these regulations, the establishment of only those conditional uses that are expressly authorized to be permitted in a particular zoning district or in one or more zoning districts. No such conditional use shall be granted unless it complies with all of the applicable provisions of these regulations.

- A. Application. An application for a conditional use shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the conditional use, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee, and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. A statement or diagram showing compliance with any special conditions or requirements imposed upon the particular conditional use by the applicable district regulations or Section 10-108D if applicable;
  2. A statement as to why the proposed conditional use will not cause substantial injury to the value of other property in the neighborhood;
  3. A statement as to how the proposed conditional use is to be designed, arranged and operated in order to permit the development and use of neighboring property in accordance with the applicable district regulations; and
  4. Present data in support of the standards specified in Section 10-108C.
- B. Hearing and Notice. A hearing on the application for such a conditional use as an exception shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.

C. Standards. The Board may grant a conditional use when it makes specific written findings of fact based upon the particular evidence presented to it at the hearing which support conclusions that:

1. The proposed conditional use complies with all applicable regulations, including lot size requirements, bulk regulations, use limitations and performance standards: unless a concurrent application is in process for a variance.
2. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood.
3. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
  - a. The location, nature and height of buildings, structures, walls and fences on the site: and
  - b. The nature and extent of landscaping and screening on the site.
4. Off-street parking and loading areas will be provided in accordance with the standards set forth in Article 5 of these regulations. Such areas will be screened from adjoining residential uses and located so as to protect such residential uses from injurious effects.
5. Adequate utility, drainage and other such necessary facilities have been installed or will be provided by platting, dedications and/or guarantees.
6. Adequate access roads, entrance and exit drives and/or access control is available or will be provided by platting, dedications and/or guarantees and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public roads and streets.

D. Conditions. In granting a conditional use, the Board may attach such conditions upon the premises and/or the applicant benefitted by the conditional use as may be necessary to comply with the standards set out in Section 10-108C in order to reduce or minimize any potentially injurious affect upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Such conditions may include, but not be limited to, further restrictions on bulk regulations: time of operation and ownership limitations: screening, landscaping and fencing: provision of utilities, drainage and other public improvements: additional access or access control: off-street

parking and loading requirements; and platting, dedications and/or guarantees. In addition to the guarantees referred to below for parking and/or screening, covenants which run with the land or the property to guarantee that conditions will be carried out at a future date may be filed with the County Register of Deeds. Failure to comply with any of the conditions for a conditional use which are later attached to a zoning permit shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision made in the same manner as the original conditional use; however, only the condition requested is to be reconsidered at the hearing.

In lieu of actual construction of required off-street parking or the initial provisions for screening, the Board may accept, in the name of the County, a corporate surety bond, cashier's check, escrow account or other like security in an amount to be fixed by the Board and conditioned upon actual completion of such improvement within a specified time. Such securities shall be filed with the Clerk. The Governing Body may enforce such securities by all equitable means.

- E. Decisions and Records. The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a conditional use without unreasonable delay after the close of the public portion of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for conditional uses in order to properly issue permits.
  
- F. Period of Validity. No conditional use granted by the Board shall be valid for a period longer than 180 days from the date on which the Board grants the conditional use, unless within such 180-day period a zoning permit is obtained and the conditional use requested is started. The Board may grant extensions not exceeding 180 days each during the period of validity, upon written application, without further notice or hearing.



## ARTICLE 11. AMENDMENTS

100 General Provisions for Amendments and Special Uses. These regulations and the districts created under the authority of these regulations may be amended from time to time by the Planning Board following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article 11. Special use applications are not amendments, but are processed for the notice and hearing and for protest petitions in the same manner; however, the Official Zoning Map(s) is not amended. (See Section 11-101 for special uses.)

- A. Proposal. Amendments or special uses may be proposed: (1) by the Governing Body, (2) by the Planning Board or (3) upon application by, or on behalf of the owner of the property affected, but only in accordance with the procedure set forth in Section 11-100B. When the Governing Body proposes an amendment or special use, it shall transmit its proposal to the Planning Board for a public hearing and recommendation thereon. (See Section 11-100D3 for special notice of hearing procedure for Governing Body and Planning Board applications.)
- B. Application. When the owner of the property affected proposes an amendment to any zoning district or applies for a special use, an application shall (1) be filed with the Zoning Administrator who refers it to the Planning Board for a hearing, (2) be in such form and contain such information as shall be prescribed from time to time by the Board and (3) in all instances contain the following information:
1. The precise wording of any proposed amendment of these regulations or the exact description of the special use requested.
  2. In the event that the proposed application would change the zoning district classification or apply for a special use for any specific property:
    - a. The name, address and telephone number of the owner of the property as the applicant or the agent, if any, representing the owner;
    - b. The legal description of the property and a general description such as a street address sufficient to identify the property;
    - c. The present and proposed zoning district classifications and/or the exact description of the special use requested plus the existing uses of the property and structures thereon;
    - d. The dimensions of the property and the zoning lot area stated in square feet or acres or fractions thereof, and

- e. An ownership list of the names, addresses and zip codes of the owners of record of real property located within at least 1,000 feet of the exterior boundaries of the area described in the application. If such area is located adjacent to a city, the ownership list shall provide similar information extending to at least 200 feet inside the corporate limits of the city if such an area would otherwise be part of the 1,000-foot notification area. In addition, similar notification shall be given in the unincorporated area and inside any city in an adjacent county if they are within the notification area.
- C. Public Hearing. The Planning Board shall hold a public hearing on each proposed amendment that is filed with, referred to, or initiated by the Board. The Board shall select a reasonable time and place for such public hearing, and it shall hold such hearing within 45 days from the date on which the proposed amendment is received. An applicant for an amendment may waive the requirement that such hearing be held within 45 days.
- D. Notice of Hearing. One of the following three procedures shall be selected to provide proper notice for a public hearing for any zoning amendment application:
1. Public notice of a hearing by the Planning Board on a proposed amendment shall be published once in the official newspaper by the Zoning Administrator. At least **20 days shall elapse** between the date of such publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district, such notice shall contain the legal description or a general description sufficient to identify the property under consideration. If a general description is used, the notice shall include a statement that a complete legal description is available for public inspection and where such description is available.

In addition to such publication notice, the Zoning Administrator shall mail a written notice of the hearing containing information similar to the published notice thereof to the applicant and to the owners of record of all real property located within at least 1,000 feet of the exterior boundaries of the area described in the amendment application. If any portion of the 1,000 feet extends into a city, the official area of notification shall be extended to at least 200 feet inside the corporate limits of the city. If any portion of the 1,000-foot distance extends into an adjacent county, similar official notification shall be given to owners in that area. The notice to property owners including the applicant

shall be mailed so that **20 days shall elapse** between the mailing date and the hearing date. 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 Board or the Governing Body. (See Commercial Wind Energy Project (CWEP) Criteria and Conditions for a Special Use Application in the Appendix for special notification distance for a CWEP.)

2. Whenever five or more owners of record of real property owning 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by publication only and hearing in like manner as required by Section 11-100C. Such zoning amendment **shall not** require written notice and **shall not** be subject to the protest petition provision of Section 11-103.
3. Whenever the Governing Body or the Planning Board initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record of real property, such amendment shall require notice by publication and hearing in like manner as that required by Section 11-100C. In addition, written notice **shall be** required to be mailed to **only** owners of record of real properties to be rezoned and **only** such owners shall be eligible to initiate a protest petition under Section 11-103.

The Board may give additional notice to other persons as it may from time to time provide by its rules. Such rules may include requirements for additional notice to be provided for by the posting of signs on the property to be considered in the amendment application.

#### E. Conduct of Hearing.

1. All hearings that these regulations require the Planning Board to conduct for amendments to changes in the text of the regulations or the zoning classifications or in district boundaries shall be open public meetings according to K.S.A. 75-4317 et seq., the Open Meetings Act. When a proposed amendment will affect the zoning classification or district boundary of specific property, however, the Board acts in a quasi-judicial capacity and, thus, may upon proper motion proceed to deliberate in closed session according to K.S.A. 75-4318(a). No binding action can be taken in such a session and all voting must be conducted in an open meeting.
2. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney.
3. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Board may from time to time prescribe by rule or bylaws which are not in conflict with these regulations or applicable state statutes.

4. The Board shall keep minutes of the proceedings showing evidence presented at hearings, findings of fact by the Board, motions made and the vote of each member upon any question or recommendation. If a member is absent, abstains or disqualified, such fact shall be indicated.
  5. The Board may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person prior to or at the public hearing.
  6. The Board may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing 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 for a zoning classification of lesser change than that set forth in the notice shall not be valid, however, without republication and, where necessary, re-mailing of notices, unless the Board shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. (See Appendix for Table of Comparability for Zoning Districts.)
  7. For action on zoning amendments, a quorum of the Board must be more than one-half of the membership as established by resolution. A majority vote of the members of the Board present and voting at the hearing shall be required to recommend approval or disapproval of the amendment to the Governing Body. If the Board fails to make a recommendation on a rezoning request, the Board shall be deemed to have made a recommendation of disapproval.
  8. A hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. At the conclusion of a hearing, the Board shall prepare its findings and the factors on which to base its recommendation and vote.
  9. If a meeting is called or a hearing is on the agenda and no quorum is present, the members in attendance may agree to hold the hearing at another meeting in the future at a stated date, time and place or at the next regular meeting for which, when announced at the present scheduled meeting, no further public notice need be given to continue the hearing.
- F. Report by Planning Board. Within 14 days after the close of the public portion of the hearing and voting on a proposed amendment or special use, the Planning Board shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and the Zoning Administrator and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the applicant. Such report shall contain a recommendation as to whether the proposed amendment or special use should be approved or disapproved and specific written determinations on the items listed in

Section 11-100G and on such other items as the Board may consider relevant. The report submitted to the Governing Body shall be accompanied by a summary of the hearing as required by K.S.A. 12-756(b). In lieu of a report, the above information may be contained in the minutes of the meeting and submitted to the Governing Body.

G. Amendments to Text. When a proposed amendment by the Governing Body or Planning Board would result in a change or revision in the text of these regulations, but would not result in a change of zoning classification of any specific property, a legislative hearing shall be held by the Board and the report shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

1. Whether such change is consistent with the intent and purposes of these regulations: and
2. Whether the proposed amendment is made necessary because of changed or changing conditions in the zoning districts affected and, if so, the nature of such changed or changing conditions.

H. Review Criteria for Amendments or Special Uses. When a proposed rezoning amendment or special use would result in a zoning change for any specific property, the report of the Planning Board accompanied by a summary of the hearing shall contain statements as to (1) the present and proposed district classifications or description of the special use, (2) the applicant's reasons for requesting such reclassification or special use, and (3) a statement of the factors where relevant upon which the recommendation of the Board is based using the following criteria as guidelines: \*

1. What are the existing uses and their character and condition on the subject property and in the surrounding neighborhood?
2. What is the current zoning of the subject property and that of the surrounding neighborhood in relation to the request?
3. Is the length of time that the subject property has remained undeveloped or vacant as zoned a factor in the consideration?
4. Would the request correct an error in the application of these regulations?

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\* **NOTE:** All the factors stated in the decision of Golden v. City of Overland Park, 224 Kan, 591, 584 P.2d 130 (1978) are included in this list. In using these factors as guidelines, modifications may be made in the criteria to more specifically relate them to the particular zoning change in classification or special use.

5. Is the request caused by changed or changing conditions in the area of the subject property and, if so, what is the nature and significance of such changed or changing conditions?
6. Do adequate sewage disposal and water supply and all necessary utility facilities including road or street access exist or can they be provided to serve the uses that would be permitted on the subject property?
7. Would the subject property need to be platted or replatted or in lieu of dedications made for rights of way, easements, access control or building setback lines?
8. Would a screening plan be necessary for existing and/or potential uses of the subject property?
9. Is suitable vacant land or buildings available or not available for development that currently has the same zoning as is requested?
10. If the request is for business or industrial uses, are such uses needed to provide more services or employment opportunities?
11. Is the subject property suitable for the uses in the current zoning to which it has been restricted?
12. To what extent would the removal of the restrictions, i.e., the approval of the zoning request detrimentally affect other property in the neighborhood?
13. Would the request be consistent with the purpose of the zoning district classification and the intent and purpose of these regulations?
14. Is the request in conformance with the Comprehensive Plan and does it further enhance the implementation of the Plan?
15. What is the nature of the support or opposition to the request?
16. Is there any information or are there recommendations on this request available from professional persons or persons with related expertise which would be helpful in its evaluation?
17. By comparison, does the relative gain to the public health, safety or general welfare outweigh the loss in property value or the hardship imposed upon the applicant by not approving the request?

Of those factors considered as relevant to the requested change in zoning district classification or boundary or special use, not all factors need to be given equal consideration by the Commission in deciding upon its recommendation.

101 Special Uses. Because of particular factors associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are allowed as "special uses" when their proposed location is supplemented by additional conditions such as to make the use considered compatible with the surrounding property, the neighborhood and the zoning district.

In granting a special use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met, unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may include, but are not limited to, requirements affecting the lot size or yard dimensions; changing road or street width; the extent and location of entrance or exit drives; controlling the size, location and number of signs; the period and time of operation; lot coverage and height of buildings; screening, fencing and/or landscaping to protect the surrounding property; establishing environmental standards for air and water pollution, noise, vibration, lighting and other such conditions; protection from flooding; and additional improvements such as road or street construction, utilities and storm drainage, if necessary, including platting and/or dedications. Such conditions may be placed upon the property which is the subject of the special use application or upon the applicant or both.

Although the Official Zoning Map(s) is not amended, the procedure for approval of a special use shall otherwise be the same as for an amendment to change a zoning district classification or boundary which is set forth in Section 11-100 of this Article including the provisions for filing protest petitions in Section 11-103; provided, that any additional requirements which are further imposed upon the special use shall be made a part of the effectuating resolution. Applications for special uses shall be accompanied by a plot plan of the proposed development. Concurrent applications may be processed for changing zoning district classifications as amendments and approving special uses on the same property wherein joint notices are advertised and mailed; however, separate hearings are held, review criteria, motions and effectuating resolutions are necessary.

Failure to comply with any of the conditions for a special use which is later attached to a zoning permit, shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original special use; however, only the requested condition is to be reconsidered at the hearing.

No special use approval by the Governing Body shall be valid for a period longer than one year from the publication date of the effectuating resolution unless (1) another time period is designated as a condition attached to the special use; or (2) an application is filed and a zoning permit is approved during the period of validity. In such instance the special use shall be valid for the period of validity of the zoning permit. The Governing Body may authorize extensions of the validity period without

notice or public hearing for more than one year upon a written request received within a valid period. Upon expiration of any validity period, the effectuating resolution automatically becomes null and void unless an extension has been granted or a zoning permit has been obtained during the validity period.

102 **Project Review.** In the event that certain public improvements, facilities or utilities of a type embraced within the recommendations of the Comprehensive Plan are classified as special uses or are the subject of a change in zoning district classification or boundary, the consideration of such uses by the Planning Board in conjunction with a zoning application may also constitute their project review of such proposed use if concurrently processed under procedures required by K.S.A. 12-748, as amended: provided, that a statement of findings is included in the Board's approval or disapproval as to whether such proposed use is or is not in conformance with the Comprehensive Plan. In case the Board finds that the proposed use is not in conformance to the Plan and states in writing the manner in which it is not in conformance, then the Governing Body shall not proceed with construction of such a proposed use unless the Governing Body by a majority vote overrides the disapproval of the Board and the Plan shall be deemed to have been amended and the Board shall make the necessary changes in the Plan to reflect the vote of the Governing Body.

103 **Filing of Protest.** Whether or not the Planning Board approves or disapproves a zoning change, if a written protest petition against a proposed amendment for a specific property or a special use shall be filed in the office of the Clerk within 14 days after the date of the conclusion of the hearing by the Board which is signed and an accurate legal description of their property provided by the owners of record of 20% or more of any real property proposed to be altered or changed, excluding streets or public ways, or by the owners of record of 20% or more of the real property within the total area required in the official area of notification by Section 11-100D, excluding streets and public ways and specific statutorily excluded property as described below: then the effectuating resolution shall not be passed except by at least a 3/4 vote of all the members of the Governing Body.

Property statutorily excluded by K.S.A. 12-757(f) from determining the sufficiency of a protest petition when calculating the total real property within the notification area is that which was (1) requested by the owner of the specific property for rezoning or a special use; or (2) the owner of the specific property requested for rezoning or a special use who does not oppose in writing such rezoning or special use. (See Sections 11-100 D2 and D3 for protest petition exceptions for rezoning from a lesser restrictive to a more restrictive zoning classification.)

104 **Adoption of Amendments or Special Use by the Governing Body.** When the Planning Board in its report submits a recommendation of approval or disapproval of a proposed amendment or special use including the basis therefore, the Governing Body may: (1) Adopt such recommendation by effectuating resolution; (2) override the Board's recommendation by a 2/3 majority vote of the membership of the Governing Body; or (3) return such recommendation to the Board with a statement specifying the basis for the Governing Body's failure to approve or disapprove. If the Governing Body returns the Board's recommendation, the Board, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new or amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective effectuating resolution or it need take no further action thereon. If the Board fails to deliver its recommendation to the Governing Body following the Board's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Board as a resubmission of the original recommendation and proceed accordingly.

In considering its decision under each of the above set of circumstances, the Governing Body shall take into account the guidelines in Section 11-100H which are relevant to the proposed amendment or special use and, having reviewed the Board's findings of fact and the factors upon which their recommendation is based, the Governing Body either adopts the Board's findings and factors by reference or records their own findings of fact and the factors upon which their decision is based.

The proposed amendment or special use shall become effective for either of them upon publication of their respective adopting resolution. If such an amendment affects the classification or boundaries of any zoning district, the respective resolution shall legally describe the classification or boundaries as amended, shall order the Official Zoning Map(s) to be changed to reflect such amendment, and shall reincorporate such map as amended.

105 **Annual Review.** In order to maintain these regulations including the Official Zoning Map(s), the Planning Board shall annually hold a public review at their first regular meeting of the year to consider amendments, if any, to these regulations. Preceding such a review, the Governing Body, other affected governmental agencies, and interested private organizations and individuals should be notified of the intent to review and their ideas requested. In preparation for such a review, the Zoning Administrator shall maintain a master copy of the current zoning regulations on which are recorded comments and ideas brought to the attention of the Administrator during the preceding year to maintain the intent and purpose of the zoning regulations under changing conditions and to implement the Comprehensive Plan. Information on any relevant changes in state statutes shall be compiled for the review.

106 **Judicial Review.** As provided by K.S.A. 12-760, as amended, any resolution, regulation, amendment, special use or other zoning decision provided for or authorized by these regulations shall be reasonable and any person aggrieved thereby may have the reasonableness of any decision determined by bringing an action against the County within 30 days after a final decision is made by the County. In the event that an amendment to these regulations or a special use is approved by the Governing Body, the 30-day period commences when the effectuating resolution is published. Such action shall be brought in the County District Court.

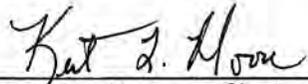
According to K.S.A. 12-757(a), if a proposed amendment is not a general revision of the existing regulations and affects specific property, such an amendment shall be presumed to be reasonable if it is in accordance with the land use plan or the land use element of the comprehensive plan.

ARTICLE 12. SEVERABILITY AND EFFECTIVE DATE

100 **Severability.** If any provisions of these regulations are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such provisions shall be considered separately and apart from the remaining provisions of these regulations, so as to be completely severable and the remaining provisions of these regulations shall remain in full force and effect.

101 **Effective Date.** These regulations shall be in full force and effect from and after their adoption by the Planning Board, approval by the Governing Body and adoption of a resolution incorporating these regulations by reference, and publication of such resolution in the official county newspaper.

ADOPTED by the Pratt County Planning Board on April 16, 2012.

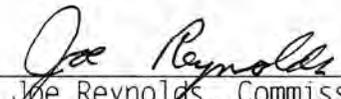
  
Kent L. Moore, Chairperson

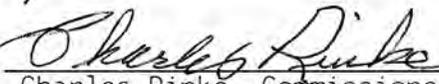
ATTEST:

  
Morgan Trinkle, Secretary

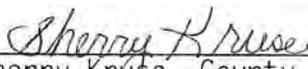
APPROVED AND ADOPTED by the Board of Commissioners of Pratt County, Kansas on May 07, 2012.

  
Dwight Adams, Chairman

  
Joe Reynolds, Commissioner

  
Charles Rinke, Commissioner

ATTEST:

  
Sherry Kruse, County Clerk

(Adopted by Resolution No. 5-7-2012 by the Board of Commissioners of Pratt County, Kansas on May 07, 2012, officially published in The Pratt Tribune on May 12, 2012 and effective on May 12, 2012.)



## APPENDIX

### TABLE OF COMPARABILITY FOR ZONING DISTRICTS

In accordance with provisions provided for in K.S.A. 12-757(b) and in Section 11-100E6 of the Zoning Regulations of Pratt County, Kansas, the Pratt County Planning Board hereby establishes a "Table of Comparability for Zoning Districts" as listed below. This table designates the zoning districts which are considered to be "lesser changes" due to their more restrictive characteristics as set forth in the Zoning Regulations.

When considering zoning district amendments, the Planning Board and the Governing Body may recommend and approve a lesser change in zoning districts for the property already advertised for a public hearing without republication of a notice or redistribution of notices to property owners when such change is more restrictive than the district which is applied for as shown on the table below: provided, however, that such recommendation and approval shall not be for a lesser classification than the existing zoning district. If the applicant at the Governing Body meeting at which a zoning amendment is being considered desires to amend the application and/or the Governing Body desires to consider a "lesser" zoning change, then such a proposed change shall be returned to the Planning Board for reconsideration and further recommendation to the Governing Body without further publication or notice as provided for in K.S.A. 12-757(c) and in Section 11-104 of the Zoning Regulations.

**MOST RESTRICTIVE:**   A-1   Agricultural District  
                              RR-1   Single-Family Rural Residential District  
                              C-1   General Commercial District

**LEAST RESTRICTIVE:**   I-1   Industrial District

Because of the uniqueness and special purpose for which the V-1 Village District serves, this district is excluded from the Table of Comparability as well as the overlay zone established by the Floodplain Management Regulations.

Although the notification for a "Special Use" is processed in the same manner as a zoning district amendment, it is not an actual change in zoning districts and, therefore, the Table of Comparability does not apply and

reapplication is necessary for consideration of a different "Use" even if in the same zone. Part of the property considered for a Special Use, however, may be withdrawn by the applicant or a lesser amount recommended for approval without renotification.

EXAMPLE: If an application is advertised for a public hearing requesting a change from the A-1 Agricultural District to the I-1 Industrial District, the Planning Board may recommend the lesser, i.e., more restrictive C-1 General Commercial District without republication or mailing of new notices.

If an application, however, is advertised for a public hearing requesting a change from the existing C-1 General Commercial District to the I-1 Industrial District, the recommending of the lesser RR-1 Single-Family Rural Residential District shall not be valid without republication and the mailing of new notices.

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# RESOLUTION INCORPORATING AND ADOPTING ZONING REGULATIONS

(Published in The Pratt County Tribune on May 12, 2012.)

RESOLUTION NO. 5-7-2012

A RESOLUTION APPROVING AND ADOPTING BY REFERENCE ZONING REGULATIONS OF PRATT COUNTY, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE COUNTY OF PRATT, KANSAS:

Section 1. **ADOPTION.** That Zoning Regulations including a Floodplain Management Resolution are hereby approved and adopted pursuant to K.S.A. 12-741, et seq., as amended, and which govern the zoning of a portion of the land in the unincorporated area of Pratt County, Kansas.

Section 2. **OFFICIAL MAP(S).** That there are further herein incorporated by reference and adopted an Official Zoning Map delineating the boundaries of zoning districts and the classification of such districts, which map shall be marked "Official copy of zoning district map incorporated into zoning regulations by adoption of Resolution No. 5-7-2012 by the Governing Body of Pratt County, Kansas on the 7th day of May, 2012" and filed with the Zoning Administrator to be open for inspection and available to the public at all reasonable business hours.

Section 3. **PUBLIC HEARING:** That such regulations were prepared in book form as a model code for the Pratt County Planning Board by Foster & Associates, Planning Consultants, in association with Rice Foster Associates, Landscape Architecture & Planning, both of Wichita, Kansas and the County Planning Administrator under the date of April 16, 2012 and were adopted by the County Planning Board on April 16, 2012 following an advertised public hearing held on March 19 and April 16, 2012 as required by Kansas law, and the same is hereby declared to be approved and incorporated by reference as fully as if set out herein pursuant to K.S.A., as amended, 12-3301 and 12-3303 through 12-3305.

Section 4. **OFFICIAL COPIES:** That not less than three copies of the Zoning Regulations in book form marked "Official Copy as incorporated by Resolution No. 5-7-2012" and to which there shall be a published copy of this Resolution appended, shall be filed with the County Clerk to be open for inspection and available to the public at all reasonable business hours.

Section 5. **VIOLATIONS:** That pursuant to K.S.A. 12-761, as amended, any violations of this Resolution shall be enforced by the following penalties and remedies.

A. **Penalties.** According to state statutes, any violations of these regulations shall be deemed to be a misdemeanor. The owner or agent of a building, structure or premises in or upon which a violation of any provision of these regulations has been committed or shall exist

or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part or assists in any violation or who maintains any building, structure or premises in or upon which a violation has been committed or shall exist shall be punished by a fine not to exceed \$500 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.

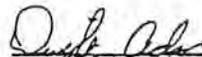
B. **Remedies.** In case any building or structure is erected, constructed, reconstructed, structurally altered, converted or maintained; or any building, structure or land is used or is proposed to be used in violation of these regulations, the appropriate authorities of Pratt County, in addition to using other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or to correct or abate such violation, or to prevent the occupancy of such building, structure or land. In addition to the County, 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 these regulations and to abate nuisances in violation thereof.

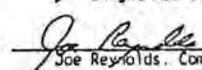
Section 6. **INVALIDITY OF A PART:** That any provisions of this Resolution which shall be declared by a competent court to be unconstitutional or invalid shall not affect the validity and authority of any other sections of said Resolution.

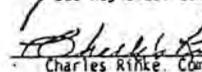
Section 7. **EFFECTIVE DATE:** That this Resolution shall take effect from and after its adoption and publication once in the official county newspaper.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF PRATT COUNTY, KANSAS, this 7th day of May, 2012.

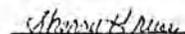
(S E A L)

  
Dwight Adams, Chairman

  
Joe Reynolds, Commissioner

  
Charles Rinke, Commissioner

ATTEST:

  
Sherry Kryse, County Clerk

**COMMERCIAL WIND ENERGY PROJECT (CWEP) CRITERIA  
AND CONDITIONS FOR A SPECIAL USE APPLICATION\***

**A. Intent.**

The criteria and conditions herein address major issues associated with an application for a special use for a proposed CWEP; however, other issues may arise with respect to a specific proposed CWEP. These criteria and conditions are not intended to regulate the installation of the smaller individual private wind energy conversion systems. (See Section 6-100B and Section 2-102 for definition of HEIGHT, MAXIMUM.)

**B. Key Issues.**

Key issues relating to a CWEP which shall be considered in the assessment of any CWEP Special Use Application are:

- Land Use
- Visual Impact
- Noise
- Bird migration / strikes
- Endangered Species
- Soil Erosion
- Water Quality
- Infrastructure
- Aviation / Lighting
- Electromagnetic Interference
- Reception Interference
- Cultural Heritage
- Native Vegetation / Weeds
- Cumulative Impact
- Wildlife Habitat
- Public Health and Safety
- Decommissioning / Restoration
- Financial Surety Agreement

**C. Area to be included and signature requirements.**

Any CWEP Special Use shall encompass the entire perimeter of the proposed CWEP and all supporting improvements and infrastructure. One application, with the signature(s) of the owners of record of real property, shall be required for all the land area located within the perimeter of the Special Use. The signature of an agent of a property owner shall be sufficient if accompanied by proof of the agent's authority to sign on their behalf.

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\* See Section 4-101B18 in the A-1 Agricultural District for a CWEP as a Special Use.

With respect to a CWEP Special Use application, a notice of a Planning Board hearing shall be provided to all the owners of record of real property located within one mile of the boundaries of the CWEP. (See Section 11-100D1 for Notice of Hearing.) This notice provision does not define or affect the area with respect to which a valid protest petition can impose a supermajority voting requirement.

**D. Design Requirements for CWEP Special Use.**

Any Special Use for a CWEP shall be subject to the following design requirements without regard to whether such requirements are specifically listed in any resolution approving a Special Use:

1. Turbine Location Requirements:

- a. No turbines shall be located closer than 1.1 times the total height of the turbine from a public road right of way.
- b. No turbines shall be located closer than 500 feet from lot lines of any property not included in the Special Use without the express written permission of all owners of any such property filed with the Special Use application.
- c. No turbine shall be located closer than 2,500 feet from an active residential building except that all owners of any residential building can grant express written permission for the placement of a turbine at a shorter distance of not less than 1,000 feet, if such permission is filed with the Special Use application.
- d. Turbines shall be located no closer than 1.1 times the total turbine height from an accessory structure. Total turbine height is defined as the height of the structure supporting the turbine, plus the height of the rotor blade at its highest point, measured from the elevation of the ground surface at the base of the tower.

2. Noise standards.

The maximum sound level permitted for a CWEP at any time shall not exceed 60 decibels (A-weighted) measured at five feet above ground level at the boundary of the Special Use property and shall not exceed 50 decibels (C-weighted) if it is determined that a pure tone noise is generated by the project. Turbines shall be moved or modified or removed (and decommissioned) from service if necessary to comply with this condition.

3. Turbine Access Roads Requirements:

- a. Applicant shall construct the smallest number of turbine access roads necessary.
- b. Access roads shall be low profile roads so farming equipment can cross them.
- c. Where an access road is to cross a stream or drainage way, it shall be designed and constructed so runoff from the upper portions of the watershed can readily flow to the lower portions of the watershed, and Applicant must follow the regulations pertaining to building a structure in a floodplain zone of the Federal Emergency Management Agency and the Floodplain Management Regulations of these Zoning Regulations.

4. Communication and Power Collection Lines.

Communication lines and power collection lines are to be installed underground in the area covered by the Special Use and located under or at the edge of turbine access roads. Above-ground transmission lines **may be** used in public rights of way or easements. If, however, there is documented evidence by the Applicant that there are unusual existing or potential circumstances in the area which may justify above-ground construction for such installations, or the location of lines other than under or at the edge of turbine access roads, the Special Use may approve modifications of the above standards to mitigate such concerns. Such modifications shall be effective only when specifically described in a condition attached to the approval of the Special Use.

5. Minimum Blade Clearance.

Lowest point of the rotor blades shall be at least 85 feet above ground level at the base of the tower.

6. Turbine Tower Design.

Structures for wind turbines shall be self-supporting tubular towers painted a non-reflective neutral color such as a white or pale gray. No lattice-type structure or other designs that would provide perches for avian predators shall be used. To promote visual uniformity, the rotors, nacelles and towers in an array should appear similar. No logos or advertisements are allowed on these structures. Each turbine shall be marked with a visible identification number located no higher than 15 feet above ground level.

7. Turbine Tower Lighting.

There shall be no lights on the towers other than those required by the minimum standards of the Federal Aviation Administration (FAA). Lighting shall consist of dual lighting equipment with daytime white lights and nighttime red lights only.

No high intensity or nighttime strobes shall be permitted. These restrictions shall not apply to infrared heating devices used to protect the wind monitoring equipment.

**E. Contents of CWEP Development Plan.**

Every application for a Special Use for a CWEP shall be accompanied by a complete Development Plan containing all elements described in these criteria and conditions. No application for a Special Use may be set for hearing, and no public hearing shall be held, unless the Applicant has filed a complete Development Plan. A Special Use shall be valid only for construction in conformity with an approved Development Plan.

The Development Plan shall be written in a style that is easily understood by the general reader. Technical terminology shall be avoided as much as possible. Detailed technical data, statistics and supplementary information required to support the main text is to be included as appendices. All sources of information are to be referenced, and must be current. Information presented as maps, diagrams or plans is preferred.

Close consultation with the Zoning Administrator during preparation of the Development Plan is highly recommended. More than one draft may be required before it is considered suitable for presentation to the Planning Board.

A Development Plan shall, at a minimum, contain the following information:

1. A general introduction to the project including a description of the anticipated timeline of construction, whether the project will be or may be built in phases and the nature of those phases; the total acreage included in the project; and the names and current addresses of all people who have provided easements, leases, licenses or other permission with respect to property in connection with the project together with a legal description of the land. Name, address and phone number of the Applicant and for any contact person shall be disclosed along with an overview of the company providing relevant information regarding qualifications and experience in commercial wind energy development and environmental management.
2. Topographical map with contours at intervals of 20 feet at a 1:2,000 scale showing the locations of the following features: (U.S.G.S. scale.)
  - a. Lot lines for each parcel under separate ownership included in the Special Use area and within one mile of its boundaries together with a key identifying the owners of each parcel.
  - b. All residential buildings within one mile of the proposed CWEP boundaries, designating those known to be occupied.

- c. All public roads within the CWEP area and within one mile of its boundaries. The access points to the public roads to be used for both the construction and the operation phase of the project shall be designated.
  - d. All structures; utility lines; pipelines; rights-of-way of record; oil and gas wells, facilities and storage batteries; existing driveways and field service roads; and water impoundments, creeks and rivers in the area covered by the Special Use application.
  - e. All airports within nine miles of the project boundaries. (See Section 2-102 for definition of AIRPORT.)
  - f. Proposed setbacks of all turbines and other structures from the boundary lines.
  - g. Boundaries of any 100-year floodplain as identified on the Federal Insurance Administration's maps of the County.
  - h. All turbines, transformers, substations and connecting power lines for the project.
  - i. All structures to be used as part of the operation of the project (including the dimensions of such structures).
  - j. All roads to be constructed within the project both for construction and for operation and all fences, walls, gates and landscaping proposed to be installed.
3. A complete description of the Applicant or developer's current status with respect to:
- a. Securing a power purchase agreement, including the duration of any such agreement or proposed agreement;
  - b. Securing the right to tie into the power grid for the purposes of marketing the power to be generated from the project, including, to the extent known, the upgrades and improvements required with the County, including their location.
  - c. The selection of wind turbines to be located on the site including specifications for each model being considered. The Special Use shall not be valid for the placement of turbines that exceed the height of, or produce more noise than, those disclosed in the Development Plan.
4. Independent third-party studies assessing the following aspects of the project site, include an inventory, identification of potential impacts from the CWEP construction or operation, and possible mitigation measures:

- a. The capacity of roads, bridges and culverts over which equipment for the CWEP will travel during the construction phase to withstand the expected traffic.
- b. Archaeological sites and sites of historical significance. An archeological reconnaissance survey within the site that will be impacted by the construction or operation of the CWEP 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 State Historic Site Survey and/or 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.
- c. Endangered, threatened or target-list species.
- d. Avian impacts, including impacts on both nesting and migrating birds.
- e. Wetlands and other biologically sensitive areas within the site.

5. General Construction Document Requirements:

- a. A general description of major components of the turbines and on-site facilities including wind turbine specifications, transmission lines and accessory facilities such as control rooms, transformers, substations, maintenance facilities, underground infrastructure and interior access roads. The number, location, capacity and dimensions of the turbines shall also be included.
- b. A description and general schedule of major construction activities for the turbines, transmission lines and accessory structures related to the CWEP.
- c. An outline of any proposed site preparation involving removal of vegetation and restoration of the site due to construction.
- d. The volume and designated route for traffic generated during the construction phase, including oversized and heavy equipment.

6. Soil Erosion, Sediment Control and Storm Water Runoff Plan.

- a. Applicant shall submit a Soil Erosion, Sediment Control and Storm Water Runoff Plan which shall identify effects of the CWEP (especially during construction) on surface water and surface water runoff along with any mitigation measures, and address erosion-prone areas and what types of erosion control measures will be used during each phase of the project. It shall identify plans for:

- i. Grading.
  - ii. Revegetation to ensure slope stability.
  - iii. Construction and drainage of access roads and turbine pads.
  - iv. Restoring the site after temporary project activities.
  - v. Design features to maintain downstream water quality.
- b. The Soil Erosion, Sediment Control and Storm Water Runoff Plan shall also set out the proposed practices (which shall, unless disapproved, become part of the Special Use approval) regarding:
- i. Disposal or storage of excavated materials.
  - ii. Protecting exposed soil.
  - iii. Stabilizing restored material and removal of silt fences or barriers when the area is stabilized.
  - iv. Maintenance of erosion controls throughout the life of the project.

7. Fire Safety Plan.

- a. The Development Plan shall include a Fire Safety Plan identifying the potential fire risk associated with the project, including both prescribed burning and non-prescribed burning (natural or accidental). This shall address fire originating within the site, fire escaping from the site and the potential effects of fire originating from outside the site. "Prescribed Burning" is defined as 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; and conforms to the standards established by the Kansas State University Research and Extension office in Pratt.
- b. The Fire Safety Plan shall address high angle rescue and all provisions for fire suppression, fire and emergency medical response to be provided by the applicant both during construction and during operation of the project. The Fire Safety Plan shall identify what equipment not presently owned by the public fire department or other first responder may be needed to respond to emergencies at the project both during construction and during operation of the project.

8. Ground water resources.

Applicant must identify any risks to the ground water aquifer in connection with the construction of a CWEP project and all mitigation measures the applicant proposes to utilize to mitigate such risks.

9. Air Quality.

Applicant shall submit a plan to control dust on turbine access roads, especially during construction.

10. Land Use and Development.

Applicant shall identify potential constraints or benefits the CWEP may place on the current or future use of the land within the project site and the surrounding area. The extent of any limitations due to public health and safety risks shall be specifically addressed, and, the effects on the following activities shall also be addressed:

- a. Existing or proposed tourist or recreation activities.
- b. Agricultural activities.
- c. Local and regional tourism.
- d. Residential activities.
- e. Commercial activities.
- f. Industrial activities.

11. Monitoring and Review Programs.

The Development Plan shall provide any monitoring, review and reporting program for each part of the project. Details shall include any pre-construction monitoring/studies, sites to be sampled, the sampling procedures, the parameters to be analyzed, frequency of sampling and reporting. A Site Plan showing sampling locations is required.

12. Bibliography.

The Development Plan shall contain a bibliography of the authorities consulted, and documents relied on in completing the Development Plan.

13. Appendices.

All detailed technical information that supports the Development Plan should be included in appendices. The most important features of the appendices shall be included in the main body of the Development Plan.

**F. Prerequisites to Construction Under an Approved Special Use.**

1. Zoning Permit.

No construction under an approved Special Use may commence until a Zoning Permit is approved by the Zoning Administrator.

2. Power Purchase Agreement (PPA).

Approval of a Special Use does not authorize construction of the project until the Applicant has obtained a Power Purchase Agreement (PPA) for the electricity to be generated by the CWEP. The Applicant shall advise the Zoning Administrator when it obtains a PPA and shall provide such documentation confirming said agreement.

Unless an alternate timeline is determined as a condition attached to the approved Special Use on a case by case basis, the PPA must be obtained within one year of the date of publication of the Resolution effectuating the Special Use. This one-year period may be extended up to six months upon written request by the Applicant and approval by the Governing Body. In the event the Applicant does not obtain a PPA within the 12- to 18-month time span, the Resolution effectuating the Special Use shall automatically become null and void.

A Zoning Permit shall be approved only after the Administrator receives documentation confirming the PPA and all conditions pertaining to a CWEP have been satisfied.

3. Deconstruction bond.

A bond for complying with Section J herein must be approved and accepted by the Governing Body before any Zoning Permit is approved for construction to begin.

4. Road agreement.

Transportation routes used for construction shall be coordinated with the Supervisor of the County Road and Bridge Department. Applicant shall be held liable for any damage to County roads or rights of way resulting from tower construction, deconstruction and/or maintenance activity. A Road Agreement by which the developer or operator of the CWEP assumes financial responsibility for infrastructure improvements needed for construction and repair for infrastructure

damages caused by construction must be approved by the Governing Body before any Zoning Permit is approved for construction to begin.

**G. Construction Requirements.**

1. A licensed professional structural engineer or certified structural engineering firm selected by the Applicant shall conduct all inspections on each turbine with respect to the foundation, structural assembly, mechanical and electrical aspects of turbine construction. Documentation regarding each approved inspection shall be submitted to the Zoning Administrator before the next step of construction begins and prior to any operation of an individual turbine.

All expenses of such engineer or engineering firm shall be the responsibility of the Applicant or holder of the Special Use. Pratt County, its officers, agents and employees shall be held harmless from any and all claims, costs, liabilities, damages or expenses, including costs of suits and fees and expenses for legal services on account of any damages claimed by any third party, including such claims by agents or employees of said third party, arising from any approval or non-approval of any inspection.

2. Site Clearance:
  - a. Applicant shall disturb or clear the site only to the extent necessary to assure suitable access for construction, safe operation and maintenance of the CWEP.
  - b. Applicant shall minimize the removal of trees and shall not remove groves of trees or hedgerows (shelter belts) without approval of the affected property owner.
  - c. On cultivated land, Applicant shall minimize compaction of the land during all phases of the CWEP's life. Compaction shall be confined to as small an area as practical.
  - d. 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.
3. Prior to the start of, and continuously throughout construction and site restoration, Applicant shall designate a field representative responsible for overseeing compliance with the conditions of the Special Use. Such representative shall be accessible by telephone during normal business hours. Address, phone number and emergency phone number shall be provided to the Zoning Administrator and 911 Emergency service and shall be available to residents, officials and other interested persons. Applicant is required to notify the Administrator and 911 Emergency service of any change of the designated representative.

4. Cleanup.

Applicant shall remove all waste and scrap that is the product of construction, operation, restoration and maintenance from the site and properly dispose of it upon completion of each task. Bottles, paper and other litter deposited by site personnel shall be contained or removed on a daily basis.

5. Applicant shall inform all employees, contractors and others involved in the construction of the CWEP of the conditions of the Special Use.

**H. Operational Requirements for CWEP Special Uses.**

The following operational requirements shall be conditions to all CWEP Special Uses without respect to whether such conditions are expressly stated in the approval of the Special Use.

1. Lubricants and/or hazardous materials located on the premises shall be kept and transported in accordance with all state and federal regulations.
2. Applicant shall take reasonable measures such as planting trees, installing awnings, etc. to mitigate specific adverse visual impacts such as reflections, shadow flicker and blade glint affecting residences within or immediately adjacent to the project area.
3. Applicant shall not operate the CWEP and its associated facilities so as to cause microwave, television, radio, telecommunications or navigation interference. The CWEP shall operate in conformity with all applicable Federal Communications Commission (FCC) regulations. In the event the CWEP and its associated facilities or its operations cause such interference in or near the project, Applicant shall take timely measures necessary to correct the problem.
4. Extraordinary Event Response.

Upon an occurrence of an extraordinary event, the Applicant shall notify the Zoning Administrator of any extraordinary event. Extraordinary events include tower collapse, turbine failure, kills of threatened or endangered species, thrown/broken blade or hub, collector-feeder line failure, discovery of an unexpectedly large number of dead birds of any variety on site, or injured person.

In the event of extraordinary avian mortality, the Applicant shall within 30 days of the occurrence submit a report to the Administrator, the Kansas Department of Wildlife, Parks and Tourism or its successor, and the U.S. Fish and Wildlife Service describing the cause of the occurrences and the steps taken to avoid future occurrences.

5. Decommissioning.

Decommissioning shall occur in compliance with the Decommissioning Plan.

6. Non-Liability for Prescribed Burning.

No party with an interest in the Special Use shall hold liable an owner, lessee or occupant of agricultural land for property damage to CWEP-related equipment caused by or resulting from prescribed burning conducted on the land owned by, leased by or occupied by the person if the prescribed burning is conducted under the procedures established by the Kansas State University Research and Extension office in Pratt.

**I. Decommissioning / Restoration / Abandonment.**

1. Decommissioning Plan.

Applicant shall submit a Decommissioning Plan with the application for a CWEP Special Use. Compliance with the Decommissioning Plan shall be a condition of the Special Use whether or not explicitly listed in any document reflecting the approval. The Decommissioning Plan shall describe the manner in which the CWEP improvements will be dismantled and removed from the site within 18 months of the abandonment or the end of useful life of the CWEP or of such improvement and shall require the removal of all above-ground components of the CWEP. Foundations shall be removed to the satisfaction of the property owner(s) and the area removed filled with soil which is reasonably similar in quality to that of the original excavation. Access roads shall be removed to the property owner's satisfaction.

2. Abandonment.

The CWEP or any wind turbine shall be deemed abandoned at the end of a one-year period following the mailing by certified mail of written notice of abandonment to the owner of record, sent when a completed wind turbine does not produce electric energy for distribution and there is no demonstrated plan to restore the equipment to operating condition. The Governing Body may require Applicant or holder of Special Use to decommission any abandoned turbine or may undertake such decommissioning with the proceeds of the escrow account, surety bond, or insurance policy, or otherwise at the expense of the last approved holder of the Special Use.

**J. Financial Agreement.**

Prior to the commencement of construction, Applicant shall submit an escrow account, a surety bond, or an insurance policy (referred to herein as "bond" regardless of the type of arrangement) in an amount approved by the Governing Body, in the amount reasonably necessary to fund the implementation of the Decommissioning Plan, payable to Pratt

County. The holder of a CWEP Special Use shall maintain the bond until the Decommissioning Plan has been completely performed and any damages to public roads caused by the decommissioning paid. The account, bond or policy shall be available to the Governing Body in the event of an abandonment of the project or a failure to comply with the Decommissioning Plan or pay for damage to public roads caused by decommissioning activities. The bond shall not be revocable without 30 days advance notice to Pratt County and, in the event it is not replaced within 20 days of such notice, the County shall immediately receive the proceeds of the bond, to be used for decommissioning purposes. Nothing in the financial agreement or otherwise shall impose any liability or duty whatsoever on Pratt County or any of its agencies, including, but not limited to any liability to undertake decommissioning or for taxes, wages or any other employee benefits for any person or entity.

**K. Transfer of Special Use.**

Special Use shall not be transferred from one party to a different party without approval of the Governing Body. If the Special Use is to be transferred, the current holder of the Special Use shall inform the second party of the decommissioning funding requirements and all other requirements of the Special Use. The second party or new holder of the Special Use shall meet the escrow account, surety bond, or insurance policy requirements for decommissioning and all other requirements of the Special Use. A transfer request shall be submitted to the Zoning Administrator who shall assess the current compliance of the CWEP with the conditions of the Special Use and other applicable law. If the Zoning Administrator determines the CWEP is in compliance, the transfer application shall be forwarded to the Governing Body for action. A transfer fee of \$100.00 per turbine shall be paid to the County. The Governing Body shall approve the transfer application if it finds that the requirements of this section have been satisfied.

**L. Variance.**

Variances are available to a CWEP through the Board of Zoning Appeals with respect to the requirements herein to the full extent authorized by Section 10-107C of the regulations.

## FLOODPLAIN MANAGEMENT RESOLUTION

### ARTICLE 1 STATUTORY AUTHORIZATION, FINDINGS OF FACT, AND PURPOSES

#### SECTION A. STATUTORY AUTHORIZATION

1. *Approval of Draft Resolution by Kansas Chief Engineer Prior to Adoption*

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on March 5, 2012.

2. *Kansas Statutory Authorization*

The Legislature of the State of Kansas has in K.S.A. 12-741 *et seq.*, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the Board of County Commissioners of Pratt County, Kansas, resolves as follows:

#### SECTION B. FINDINGS OF FACT

1. *Flood Losses Resulting from Periodic Inundation*

The special flood hazard areas of Pratt County, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. *General Causes of the Flood Losses*

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. *Methods Used To Analyze Flood Hazards*

The Flood Insurance Study (FIS) that is the basis of this resolution uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

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- a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this resolution is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this resolution. The base flood is the flood that is estimated to have a one percent chance of being equaled or exceeded in any one year as delineated on the Federal Insurance Administrator's FIS of the City of Pratt, Kansas, and illustrative materials dated September 1981 and September 30, 1983, as amended, and any future revisions thereto.
- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

#### SECTION C. STATEMENT OF PURPOSE

It is the purpose of this resolution to promote the public health, safety, and general welfare; to minimize those losses described in Article 1, Section B(1); 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) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this resolution to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

#### ARTICLE 2 GENERAL PROVISIONS

##### SECTION A. LANDS TO WHICH RESOLUTION APPLIES

This resolution shall apply to all lands within the unincorporated area of Pratt County, Kansas which is outside the designated extraterritorial zoning jurisdiction of the City of Pratt, Kansas, that is identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the City of Pratt Index Map

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dated September 30, 1983 of the Flood Insurance Rate Map (FIRM) and the City of Pratt Flood Boundary and Floodway Map of September 30, 1983 as amended and any future revisions thereto. In all areas covered by this ordinance, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Board of County Commissioners or its duly designated representative under such safeguards and restrictions as the Board of County Commissioners or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Article 4.

#### SECTION B. COMPLIANCE

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this ordinance and other applicable regulations.

#### SECTION C. ABROGATION AND GREATER RESTRICTIONS

It is not intended by this ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provisions of this ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

#### SECTION D. INTERPRETATION

In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

#### SECTION E. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This ordinance shall not create a liability on the part of Pratt County, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this ordinance or any administrative decision lawfully made there under.

#### SECTION F. SEVERABILITY

If any section; clause; provision; or portion of this ordinance is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this ordinance shall not be affected thereby.

## ARTICLE 3 ADMINISTRATION

### SECTION A. FLOODPLAIN DEVELOPMENT PERMIT

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Article 2, Section A. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

### SECTION B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Zoning Administrator of Pratt County is hereby appointed to administer and implement the provisions of this resolution as the Floodplain Administrator.

### SECTION C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR

Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this resolution have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from federal, state, or local governmental agencies from which prior approval is required by federal, state, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

## SECTION D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;
4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the Floodplain Administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

## ARTICLE 4 PROVISIONS FOR FLOOD HAZARD REDUCTION

### SECTION A. GENERAL STANDARDS

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this resolution. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources.
3. 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.

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4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
- a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - b. Construction with materials resistant to flood damage;
  - c. Utilization of methods and practices that minimize flood damages;
  - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
  - e. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination from them during flooding; and
  - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - (1) All such proposals are consistent with the need to minimize flood damage;
    - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.

5. *Storage, Material, and Equipment*

- a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

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6. *Nonconforming Use*

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the resolution, but which is not in conformity with the provisions of this resolution, may be continued subject to the following conditions:

- a. If such structure or use is abandoned for 12 consecutive months, or its utility service is discontinued for 12 months, any future use of the use or structure shall conform to this resolution.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than 50% of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

SECTION B. SPECIFIC STANDARDS

1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Article 4, Section A(2), the following provisions are required:

- a. *Residential Construction*

New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

- b. *Nonresidential Construction*

New construction or substantial-improvement of any commercial, industrial, or other nonresidential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be dry floodproofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the Floodplain Administrator as set forth in Article 3, Section C(7)(8)(9).

- c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and 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 flood waters. Designs for meeting this requirement must either be

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certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
- (2) The bottom of all opening shall be no higher than one (1) 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 flood waters.

#### SECTION C. MANUFACTURED HOMES

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
  - a. Outside of a manufactured home park or subdivision;
  - b. In a new manufactured home park or subdivision;
  - c. In an expansion to and existing manufactured home park or subdivision; or
  - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Article 4, Section C(2) of this resolution, be elevated so that either:
  - a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or

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- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

#### SECTION D. AREAS OF SHALLOW FLOODING (AO and AH zones)

Located within the areas of special flood hazard as described in Article 2, Section A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

##### 1. *AO Zones*

- a. All new construction and substantial-improvements of residential structures, including 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 (2) feet if no depth number is specified).
- b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including 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 FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that level 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.
- c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

##### 2. *AH Zones*

- a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Article 4, Section B.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

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## SECTION E. FLOODWAY

Located within areas of special flood hazard established in Article 2, Section A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been 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.
3. If Article 4, Section E(2), is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Article 4.
4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in Article 4, Section A(2).

## SECTION F. RECREATIONAL VEHICLES

Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use\*; or
3. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this resolution.

\*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.

## ARTICLE 5 FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES

### SECTION A. ESTABLISHMENT OF APPEAL BOARD

The Board of Zoning Appeals as established by Pratt County shall hear and decide appeals and requests for variances from the floodplain management requirements of this resolution.

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## SECTION B. RESPONSIBILITY OF APPEAL BOARD

Where an application for a floodplain development permit is denied by the Floodplain Administrator, the Applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Article 5, Section A.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this resolution.

## SECTION C. FURTHER APPEALS

Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

## SECTION D. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA

In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this resolution, and the following criteria including the five conditions required by K.S.A. 12-759(e) and further incorporated in Section 10-107D of the Zoning Regulations:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. 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; streets; and bridges.

## SECTION E. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES

1. 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 constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, repair, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) 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 victimization of the public, or conflict with existing local laws or resolutions.
6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this resolution.

## ARTICLE 6 PENALTIES FOR VIOLATION (See Section 9-103C of the Zoning Regulations.)

## ARTICLE 7 AMENDMENTS

The regulations, restrictions, and boundaries set forth in this resolution may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Pratt County. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this resolution are in compliance with the NFIP regulations.

## ARTICLE 8 DEFINITIONS

Unless specifically defined below, words or phrases used in this resolution shall be interpreted so as to give them the same meaning they have in common usage and to give this resolution its most reasonable application.

"100-year Flood" *see* "base flood."

"Accessory Structure" means the same as "appurtenant structure."

"Actuarial Rates" *see* "risk premium rates."

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency (FEMA).

"Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this resolution or a request for a variance.

"Appurtenant Structure" means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

"Area of Shallow Flooding" means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of Special Flood Hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

"Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means any area of the structure having its floor subgrade (below ground level) on all sides.

"Building" *see* "structure."

"Chief Engineer" means the chief engineer of the Division of Water Resources, Kansas Department Of Agriculture.

"Chief Executive Officer" or "Chief Elected Official" means the official of the community who is charged with the authority to implement and administer laws, resolutions, and regulations for that community.

"Community" means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**"Elevated Building"** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**"Eligible Community" or "Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**"Existing Construction"** means 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."*

**"Existing Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**"Expansion to an Existing Manufactured Home Park or Subdivision"** means 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, the construction of streets, and either final site grading or the pouring of concrete pads).

**"Flood" or "Flooding"** means 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).

**"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.

**"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.

**"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards and if appropriate, corresponding water surface elevations.

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"**Flood Fringe**" means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

"**Flood Hazard Boundary Map (FHBM)**" means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

"**Flood Hazard Map**" means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.

"**Flood Insurance Rate Map (FIRM)**" means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

"**Flood Insurance Study (FIS)**" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

"**Floodplain**" or "**Flood-prone Area**" means any land area susceptible to being inundated by water from any source (*see "flooding"*).

"**Floodplain Management**" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

"**Floodplain Management Regulations**" means zoning regulations, subdivision regulations, building codes, health regulations, special purpose resolutions (such as floodplain and grading resolutions) 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.

"**Floodproofing**" means 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.

"**Floodway**" or "**Regulatory Floodway**" means 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.

"**Floodway Encroachment Lines**" means the lines marking the limits of floodways on Federal, State and local floodplain maps.

"**Freeboard**" means 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.

"**Functionally Dependent Use**" means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily 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.

**"Lowest Floor"** means 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 the structure in violation of the applicable floodproofing design requirements of this resolution.

**"Manufactured Home"** means 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 term *"manufactured home"* **does not include** a *"recreational vehicle."*

**"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

**"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**"Mean Sea Level"** means, 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 referenced.

**"New Construction"** means, 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 structures.

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**"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**"(NFIP)"** means the National Flood Insurance Program (NFIP).

**"Participating Community"** also known as an *"eligible community,"* means a community in which the Administrator has authorized the sale of flood insurance.

**"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.

**"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

**"Principally Above Ground"** means that at least 51% of the actual cash value of the structure, less land value, is above ground.

**"Reasonably Safe From Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

**"Recreational Vehicle"** means 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.

**"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *"Risk premium rates"* include provisions for operating costs and allowances.

**"Special Flood Hazard Area"** see *"area of special flood hazard."*

**"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

**"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of

slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial-improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"**State Coordinating Agency**" means 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.

"**Structure**" means, 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 principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation, or a travel trailer, without wheels 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.

"**Substantial-Damage**" means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"**Substantial-Improvement**" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before "*start of construction*" of the improvement. This term includes structures, which have incurred "*substantial-damage*," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "*historic structure*," provided that the alteration will not preclude the structure's continued designation as a "*historic structure*."

"**Variance**" means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

"**Violation**" means 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 resolution is presumed to be in violation until such time as that documentation is provided.

"**Water Surface Elevation**" means 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 riverine areas.

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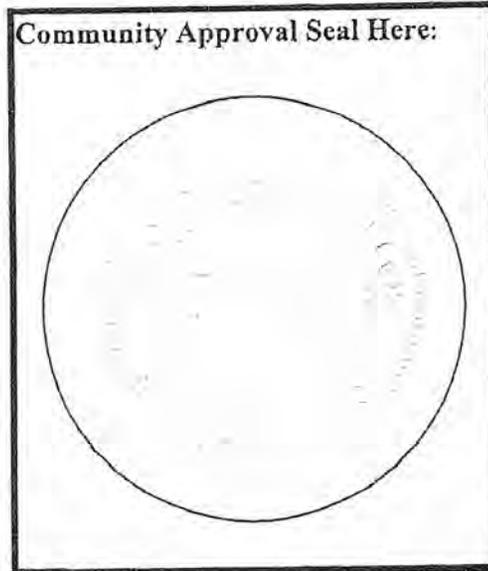
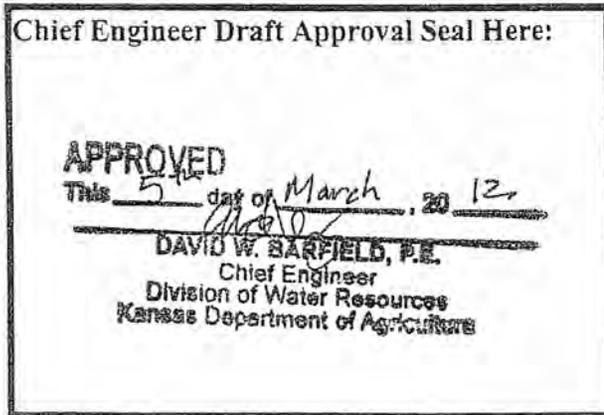
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ARTICLE 9 CERTIFICATE OF ADOPTION

This Floodplain Management Resolution for the community of Pratt County, Kansas.

PASSED AND ADOPTED by the Governing Body of Pratt County, Kansas.

This 7<sup>th</sup> day of MAY, 2012.



APPROVED:

Dwight Adams  
Signature of Chief Executive Officer/Chief Elected Official

05-07-2012  
Date

Dwight Adams

Chairman, Board of County Commissioners

Chief Executive Officer/Chief Elected Official Name (Typed/printed)

Title

ATTEST:

Sherry Kruse  
Signature of Recording Clerk

5-7-12  
Date

Sherry Kruse

County Clerk

Recording Clerk Name (Typed/printed)

Title

The effecting Resolution No. 05-07-2012 was published in Official News publication, *The Pratt Tribune*, on May 12, 2012.