

ZONING REGULATIONS
for Unincorporated Territory of Douglas County, Kansas

ARTICLE 3
Of
COUNTY CODE CHAPTER 12:
ZONING AND PLANNING

NOVEMBER, 2008 DRAFT
(Revision of September, 2008 Draft with changes incorporated)

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SECTION 12-301 INTRODUCTORY PROVISIONS

(a) OFFICIAL TITLE

The official title of this Article is the "Zoning Regulations for the Unincorporated Territory of Douglas County, Kansas". For convenience, it is referred to throughout this document as the "Zoning Regulations" or "these regulations".

(b) APPLICABILITY

The Zoning Regulations shall apply to all development activity, public and private, within the unincorporated territory of Douglas County, Kansas.

(c) PURPOSE

The zoning regulations are intended to protect promote the public health, safety and general welfare of the citizens of Douglas County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, for good civic design and arrangement, and for adequate public utilities and facilities by regulating the location and use of buildings, structures, and land for trade, industry, and residence, by regulating and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use. These regulations are intended to implement the recommendations in *Horizon 2020*, the Comprehensive Land Use Plan adopted jointly by Douglas County and the City of Lawrence and other applicable plans adopted by the Board of County Commissioners, hereinafter collectively referred to as the 'Comprehensive Plan'.

(d) INTERPRETATION

In interpreting and applying the provisions of this Resolution, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, or general welfare. It is not intended by this Resolution to interfere with, or abrogate or annul any easements, covenants, or other agreement between parties; provided, however, that where this Resolution imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Resolution shall govern. If, because of error or omission in the Zoning District Map, any property in the jurisdiction of this Resolution is not shown as being in a zoning district, the classification of such property shall be classified " A (Agricultural) until changed by amendment to the Zoning District Map. In the event that the language in the Zoning Regulations is unclear or clarification is necessary, the Planning Director is authorized to make an interpretation of these Regulations.

(1) General Rules for Interpretation of Regulations

(i) Meaning

The language of the Zoning Regulations shall be read literally. Words used in the Zoning Regulations have the standard dictionary definition unless they are defined in Section 20-314.

(ii) Usage

Words 'shall', 'will', 'shall not' and 'may not' are mandatory. The word 'may' or 'should' is permissive.

(iii) Fractions

When a regulation is expressed in terms of a minimum requirement, any fractional result shall be rounded up to the next consecutive whole number. When a regulation is expressed in terms of maximum limits, any fractional result shall be disregarded and only the smallest applicable whole number shall be considered.

(iv) Headings, Illustrations and Text

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

(v) References to Other Regulations

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

(vi) Current Versions and Citations

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

(vii) Lists and Examples

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

(viii) Delegation of Authority

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

regulations.

(e) VALIDITY

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

(f) TRANSITIONAL PROVISIONS

(1) APPLICATIONS SUBMITTED BEFORE THE EFFECTIVE DATE

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

(2) PERMITS ISSUED BEFORE THE EFFECTIVE DATE

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

SECTION 12-302 GENERAL PROVISIONS, DISTRICTS, AND DISTRICT MAPS

(a) DISTRICTS ESTABLISHED

In order to regulate and restrict the location of businesses, industries, and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of eligible parcels and to regulate and determine the areas of yards, courts, and other open spaces within and surrounding such buildings, the unincorporated territory of Douglas County is hereby divided into the following zoning districts:

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

Zoning Districts

"A"	Agricultural District
"A-1"	Suburban Home District
"R-1"	Single Family Residential District
"BL"	Lake Oriented Business District
"BN"	Neighborhood Business District
"BG"	General Business District
"LDI"	Low Demand Industrial District
"LI"	Light Industrial District
"HI"	Heavy Industrial Districts
"CCI"	Community, Civic and Institutional District
"V-C"	Valley Channel District
"F-W"	Floodway Overlay District
"F-F"	Floodway Fringe Overlay District

(1) Conversion or Redesignation of Existing Zoning Districts:

The Zoning District Map designations in effect prior to the effective date of these regulations which will be converted as follows:

A (Agricultural)	-----	A (Agricultural)
A-1 (Suburban Home)	-----	A-1 (Suburban Home)
R-1 (Single Family Residential)	-----	R-1 (Single Family Residential)
B-1 (Neighborhood Business)	-----	BN (Neighborhood Business)
B-2 (General Business)	-----	BG(General Business)
B-3 (Limited Business)	-----	BL (Lake Oriented Business)
I-1 (Limited Industrial)	-----	LI (Light Industrial)
I-2 (Light Industrial)	-----	LI (Light Industrial)
I-3 (Heavy Industrial)	-----	HI (Heavy Industrial)

I-4 (Heavy Industrial)-----	HI (Heavy Industrial)
V-C (Valley Channel)-----	V-C (Valley Channel)
F-W (Floodway)-----	F-W (Floodway)
F-F (Floodway Fringe) -----	F-F (Floodway Fringe)

(b) DISTRICT MAP ESTABLISHED

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

This Zoning District Map, and all notations, dimensions, references, and symbols shown thereon, pertaining to such districts shall be as much a part of these Regulations as if fully described herein. Said Map and any later alterations shall be available for public inspection in the Office of the County Clerk or such other public office as may be designated by the Board of County Commissioners.

The "Floodplain Overlay Districts Map" established in Section 12-311 shall be read in conjunction with the "Zoning District Map." The development standards established by the Floodplain Management Regulations shall apply in addition to the underlying zoning district restrictions for land within the regulatory floodplain.

The "F-W" Floodway and "F-F" Floodway Fringe Overlay District boundaries are established in Section 12-311.

(c) ZONING DISTRICT MAP

Printed copies of the official Zoning District Map, clearly showing the zoning district boundaries and zoning district names and designations for Douglas County, shall be made available to the public. The official map shall be revised to show such district boundary changes once the resolution adopting the change has been published in the official newspaper.

(d) INTERPRETATION OF ZONING DISTRICT BOUNDARIES

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

(2) Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning District Map or Flood Plain Overlay Districts Map, both incorporated and made a part **of these Regulations**, the following rules shall apply:

(i) In cases where a boundary line is given a position within a road

right-of-way or road easement, alley, navigable or non-navigable stream, it shall be deemed to be in the center of the road right-of-way or road easement, alley, or stream, and if the actual location of such road right-of-way or road easement, alley, or stream varies slightly from the location as shown on the District Map, then the actual location shall control.

- (ii) In cases where a boundary line is shown as being located a specific distance from a road right-of-way or road easement or other physical feature, this distance shall control.
- (iii) In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way. Distances shown adjoining or coincident with a railroad shall be deemed to be in the center of the railroad right-of-way. Distances shown as measured from a railroad shall be measured from the center of the designated track.
- (iv) In cases where the Floodway or Floodway Fringe Overlay District boundaries are in dispute, the Director of Zoning and Codes shall make the necessary interpretation. In cases where the interpretation is contested, the Board of Zoning Appeals, upon written application, shall resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. Section 12-311(b) and 12-311(c) provide additional information regarding the Floodplain Overlay Districts and the Floodplain Overlay District Maps.
- (v) In unsubdivided property, unless otherwise indicated, the district boundary line on the Maps accompanying and made a part of these Regulations shall be determined by the use of the scale contained on such Map.

(e) GENERAL PROVISIONS

Except as hereinafter provided:

(1) PERMITTED USES.

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

(2) BUILDING PERMITS

No building shall be constructed, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located without a building permit. Building permits are not required for the use of land or structures for strictly agricultural purposes if the structure or use meet the agricultural exemption criteria as defined in Home Rule

(3) HEIGHT, AREA AND BULK STANDARDS.

No building shall be constructed, converted, or structurally altered except in conformity with the height, area, or bulk standards, listed in Section 12-305 for the district in which the building is located.

(4) RIGHT-OF-WAY.

No building shall be constructed, enlarged, reconstructed, or moved, to occupy land within the required right-of-way of any existing or future road shown on the officially adopted Major Thoroughfare Map within the Douglas County Access Management Standards.

(5) MINIMUM YARDS, PARKING AND OPEN SPACE.

The minimum yards, parking space, and open spaces required by these Regulations for each and every building existing at the time of the passage of this Resolution, or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall the area of any lot or eligible parcel be reduced below the requirements of these Regulations.

(6) BUILDINGS.

Every building hereafter erected or structurally altered shall be located on an eligible parcel as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on an eligible parcel.

(7) SANITATION AND WATER SUPPLY.

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

(i) SEWAGE MANAGEMENT SYSTEMS.

The discharge of sewage into seepage pits, abandoned wells, cisterns, streams or upon the surface of the ground shall be prohibited. Individual sewage lagoons meeting the requirements of the State Department of Health are permitted. Individual on-site sewage management systems may not be constructed upon lots of less than 3 contiguous acres which are not encumbered by floodplain. Plans for a proposed on-site sewage management system shall be approved by the Health Authority. Written standards are available at the Lawrence-Douglas County Health Department.

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

(ii) DISPOSAL OF GARBAGE, RUBBISH AND REFUSE.

- a** Disposal of garbage, rubbish and refuse shall be permitted only in a designated public or private dump which is located and maintained in compliance with County Zoning Regulations and in such a manner that health hazards and offensive odors are not produced. Dead animals may not be disposed in any Public dump.
- b** The discarding, dropping, throwing or storing of litter, appliances, vehicles, or other trash in roads, ditches, abandoned wells, intermittent streambeds, streams, or other bodies of water whether on public or private property shall be prohibited.

(iii) PUBLIC WATER SUPPLIES.

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

(iv) PRIVATE WATER SUPPLIES.

Where connection is not to be made to municipal or approved communal potable water system, no residence shall be built unless provision is made for a safe and adequate supply of drinking water that has been approved by the Douglas County Health Department.

SECTION 12-303 ZONING DISTRICTS

(a) A (AGRICULTURAL) DISTRICT

The purpose of the A (Agricultural) district is to provide for a full range of agricultural activities, including processing and sale of agricultural products raised on the premises, and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses. The district is also intended for purposes of protecting watersheds and water supplies to provide for spacious development, to protect forest areas, and scenic areas, and to conserve fish and wildlife, to promote forestry, the growing of natural crops and grazing, and to prevent untimely scattering of more dense urban development.

(1) PERMITTED USES.

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of Section 12-305(c)

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

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

(b) A-1 (SUBURBAN HOMES) DISTRICT

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

(1) APPLICABILITY

Platting for residential purposes in the unincorporated portions of Douglas County is no longer possible, per the 2006 Subdivision Regulations with the exception of Minor Subdivisions for previously platted properties and Major Subdivisions for any property that was previously zoned A-1, but not platted.. No new lands will be zoned to the A-1 District. The standards listed below will apply only to lands which were zoned A-1 prior to the effective date of the Subdivision Regulations, December 31, 2006.

(2) PERMITTED USES

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b).

(3) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(4) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(5) HEIGHT, AREA AND BULK REGULATIONS

Height, area and bulk requirements shall be as set forth in the chart of Section 12-305(c).

(6) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-305(d).

(7) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of the Resolution is referenced in the column to the right labeled 'Use Standards'.

(c) R-1 (SINGLE-FAMILY RESIDENTIAL) DISTRICT

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

(1) APPLICABILITY

Rezoning and platting for residential purposes in the unincorporated portions of Douglas County is no longer possible, per the 2006 Subdivision Regulations with the exception of Minor Subdivisions for previously platted properties and Major Subdivisions for any property that was previously zoned R-1, but not platted. No new lands will be zoned to R-1. The

standards listed below will apply only to lands which were zoned R-1 prior to the effective date of the Subdivision Regulations, December 31, 2006.

(1) PERMITTED USES

A building or premises shall be used only for the purposes listed in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'.

(d) BN (NEIGHBORHOOD BUSINESS) DISTRICT

The purpose of the BN (Neighborhood Business) District is to provide primarily for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

(1) PERMITTED USES

A building or premises shall be used only for the purposes listed in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, bulk, and area regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'.

(e) BL (LAKE-ORIENTED BUSINESS) DISTRICT

The purpose of the BL (Lake Oriented Business) District is designed to permit and encourage the grouping, in areas defined by comprehensive plans, of certain retail activities and services intended primarily to serve, and dependent upon, the motoring public principally in association with the recreational lakes in the County.

(1) PERMITTED USES

A building or premises shall be used only for the purposes listed in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA AND BULK REGULATIONS

Height and area regulations shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'.

(f) BG (GENERAL BUSINESS) DISTRICT

The purpose of the BG (General Business) District is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and miscellaneous service activities, particularly along certain existing major thoroughfares where a general mixture of commercial and service activity now exists, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing.

(1) PERMITTED USES

A building or premises shall be used only for the purposes listed in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA AND BULK REGULATIONS

Height and area regulations shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'.

(g) LDI (LOW-DEMAND INDUSTRIAL) DISTRICT

The purpose of the LDI (Low Demand Industrial) District is to provide sufficient space in appropriate locations for industrial uses which require very little infrastructure or public services. This district is intended primarily for uses such as warehousing, freight transfer and light manufacturing uses which have very low demand on infrastructure such as water/sewer. This district is intended for location in areas with access to arterial roads or railroads.

(1) PERMITTED USES

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk regulations shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'

(h) LI (LIGHT INDUSTRIAL) DISTRICT

The purpose of the Light Industrial District is to provide sufficient space in appropriate locations, usually in planned industrial subdivisions, for certain types of business and manufacturing, relatively free from offense, in modern, landscaped buildings, to make available more attractive locations for these businesses and factories, and to provide opportunities for employment closer to residences with corresponding reduction of travel time from home to work. This district is intended primarily for light manufacturing, fabricating, service industries, warehousing, and wholesale trade and distributing in areas with access by major thoroughfares or railroads in either central or outlying locations.

(1) PERMITTED USES

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATION

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA, AND BULK REGULATIONS

Height, area, and bulk regulations shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'

(i) HI (HEAVY INDUSTRIAL) DISTRICT

The Heavy Industrial district provides for industrial operations of all types. The district, in general, would be protected from intrusion by commercial uses, signs,

and dwellings.

(1) PERMITTED USES

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b)..

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area, and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'.

(j) CCI (Community, Civic, and Institutional) DISTRICT

The CCI (Community, Civic and Institutional) District is a special purpose base district primarily intended to accommodate institutional and public uses. The District regulations are designed to offer maximum flexibility for patterns of uses within the district, while ensuring that uses and development patterns are compatible with adjoining land uses.

(1) PERMITTED USES

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b).

(2) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(3) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(4) HEIGHT, AREA AND BULK REGULATIONS

Height, area, and bulk requirements shall be as set forth in the chart of Section 12-305(c).

(5) SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS

Supplementary height, area and bulk regulations are contained in Section 12-305(d).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section of these Regulations is referenced in the column to the right labeled 'Use Standards'.

(k) V-C (VALLEY CHANNEL) DISTRICT

The purpose of the V-C (Valley Channel) District is to prevent, in those areas subject to periodic or potential flooding, such development as would result in a hazard to health or safety, and to insure the general public will not be forced to expend exorbitant funds to remedy flood problems.

- (1)** Premises in the Valley Channel District shall not be filled with any material nor shall any structure be built that will cause an obstruction to the conveyance of a flow of 220,000 cubic feet per second in the Kansas River, measured at Lecompton, Kansas; and to the conveyance of a flow of 36,000 cubic feet per second in the Wakarusa River measured at U.S. Highway 59, that are necessary to insure said flows in the respective rivers, and such areas shall be designated as lying within encroachment limits, and only those uses specified in the Permitted Use Table in Section 12-402(b) shall be permitted. (Where this Section conflicts with the Flood Plain Management Regulations, Section 12-311, the more restrictive standards shall apply.)

(2) PERMITTED USES

A building or premises shall be used only for the purposes shown in the Permitted Use Table in Section 12-304(b).

(3) PARKING REGULATIONS

The parking regulations for permitted uses are contained in Section 12-312.

(4) OFF-STREET LOADING REGULATIONS

The off-street loading regulations for permitted uses are contained in Section 12-312.

(5) HEIGHT, AREA AND BULK REGULATIONS

Height and area requirements shall be as set forth in the chart of Section 12-305(c).

(6) USE SPECIFIC STANDARDS

Use Specific Standards are denoted in the Permitted Use Table in Section 12-304(b) with an asterisk and the pertinent section is referenced in the column to the right labeled 'Use Standards'.

(7) VALLEY CHANNEL AND FLOODPLAIN OVERLAY DISTRICTS WARRANTY

- (i) DESIGNATION OF VALLEY CHANNEL AND FLOOD PLAIN OVERLAY DISTRICTS.** The designating of only part of the Douglas County as a Valley Channel or as a part of the regulatory flood plain shall in no way constitute a finding or warranty by Douglas County or any agency or employee thereof that any part of the County not so designated is free from flood hazards.
- (ii) GRANTING OF BUILDING PERMITS IN THE VALLEY CHANNEL OR FLOOD PLAIN OVERLAY DISTRICTS.** The granting of a building permit for the erection, moving in, altering, or enlarging of any building or structure in a Valley Channel or regulatory flood plain shall not constitute a representation or warranty of any kind or nature by the Douglas County or any agency or employee thereof; of the practicability or safety of any action or improvement described by such permit and shall create no liability upon or course of action against the County or any agency or employee thereof for any damage that may result pursuant thereto.

(8) PROHIBITED USES

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

(I) FLOODWAY AND FLOODWAY FRINGE OVERLAY DISTRICTS

The regulations set forth in this Section, or set forth elsewhere in these Regulations, when referred to in this Section, are the regulations in the F-W (Floodway) and F-F (Floodway Fringe) Overlay Districts. The provisions for the F-W (Floodway) and F-F (Floodway Fringe) Overlay Districts are contained in Section 12-311, Flood Plain Management Regulations.

DESIGNATION OF VALLEY CHANNEL AND FLOODPLAIN OVERLAY DISTRICTS

The degree of flood protection required by these Regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. These Regulations do not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. These Regulations shall not create liability on the part of Douglas County, any officer or employee thereof, or the Federal Insurance Administrator for any flood damages that result from reliance on These Regulations or any administrative decision lawfully made thereunder.

SECTION 20-304 PERMITTED USES

(a) GUIDE TO THE PERMITTED USE TABLE.

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

(1) [P] Permitted Uses

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

(2) [C] Conditional Uses

A 'C' indicates that the use is allowed only if reviewed and approved in accordance with the Conditional Use procedures of Section 12-307(a).

(3) [A} Accessory Uses

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

(4) [-] Uses not permitted.

A dash indicates that the use is not permitted within that Zoning District.

(5) [*] Use-Specific Standards

Many permitted uses, whether permitted by-right, conditional or accessory uses, are subject to use-specific standards and conditions. These standards and conditions are indicated by an asterisk and specific cross-references to other applicable standards which are listed in the 'Use Specific Standards' column of the table. The use-specific standards are contained within Chapter 12 of the County Code, unless otherwise noted.

(6) Unlisted Uses

If an application is submitted for a use that is not listed in the Permitted Use Table, the Planning Director is authorized to classify the unlisted use into an existing land use category that most closely fits the unlisted use, using the interpretation criteria of Section 12-304(c). If no similar use determination can be made, the Planning Director shall initiate an amendment to the text of the Zoning Regulations to define the use, establish any necessary use-specific standards, and clarify where such use shall be allowed.

Section 12-304(b) PERMITTED USE TABLE

A= Accessory use

P= Permitted use

C= Requires Conditional Use Permit

*= **Use** standards apply

	A	A-1	R-1	CCI	BN	BL	BG	LDI	LI	HI	V-C	Use Standards
AGRICULTURAL AND AG RELATED												
Agricultural uses	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306(c)
Hospital or Clinic for Large Animals	C*	~	~	~	~	~	P*	~	P*	A*	~	306(f)(1)
Farmer's Market	C	~	~	P	P	P	P	~	P	~	~	
Farm Stand	P	P*	P*	P	P	P	P	~	~	~	~	306(o)
Agritourism	C*	~	~	~	~	~	~	~	~	~	~	306(d)
Retail nursery	C*	~	~	~	P	~	P	~	~	~	~	306(ee)
Commercial greenhouse	C*	~	~	~	P*	~	P*	~	P*	P*	~	306(ff)
Sale Barn	~	~	~	~	C	~	C	~	C	P	~	
Commercial Slaughtering/Processing	~	~	~	~	~	~	~	~	~	P	~	
Commercial Riding Stable/Arena	C	~	~	~	~	P	P	~	~	~	~	306(gg)
Grain Storage Structure, Commercial	C	~	~	P	P	~	P	P	P	P	~	305(d)(1)(iv)
Value Added Ag-Business	P*/C*	~	~	~	~	~	~	~	~	~	~	306(kk); 306(qq)
Concentrated Animal Feeding Operation	~	~	~	~	~	~	~	~	~	P	~	306(c)(2)
Farm Implement Repair Service	P*/C*	~	~	~	P	P	P	~	P	P	~	306(n)
RESIDENTIAL												
Single Family Dwelling	P	P	P	~	~	~	~	~	~	~	P*	306(ll)
Guest House	P*	P*	P*	~	~	~	~	~	~	~	~	306(r)
Mobile Home	A*	~	~	A*	~	~	~	A*	A*	A*	~	306(y)
Residential Design Manufactured Home	P*	P*	P*	~	~	~	~	~	~	~	~	306(dd)
Home Occupations I	P*	P*	P*	~	~	~	~	~	~	~	~	306(s)
Home Occupations II	P*	~	~	~	~	~	~	~	~	~	~	306(t)
Group Home, Limited	P	P	P									
Group Home, General	C*	C*	C*	~	~	~	~	~	~	~	~	
Boarding or Rooming House	C*	C*	C*	~	~	~	~	~	~	~	~	306(hh)
Bed & Breakfast	C*	C*	C*	~	P*	P*	P*	~	~	~	~	306(g)
Caretaker Residence	~	~	~	A*	A*	A*	A*	~	A*	~	~	306(a); 306(h)
Accessory uses and structures	A*	A*	A*	A	A	A*	A	A	A	A	A	305(e); 306(a)
RECREATION & ENTERTAINMENT												

Recreation, Passive	P	P	P	P	P	P	P	P	P	P	P	
Recreation, Active	C*	C*	C*	P	P	P	P	~	P	~	P*	306(bb)
Country Club	C	~	~	~	P	P	P	~	~	~	~	
Nature preserve	P	P	P	P	P	P	P	P	~	~	P	
Participant Sports, Indoor	~	~	~	P	P	P	P	~	~	~	~	
Participant Sports, Outdoor	C	C	C	P	P	P	P	~	~	~	P*	303(k)(1)
Entertainment and Spectator Sports	C*	~	~	P*	P*	P*	P*	~	~	~	P*	303(k)(1); 306(l)
Campgrounds	C	~	~	C	~	P	~	~	~	~	P*	303(k)(1)
TRANSPORTATION												
Public Airport	~	~	~	C	~	~	C	~	C	C	~	
Private Airstrip	C*	~	~	~	~	~	~	~	~	~	~	306(e)(1)
Heliport	C*	~	~	C*	~	~	C*	~	C*	C*	~	306(e)(2)
Railroad Right-of-Way,	P	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306(aa)
Railroad auxiliary facilities	P*	P*	P*	~	~	~	~	P*	P*	P*	~	306(aa)
COMMUNITY FACILITIES												
Fairgrounds	~	~	~	P	~	~	~	~	~	~	~	
Fraternal or Service Club	C	C	C	P	P	P	P	~	~	~	~	
Libraries, Museums or art galleries	C	C	C	P	P	P	P	~	~	~	~	
Public or Government Facilities	~	~	~	P	P	P	P	~	~	~	~	
Cemeteries	P	~	~	P	~	~	~	~	~	~	~	
Schools, public or private	~	~	~	P	P	~	P	~	P*	~	~	306(jj)
Day Care Home, occupant	P*	P*	P*	~	~	~	~	~	~	~	~	306(i)(1)
Day Care Home, non-occupant	P*	P*	P*	~	~	~	~	~	~	~	~	306(i)(2)
Day Care Center	C*	C*	C*	C*	P*	~	P*	~	~	~	~	306(i)
MEDICAL FACILITIES												
Nursing and Convalescent Home	C*	C*	C*	C*	C*	C*	C*	~	~	~	~	306(z)
RELIGIOUS ASSEMBLY												
Religious Institution	~	P*	P*	P	P	P	P	~	~	~	~	306(cc)
INDUSTRIAL												
Mining, excavation and extraction of mineral or raw materials	C*	~	~	~	~	~	~	C*	C*	C*	C*	306(x)
Salvage yards	~	~	~	~	~	~	~	P*	P*	P*	~	306(ii)
Sanitary Landfill	C										C	
Warehousing	~	~	~	~	~	~	P*	P	P	P	~	306(v) & (rr)
Wholesale storage & Distribution, Heavy	~	~	~	~	~	~	P* C*	P	P	P	~	306(rr)
Wholesale storage & Distribution, Light							P	P	P	P		
Exterior Storage	A*	~	~	A*	A*	A*	A*	P*	P*	P*	~	306(m)
Light Equipment Storage	C*	~	~	~	~	P*	P*	P*	P*	P*	~	306(mm)

Heavy Equipment Storage	C*	~	~	~	~	~	-	P*	P*	P*	~	306(nn)
Asphalt or concrete batch plant	~	~	~	~	~	~	~	~	~	P	~	
Light equipment repair/service	~	~	~	~	P	P	P	~	P	P	~	
Heavy equipment repair/service									P	P		
Manufacturing & Production, Light	~	~	~	~	~	~	P*	P	P	P*	~	306(v)
Manufacturing & Production, General	~	~	~	~	~	~	~	~	~	P*	~	306(v)
COMMERCIAL												
Dog Kennel, Commercial	C*	~	~	~	~	~	P*	~	P*	P*	~	306(k)
Hospital or Clinic for Small Animals	A*	—	—	—	P*	—	P*	—	P*	—	—	306(f)(2)
Restaurant	~	~	~	~	P	P	P	~	~	~	~	
Drive-in Restaurant	~	~	~	~	P	P	P		P	~	~	
Light Equipment Sales and Rentals	~	~	~	~	~	P	P	~	P	~	~	
Heavy Equipment Sales and Rentals							P		P	P		
Lodging	~	~	~	~	~	P*	P*	~	P*	~	~	305(d)(2)(iii); 306(v)
Food Storage Locker	~	~	~	~	P	~	P	~	P	P	~	
Fuel Sales w or without a convenience store	~	~	~	~	P	P	P	~	P*	P	~	305(e)(1); 306(q)
Offices	~	~	~	P	P	P	P	~	P	~	~	
Research Facilities									P	P		
Personal Services	~	~	~	~	P	P	P	~	~	~	~	
Bank/Financial Institution	~	~	~	~	P	~	P	~	~	~	~	
Business Support Services					P		P					
Retail Stores	~	~	~	~	P	P	P	~	~	~	~	
Construction Sales and Services	~	~	~	~	~	~	P	~	P	P	~	
Mini- or Self- Storage	C*	~	~	~	C*	P*	P*	~	P*	~	~	306(oo)
Firework Sales	P*	~	~	P*	P*	P*	P*	P*	P*	P*	P*	306(p)
Adult Entertainment	~	~	~	~	~	~	P*	~		~	~	306(b)
Bar or Tavern	~	~	~	~	P	P	P	~	~	~	~	
OTHER												
Telecommunication and Broadcasting Towers	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	~	306(pp)
Amateur and receive only antennas	A	A	A	A	A	A	A	A	A	A	A	
Minor utilities	C	~	~	P	P	P	P	P	P	P	~	
Major utilities	~	~	~	P	~	~	~	C	C	P	~	
Signage	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	P*	306(kk)
RECYCLING FACILITIES												
Large Collection	~	~	~	P	~	~	P	P	P	P	~	
Small Collection	~	~	~	P	P	P	P	P	P	P	~	
Processing	~	~	~	P	~	~	P	~	P	P	~	

(c) Interpretation Criteria

The following factors are considered to determine what use category the use is in, and whether the activity constitutes a principal use or accessory use.

- 1) The description of each activity in relationship to the characteristics of each use category;
- 2) The relative amount of site or floor space and equipment devoted to each activity;
- 3) Relative amounts of sales from each activity;
- 4) The customer type for each activity;
- 5) The relative number of employees in each activity;
- 6) Hours of operation;
- 7) Classification of the use in the North American Industry Classification System (NAICS);
- 8) Building and site arrangement;
- 9) Number and types of vehicles used with each activity;
- 10) The relative number of vehicle trips generated by each activity;
- 11) Signs;
- 12) How the use advertises itself; and
- 13) Whether each individual activity would be likely to be found independent of the other activities on the site.

SECTION 12-305 HEIGHT, AREA AND BULK STANDARDS

(a) BASE SETBACK LINE

Setback provisions regulate the proximity of a building or structure to a public road right-of-way or road easement. The setback is referred to as the requirements for minimum yards in the Height, Area, and Bulk Table I Section 12-305(c).

The Base setback establishes the road right-of-way line, or road easement, from which the required front and exterior side yards in Section 12-305(c) are measured. When road right-of-way or road easement has been established for the future widening or opening of a road which exceeds the base setback line, the minimum yard shall be measured from the wider right-of-way or road easement line rather than from the base setback line.

- (1)** The Base Setback Line **is** parallel to the center line of all public highways, and roads and is measured as shown in the following table:

Federal or State Highway or Principal Arterial Road with a raised median	75'
Federal or State Highway or Principal Arterial Road without a raised median	60'
Minor Arterial	50'
Major Collector Road	40'
Minor Collector Road	35'
Local Road	35' or 75' from the center of a cul-de-sac

(b) HEIGHT, AREA, AND BULK REQUIREMENTS

Height, area, and bulk requirements for the various districts shall be as indicated in the chart in Section 12-305(c) together with other height, area, and bulk requirements contained in this Resolution.

- (1)** The minimum eligible parcel sizes listed in any Zoning District of less than one (1) acre are applicable only where an approved sanitary sewer system is available and the eligible parcel was legally established prior to the adoption of the Subdivision Regulations for Lawrence and the Unincorporated Areas of Douglas County, KS (effective December 31, 2006).

PAGE TO BE REMOVED WHEN THE DOCUMENT IS FINAL FORMATTED.

(c)										
District	Max Height (ft.)	Max Number of Stories	Min. Depth of Front Yard (ft.)^[1]	Min. Width of Interior Side Yard (ft.)	Min. Width of Exterior Side Yard (ft.)^[1]	Min. Depth of Rear Yard (ft.)	Min. Area of Eligible Parcel	Min. Frontage for Eligible Parcel (ft.)^{[2][3]}	Min. Width of Eligible Parcel (ft.)	Min. Depth of Eligible Parcel (ft.)
A	35	2.5	50 ^a	10	25	30	3 acre ^a	250 ^a	225 ^a	250 ^a
			75 ^b				3 acre ^b	330 ^b	297 ^b	250 ^b
			100 ^c				5 acre ^c	500-660 ^c	450-594 ^c	250 ^c
			150 ^d				10 acre ^d	1320 ^d	1188 ^d	300 ^d
A-1	35	2.5	50 ^a	10	25	30	3 acre ^a	250 ^a	225 ^a	250 ^a
			75 ^b				3 acre ^b	330 ^b	297 ^b	250 ^b
			100 ^c				5 acre ^c	500-660 ^c	450-594 ^c	250 ^c
			150 ^d				10 acre ^d	1320 ^d	1188 ^d	300 ^d
R-1	35	2.5	25	10	25	30	10,000 sq. ft.	75	N/A	120
CCI	45	3	30	10	25	30	15,000 sq. ft.	75	N/A	125
BN	35	2.5	40	20	25	30	15,000 sq. ft.	75	N/A	125
BL	45	2.5	40	20	25	30	15,000 sq. ft.	75	N/A	75
BG	45	3	40	20	25	30	15,000 sq. ft.	75	N/A	75
LDI	55	2	25	10	25	20	15,000 sq. ft.	75	N/A	125
LI	55	2	25	10	25	20	15,000 sq. ft.	75	N/A	125
HI	-	-	50	10	25	20	15,000	100	N/A	150
V-C	35	2.5	50	15	25	50	5 acres	300	N/A	300
a Property which takes access from and has the required frontage on a local road.										
b Property which takes access from and has the required frontage on a minor collector road										
c Property which takes access from and has the required frontage on a major collector or minor arterial road										
d Property which takes access from and has the required frontage on a principal arterial road										
[1]- Total setback is base setback plus the required yard. On through eligible parcels the front yard must be provided on both frontages.										
[2]- When an Access Restriction Agreement has been approved by the County Engineer the Minimum Eligible Parcel Width Requirement may be reduced per that executed agreement upon the filing of the Agreement at the Register of Deeds.										
[3]- In an A-1 zoning district, eligible parcels which take direct access onto county or township roads require a minimum of 150'. Eligible parcels which take direct access from a platted subdivision internal street network require a minimum eligible parcel width of 100'.										

(d) SUPPLEMENTARY HEIGHT, AREA, AND BULK REQUIREMENTS

The regulations set forth in this section qualify or supplement the district regulations appearing elsewhere in **the Zoning Regulations**, with the exception of such regulations that exempt land being used for agricultural purposes.

(1) MODIFICATION OF HEIGHT REGULATIONS

- (i)** Except in an Airport Hazard District, the height regulations in these Regulations shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator bulkheads, fire towers, flag poles, grain elevators, monuments, ornamental towers and spires, radio and television antennas, silos, smoke stacks, stage towers or scenery lofts, tanks, or water towers and standpipes.
- (ii)** Public, semi-public or public service buildings, institutions, or schools, when permitted in a district, may be erected to a height not exceeding 60 feet, and churches and temples may be erected to a height not exceeding 75 feet, when the required side and rear yards are each increased by at least 1 foot for each 1 foot of additional building height above the maximum height permitted for the district in which the building is located.
- (iii)** Whenever any building in the LI (Light Industrial) District adjoins or abuts upon a residential district, or residentially developed property, such building shall not exceed 35 feet in height, unless it is set back 1 foot from all required yard lines for each foot of additional height above 35 feet.
- (iv)** Grain elevators, gas holders, coal bunkers, oil cracking towers, and other similar structures may exceed 125 feet in height, but whenever any building or structure in the HI (Heavy Industrial) District adjoins or abuts a residential district or residentially developed property, such building or structure shall not exceed 50 feet in height unless set back 1 foot from all required yard lines for each foot of additional height above 50 feet.

(2) MODIFICATION OF AREA REGULATIONS

- (i)** Whenever an eligible parcel abuts upon a public alley, one-half of the alley width may be considered a portion of the required yard.
- (ii)** Every part of a required yard shall be open to the sky except as authorized by these Regulations, and ordinary projections of sills, belt courses, window air conditioning units, chimneys, cornices, and ornamental features which may project to a distance not to exceed 24 inches into a required yard.

- (iii) In the event that an eligible parcel is to be occupied by a group of two or more related buildings to be used for institutional, or lodging purposes, there may be more than one principal building on the eligible parcel when such buildings are arranged around a court having direct access to a public road; provided, however,
 - a. that said court between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for one-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
 - b. where a court having direct access to a public road is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 30 feet for one-story buildings, 40 feet for two-story buildings, and 50 feet for three-story buildings.
 - c. Where an eligible parcel is used for a commercial or industrial purpose, more than one principal building may be located on the lot or eligible parcel, but only when such buildings conform to all open space requirements for the district in which the eligible parcel is located.

(3) ACCESSORY BUILDINGS AND STRUCTURES

Except as herein provided, no accessory building shall project beyond a required yard line along any road or into a dedicated easement.

- (i) Fuel station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 25 feet from road right-of-way or road easement lines.
- (ii) An ornamental fence or wall not more than 42 inches in height may project into or enclose any required front or side yard to a depth from the road right-of-way or road easement line equal to the required depth of the front yard. Ornamental fences or walls may project into or enclose other required yards, provided such fences and walls do not exceed a height of 7 feet.
- (iii) Accessory, open, and uncovered swimming pools and home barbecue grills may occupy a required rear yard; provided they are not located closer than 5 feet to the rear property line nor closer than three feet to a side property line or within a dedicated easement.
- (iv) Accessory buildings which are not part of the principal building, although they may be connected by an open breezeway, may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard and

provided it is not located closer than 5 feet to the rear property line or closer than 3 feet to a side property line.

- (v) A mobile home, when permitted as an accessory use, building or structure according to the provisions of these Regulations, shall be used exclusively for residential purposes and shall not be used as a storage building. A mobile home may be used as a construction office or tract office, provided it has been approved as a Temporary Business Use according to the provisions of Section 12-307(b) of these Regulations.

(4) FRONT YARDS

The front yard is measured from the Base Setback as defined in Section 12-305(a) or from the road right-of-way or road easement line if an area has been designated for the future opening or widening of a road that exceeds the Base Setback.

- (i) On through eligible parcels, the required front yard shall be provided on each road.
- (ii) Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which do not extend above the level of the first floor of the building, may extend or project into the front and side yard not more than 6 feet.

(5) SIDE YARDS

The exterior side yard is measured from the Base Setback as defined in Section 12-305(a) or from the road right-of-way or road easement line if an area has been designated for the future opening or widening of a road that exceeds the Base Setback.

- (i) Where dwelling units are erected above business structures in business districts, no side yards are required except such side yard as may be required in the district regulations for a business building.
- (ii) For the purpose of the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered as one building occupying one lot or eligible parcel.
- (iii) The minimum depth of side yards for any principal building other than a single-family dwelling in R-1 (Single-Family Residential) or CCI (Community, Civic, and Institutional) Districts shall be 25 feet, except where a side yard is adjacent to a business or industrial district, in which case, the depth of that yard shall be as required in Section 12-305(c) for the district in which the building is located.
- (iv) The minimum side yard requirement for any principal building other

than a single-family dwelling in the A-1 Zoning District shall be 30 feet.

- (v) On the side of an eligible parcel within the HI District which adjoins a residential district, or residentially developed property there shall be a side yard of not less than 25 feet.

(6) REAR YARDS

- (i) Open or lattice-enclosed fire escapes, exterior stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.
- (ii) When an eligible parcel located within the HI District abuts upon a residential district, or residentially developed property, a rear yard of not less than 25 feet is required.

(7) CORNER VISIBILITY

No sign, fence, wall, hedge, planting or other obstruction to vision, extending to a height in excess of 3 feet above the established road grade, shall be erected, planted, or maintained within the triangular area formed by an imaginary line starting at the point of intersection of road right-of-way or road easement lines and extending 25 feet from their point of intersection. This visibility triangle requirement may be increased by the County Engineer when it is deemed necessary for traffic safety.

SECTION 12-306 USE SPECIFIC STANDARDS

(a) ACCESSORY USES AND STRUCTURES

(1) Standards that apply in all districts:

No accessory building shall be constructed upon an eligible parcel until the construction of the main building has commenced. No accessory building shall be used unless the main building on the eligible parcel is also being used with the following exception: an accessory structure which exists alone on a Residential Development Parcel (RDP) as a result of a Certificate of Survey may continue to be used until the Residential Development Parcel has transferred to different ownership; however, the use will be regulated as a nonconforming use per Section 12-308(b). A cellar or basement may be used as a dwelling for 12 months prior to completion of the dwelling of which it is a part.

(2) Standards that apply in the A District

Accessory uses which are permitted in the A District include open or enclosed storage of farm materials, products, or equipment, accessory farm buildings, including barns, stables, sheds, tool rooms, shops, bins, tanks and silos and other accessory buildings and uses, including but not limited to: accessory private garages, guest houses, and swimming pools.

(3) Standards that apply in the A-1 and R-1 Districts

Accessory buildings and uses which are permitted in the A-1 and R-1 District include but are not limited to accessory private garages, guest houses, swimming pools, accessory storage and accessory off-street parking and loading spaces.

(4) Standards that apply in the BL, BN, BG, LI, HI, and CCI Districts

Accessory residential uses for caretaker or watchman are permitted in these districts.

(b) ADULT ENTERTAINMENT BUSINESS OR SEXUALLY ORIENTED BUSINESS

The types of uses included under this category are subject to regulation through review, approval and adoption of a Conditional Use Permit. The operation of an Adult Entertainment Business requires commercial or industrial zoning in addition to the approval of a Conditional Use Permit. Adult Entertainment Businesses shall include, but not be limited to, the following: Adult arcades, Adult media outlet, Adult cabarets, Adult motion picture theaters, Adult retail establishment, Adult theaters, Escort agencies, Nude model studios, and Sexual encounter centers.

(1) DEVELOPMENT STANDARDS

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

- (i)** Adult Entertainment Businesses shall not be located within 1,000 feet of any other Adult Entertainment Business, or within 1,000 feet of any residence, residential zoning, church, school, park or playground, or any other area where large numbers of individuals under the age of 18 regularly attend or congregate. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property lines of applicant's premises to the nearest point on the property line of the residence, school, church, park or playground.
- (ii)** Adult Entertainment Businesses proposed for any building, structure, or open space shall meet all requirements of this and other county, state and health regulations pertaining to buildings and structures; parking; zoning; signage; and on-site and off-site improvements; as provided in the other applicable ordinances, resolutions and regulations of the Unincorporated Territory of Douglas County, Kansas.
- (iii)** The interior of an Adult Entertainment Business shall be adequately lighted (as defined in Subsection vi below) and constructed so that every portion thereof, with the exception of restrooms, is readily visible to the clerk or other supervisory personnel from the counter or other regular station where payment is made for the stock in trade, fare, or live entertainment offered in such establishment. Private or semi-private viewing rooms or booths are prohibited.
- (iv)** The lobby or entrance area of an Adult Entertainment Business shall be designed to minimize the obstruction of sidewalks or pedestrian paths during operating hours and to prevent the interior of the establishment from being viewed from the exterior. Exterior lighting shall be provided at a minimum of two (2) foot-candles of illumination at the entrance and in the parking lot.
- (v)** All sexually oriented graffiti shall be prohibited. Any existing sexually oriented graffiti shall be immediately removed from the interior or exterior of a building uses for adult entertainment business or of a vacant building formally used for such purpose upon adoption of this regulation.
- (vi)** All areas within an Adult Business shall be illuminated at a minimum of one and one/forth (1.25) foot candles, minimally maintained and evenly distributed at ground level.
- (vii)** No materials that graphically depict "specified anatomical activities" or "specified anatomical areas", or that are characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas" shall be permitted in restrooms.

- (viii) All live entertainment shall take place in an area which is at least two feet (2') above the primary level of the customer floor level and at least six (6) feet from all members of the public and which is separated by a rail or other physical barrier designed to obstruct any contact between any entertainer and the public.
- (ix) The names and telephone numbers of the principal owner and manager of the adult entertainment business shall be legibly written or printed and posted in a visible, unobstructed place viewable from the front door of the establishment. This information shall be kept current so the constituents or general public know whom to contact in case of an emergency.
- (x) Illegal activities shall not be permitted to occur on the premises. All measures necessary to eliminate illegal activities on the premises shall be taken as soon as they are known to exist.
- (xi) All Adult Entertainment Businesses shall permit law enforcement and code enforcement officers to inspect the premises at anytime without advance notice during normal business hours.
- (xii) All Adult Entertainment Businesses shall comply with all laws regarding the protection of minors from harmful materials.
- (xiii) All Adult Entertainment Businesses shall take all necessary & reasonable measures to control patrons' conduct which results in disturbances; vandalism; criminal activity; or crowd control problems which occur inside or outside the premises; traffic control problems; or the creation of a public or private nuisance; or the obstruction of another business's property.

(2) EXPANSION OF USE

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

3) CRIMINAL OFFENSE

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

(c) AGRICULTURAL USES

Agricultural uses include farms, truck gardens, orchards, vineyards or nurseries for growing or propagation of plants, trees and shrubs, and including raising for sale of birds, bees, rabbits, or other animals which are not considered livestock, and temporary stands for seasonal sale of products raised on the premises. Agricultural uses which meet the exemption criteria of Resolution 08-25 are exempt from the provisions of these Regulations. The criteria are summarized in the definition of Agricultural Exemption Criteria in Section 12-314.

(1) Standards that apply in the A-1, R-1 , BN, Districts

- (i)** Minimum lot area of 5 acres is required for the raising for sale of birds, bees, rabbits or other animals which are not considered livestock, in the A-1 District for any property platted since the adoption of the previous County Zoning Resolution, Sept. 23, 1966. Provided that the keeping or raising of such animals shall not be permitted on any lot whose area is reduced to less than 5 acres by lot split, minor subdivision or replat.
- (ii)** The raising for sale of birds, bees, rabbits, or other animals which are not considered livestock, to such an extent as to be objectionable to surrounding residents by reason of odor, dust, noise, or other factors is prohibited.

(2) Standards that apply in the HI District

The operation of a Commercial Animal Feeding Operation may be conducted on a property only after approval of a site plan for this use.

(3) Standards that apply in the VC District

Permitted Agricultural uses include farm, truck garden, orchard, plant nurseries, and grazing, provided that no farm shall be operated publicly or privately for the disposal of garbage, rubbish or offal.

(d) AGRITOURISM

- (1)** Agritourism uses must occur on a property which is being operated as a farm or ranch and require approval with a Conditional Use Permit.
- (2)** Typical uses include hayrack rides, corn mazes, and seasonal festivals. Admission fees may be charged and goods may be sold which were raised on the farm or other farms.
- (3)** In addition, incidental retail sales of an associated nature may also be permitted. The type and amount of incidental retail sales which are permitted will be determined during the CUP process; however, the area utilized for the incidental retail products may not exceed 25% of the entire customer sales area.

(e) AIRSTRIPS AND HELIPORTS, PRIVATE

(1) Private Airstrips

- (i)** Private runways and airstrips in the unincorporated portions of Douglas County require approval with a Conditional Use Permit. Each runway or airstrip is evaluated in the Conditional Use Permit approval process so that safety issues and the impact of the airstrip on surrounding land uses can be considered.
- (ii)** Private Airstrips are limited to small aircraft of 12,500 pounds or less.
- (iii) DESIGN STANDARDS.**

These design standards have been drawn from the Federal Aviation Administration (FAA) regulations particularly Federal Aviation Regulation (FAR) Part 77 *Airspace Obstruction Analysis* and FAA Advisory Circulars 150-5300-14 and 150-5325-4.

The FAA defines several zones associated with the airstrip/runway and sets limits within which there can be no obstructions. These standards will reduce the likelihood of an accident occurring upon take off or landing which involves nearby structures or objects.

a Length of Airstrip

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

b Obstacle Free Zones

The FAA defined imaginary surfaces or zones in FAR Part 77 and required that they be obstacle free. The following zones have been defined:

1) Runway Primary Surface:

The following chart shows the dimensions for the runway's primary surface:

Primary Surface Dimensions	
Type of airstrip surface	Length:
improved, hard surface	200' beyond each end
unimproved, not hard surface	ends with the runway
Type of approach	Width:
utility/visual	250'
utility w/non-precision instrument approaches	500'
non-precision runways w/visibility minimums greater than $\frac{3}{4}$ statute mile	500'
non-precision instrument approach w/visibility minimums as low as $\frac{3}{4}$ of a statute mile and for precision instrument runways	1000'

2) Approach Surface:

Surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end. The inner edge equals the primary surface width and it expands uniformly to a width of:

Approach Surface Dimensions			
Type of Approach	Width	Length	Slope
Utility w/visual	1,250'	5,000'	10 to 1
Utility w/non-precision instrument	2,000'	10,000'	50 to 1

3) Transitional Surface:

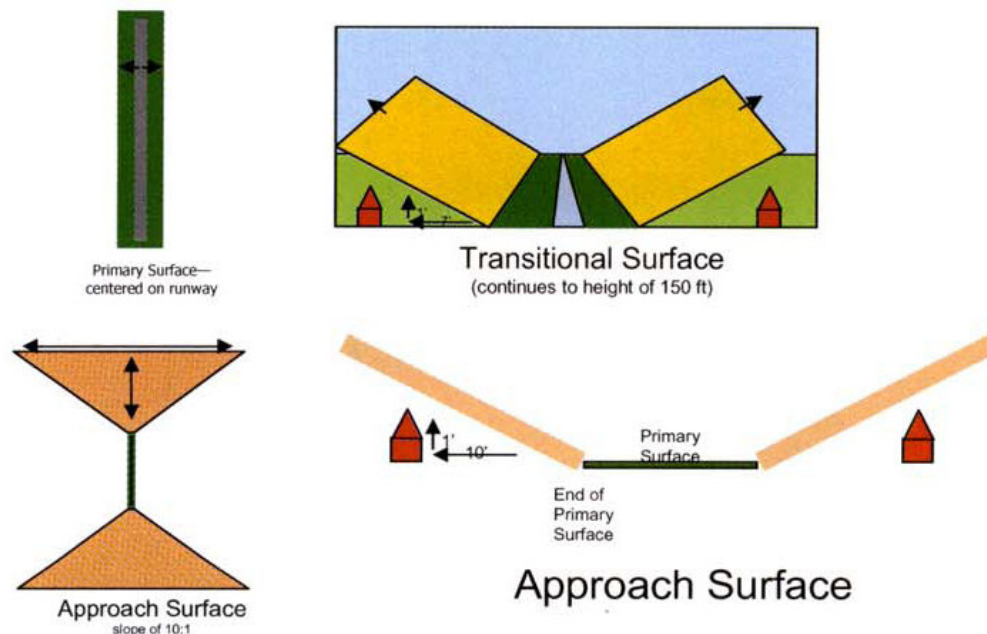
These surfaces extend outward and upward at right angles to the runway centerline and the runway centerline, extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces until it reaches 150 feet above the highest point on any runway (airport elevation).

4) Runway Protection Zone (RPZ)

An area off the runway end to enhance the protection of people and property on the ground. There may be obstacles within this zone but an airstrip will not be permitted if incompatible objects and activities exist in the RPZ Zone.

The RPZ is trapezoidal in shape and centered about the extended runway centerline. The controlled activity area and a portion of the runway Obstacle Free Area are the two components of the RPZ. The RPZ dimension for a particular runway end is a function of the type of aircraft and approach visibility minimum associated with that runway end. The RPZ begins 200 ft beyond the end of the area usable for takeoff or landing. When determining if a location is suitable for an airstrip, the RPZ area must be evaluated for incompatible uses which include: churches, schools, office buildings, fuel storage facilities, parking areas and other similar uses.

- 5) The diagram below illustrates the various zones:



(iv) **COMPATIBILITY WITH AREA LAND USE**

The RPZ area must be evaluated for incompatible uses which include: residences, churches, schools, office buildings, fuel storage facilities, parking areas and other similar uses. An airstrip can not be approved if incompatible uses are located within the RPZ.

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

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

(v) FAA NOTIFICATION REQUIRED

- a** As required in FAA Regulation 14CFR Part 157: Notice of Construction, Alteration, Activation, and Deactivation FAA, Form 7480-1 must be filed at least 90 days before the proposed construction or modification of any airstrip. This notification serves as the basis for evaluating the effects of the proposed action on the safe and efficient use of airspace by aircraft and the safety of persons and property on the ground.
- b** The FAA will return written determination of Form 7480-1 to the applicant. The CUP approval is contingent upon the FAA determination of Form 7480-1. The applicant must provide a copy of the form sent to the FAA with the CUP application.

(vi) Approval Criteria for Private Airstrip

- a** FAA shall be notified by submitting FAA Form 7480-1. Copy of submittal and all correspondence with FAA shall be provided to the Planning Office with the CUP application.
- b** Application shall be filed with Planning Office. An airstrip layout plan shall be provided which shows the width and length of the airstrip and the imaginary zones. The type of runway and approach being proposed must be noted within the application materials.
- c** CUP or approval will be contingent upon determination by FAA and will not be considered final until the FAA determination has been provided to the Planning Office. If a determination of 'no objection'-- approval will be granted; if 'conditional determination' rendered by FAA, CUP will be approved when the conditions have been met; if 'determination with objections', CUP will be denied. An airstrip may not be approved if any of the following obstructions are located in the area.
- d** The airstrip may not be approved if any of the following objects are in the area:
 - 1)** Any object 500' in height or more.

- 2) Any object that is 200' above ground level or the airport elevation (whichever is higher) within 3 nautical miles of the airport. 300' within 4 miles, 400' within 5 miles and 500' within 6 miles.
- 3) Any object within any of the imaginary zones.

(2) HELIPORTS

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

(i) FAA Notification.

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

(ii) DESIGN STANDARDS

a TLOF -- Touchdown and Lift-Off Area

The Touchdown and Lift-off Area (TLOF) is an area equal to the rotor diameter of the helicopter. The entire TLOF should be a load bearing paved surface. Portland Cement Concrete (PCC) is recommended for ground-level facilities. An asphalt surface is "less desirable" for heliports as it may rut under the wheels or skids of a parked helicopter. This has been a factor in some rollover accidents. Pavements should have a broomed or other roughened finish that provides a skid-resistant surface for helicopters.

b Final Approach and Take Off Area (FATO)

The minimum width, length or diameter of a Final Approach and Take Off Area (FATO) should be at least 1.5 times the overall length (OL) of the design helicopter. If the TLOF is marked, the FATO outside the TLOF must be capable of supporting a 20lbs/ft² (98 kg/m²) live load. If the TLOF is not marked and/or it is intended that the helicopter can land anywhere within the FATO, the FATO outside the TLOF should, like the TLOF, be capable of supporting the dynamic loads of the design helicopter

c Imaginary Zones which must be obstacle free

The Approach/ departure Surfaces shall be free of penetrations. Any penetration of the transitional surface should be considered a hazard unless an FAA aeronautical study determines that it will not have a substantial effect upon the safe and efficient use of this airspace.

1) Primary Surface

Coincides in size and shape with the designated take-off and landing area of a heliport. This surface is a horizontal plane at ground level.

2) Approach Surface

Begins at each end of the heliport primary surface with the same width as the primary surface and extends outward and upward for a horizontal distance of 4,000'; where it's width is 500'. The slope of a heliport approach surface is 8 to 1

3) Transitional Surfaces

Extends outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250' measured horizontally from the centerline of the primary and approach surfaces.

(f) ANIMAL HOSPITAL OR CLINIC

(1) HOSPITAL OR CLINIC FOR LARGE ANIMALS

(i) Standards that apply in all districts in which the use is permitted:

- a.** A hospital or clinic for large animals shall be located on an eligible parcel containing 5 acres or more.
- b.** All buildings, structures, or pens for large animals shall be located at least 100 feet from any property lines.
- c.** A separate on-site sewage management system shall be required for hospital or clinic and for a single-family residence.

(ii) Standards that apply in the HI District:

- a.** Permitted only as an accessory use to a research facility.

(2) HOSPITAL OR CLINIC FOR SMALL ANIMALS (dogs, cats, birds, etc.)

(i) Standards that apply in all districts:

- a** That such hospital or clinic and any treatment rooms, cages, pens, or kennels be maintained within a completely enclosed

building with soundproof walls, and that such hospital or clinic be operated such a way as to produce no objectionable odors outside its walls.

- b** A separate on lot sewage management system shall be required for hospital or clinic and for a single-family residence.

(ii) Standards that apply in the A District:

- a. Permitted only as a Type I or Type II Home Occupation.

(g) BED AND BREAKFAST ESTABLISHMENTS

- (1)** A Bed and Breakfast with 3 or fewer guest bedrooms may be operated as an incidental use to the Principal Use of an owner-occupied structure.
- (2)** A Bed and Breakfast establishment with 4 or more guest bedrooms is required to have a full-time resident manager or owner on the site and must be licensed by the State of Kansas to do business.

(h) CARETAKER RESIDENCE

- (1)** Residence may be detached or within the principal structure. May not be greater than 960 sq. ft. in area.
- (2)** Caretaker living in the residence must be employed on the premises.

(i) DAY CARE CENTER

A wall or fence at least 4 feet in height must be maintained between any play area and any other property.

(j) DAY CARE HOME

(1) OCCUPANT, PROVIDER

- (i)** A day care home involves the care of 12 or fewer individuals
- (ii)** A Day Care Home, Occupant Provider must be an accessory use to an occupied residence in which the occupant is the primary provider of the care, not including the care of members of the provider's own family.

(2) NON-OCCUPANT, PROVIDER

- (i)** A day care home involves the care of 12 or fewer individuals
- (ii)** A Day Care Home, non-occupant provider must be an accessory use to an occupied residence; however someone other than the occupant is the primary provider of the care.

(k) DOG KENNEL, COMMERCIAL

Any open pens, runs, cages or kennels shall be located at least 200 feet from any side or rear property lines.

(l) ENTERTAINMENT AND SPECTATOR SPORTS

(1) Standards that apply in the A and BN Districts:

Entertainment and Spectator Sports generating an attendance of 200 or less people are permitted. Typical uses include small theaters, reception and meeting halls.

(2) Standards that apply in the CCI, BL and BG Districts

Entertainment and Spectator Sports generating an attendance of 201 or more people are permitted such as theaters, large exhibition halls, field houses, stadiums and sports complexes.

(m) EXTERIOR STORAGE

(1) Standards that apply in the BN, BL, and BG Districts:

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

- (i)** All products and materials used or stored are in a completely enclosed building, or enclosed by a masonry wall, fence, or hedge, not less than 6 feet in height. Storage of all materials and equipment shall not exceed the height of the wall.
- (ii)** Storage of cars and trucks used in connection with the permitted trade or business is permitted within the walls, fence or hedge, but not including storage of heavy equipment, such as road-building or excavating equipment.

(2) Standards that apply in the LDI, LI and HI Districts:

Material storage yards are permitted as an accessory or principal use of the site provided:

- (i)** Exterior storage is screened from adjacent residential zoning districts or residentially developed property and adjacent road by a wall, fence or hedge not less than 6 feet in height.

(n) FARM IMPLEMENT REPAIR SERVICE

(1) Sales shall be restricted to repair service and replacement parts.

(2) Open and enclosed storage shall meet the minimum yard requirements of the district in which it is located.

(3) Open storage shall be screened from adjacent public roads and adjoining properties by a view-reducing wall, fence or landscaping material.

- (4) Farm implement repair service operating at an established facility to which implements are brought for repair requires registration as a home occupation or location within a zoning district in which this is a permitted use.
- (5) Farm implement repair service provided by traveling to a site rather than at an established facility may operate with a Conditional Use Permit.

(o) FARM STAND

(1) Standards that apply in the A-1 and R-1 Districts

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

(p) FIREWORKS SALES

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

- (1) No shooting of fireworks shall be permitted within 100 feet of the fireworks stand.
- (2) A temporary stand shall be located at least 25 feet from road or highway right-of-way.
- (3) Off-street parking must be provided for employees and customers.
- (4) Weeds and grass must be cut back within 100 feet of the stand.
- (5) The stand may not be located in any area where its proximity to other explosive or flammable materials will create safety hazards.
- (6) Temporary identification or advertising signs shall be placed as authorized in writing on the permit.
- (7) The temporary stand and signs shall be removed on or before the 8th day of July.
- (8) Sale or other distribution of fireworks, under the permit, shall be limited to fireworks authorized under the laws of the State of Kansas, with the exception that the sale or other distribution of fireworks known as 'bottle rockets' is prohibited.

(q) FUEL SALES WITH OR WITHOUT CONVENIENCE STORES

(1) Standards that apply in the LI District

Fuel Stations are permitted in LI Districts that are 20 acres or greater in area.

(r) GUEST HOUSE

- (1)** A guest house contains living quarters in a detached accessory building.
- (2)** No kitchen facilities or separate utility meters are permitted and the guest house may not be rented or otherwise used as a separate dwelling.

(s) HOME OCCUPATIONS, TYPE I

Type I Home Occupations include incidental and accessory home occupation uses that can be conducted wholly within the dwelling unit and that are ancillary to the primary residential use of the property. **Type I** Home Occupations are uses that are incidental and accessory to the primary residential use, and as such, are activities that are compatible with residential or farm activities.

(1) Type I Home Occupations are subject to the following standards:

- (i)** The operator of a home occupation must reside on the site of the home occupation.
- (ii)** A Type I Home Occupation shall not occupy more than 50% of the gross square footage of the principal dwelling unit.
- (iii)** No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission that is perceptible beyond the property lines of the subject parcel.
- (iv)** There shall be no visible evidence of the conduct of a Type I Home Occupation, other than a permitted sign. All equipment, materials, goods and vehicles shall be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way.
- (v)** A maximum of 2 non-resident employees (as defined in Section 12-314) shall be allowed.
- (vi)** No inventory of products shall be displayed or sold on the premises other than what has been produced on the premises.
- (vii)** The home occupation activity shall be conducted wholly within the dwelling unit.
- (viii)** A maximum of one sign shall be permitted with a Type I Home Occupation. Signs shall be restricted to a maximum of 2 square feet in area, and shall not be illuminated. Signs shall be mounted flat against the main face of the dwelling or at the driveway entrance to the premises where the home occupation is conducted. If placed at

the driveway entrance, the sign shall not be located on the road right-of-way or road easement.

- (ix) Type I Home Occupation signs shall contain no commercial message other than the name of the business and its hours of operation. For purposes of this provision, 'commercial message' means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business, product, service, or other commercial activity.
- (x) No off-street parking spaces shall be provided exclusively for a Type I Home Occupation. Parking spaces required for the primary residential use will need to serve the needs of the Home Occupation.
- (xi) Fine Art Instruction Classes are limited to no more than 6 students at one time.
- (xii) Typical Type I Home Occupations include offices, fine art studio or instruction, personal services, crafts, or offices.

(2) PROHIBITED USES

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

- (i) Auto and other vehicle repair;
- (ii) Funeral homes;
- (iii) Medical or dental clinics or hospitals;
- (iv) Renting of trailers, cars, or other equipment;
- (v) Restaurants;
- (vi) Tourist homes;
- (vii) Contractor's equipment and material storage;

(3) TYPE I HOME OCCUPATION PERMIT

Rural Home Occupations must be registered with the Director of Zoning and Codes. The approval process is an administrative procedure which is outlined in Section 12-307(c). A Permit will be issued for the Type I Home Occupation upon verification that the applied for use is compliant with the requirements of this Section.

(t) HOME OCCUPATIONS, TYPE II

Includes certain incidental and accessory home business occupations that can be conducted within the dwelling unit, or within an accessory building, that is ancillary to the primary residential use of the property. Such occupations are service-

oriented or involve production of materials for sales off premises. Type II Home Business Occupations are uses that are incidental and accessory to the primary residential use, and as such, are activities that are compatible with residential or farm activities.

(1) STANDARDS

Rural Home Business Occupations shall be subject to the following standards:

- (i)** A maximum of 4 Nonresident Employees (as defined in Section 12-314) shall be allowed with a Type II Home Occupation;
- (ii)** The home occupation activity shall be conducted within the dwelling unit or within an accessory building that is no greater than 3,600 square feet in gross area. (An accessory structure in use by a rural home business occupation on August 16, 2000, for a use permitted in Type II Home Occupations is not subject to the maximum size limitation of 3,600 square foot. The use or use area existing on August 16, 2000 can not be enlarged or expanded under the Type II Home Occupation regulations);
- (iii)** The majority of work related to agricultural implement repair or grading and earthwork activities must be conducted off premises;
- (iv)** No equipment shall be used that creates noise, vibration, electrical interference, smoke or particulate matter emission from a dwelling or accessory structure that is perceptible beyond the property lines of the subject parcel;
- (v)** All equipment, materials, and vehicles used for the home occupation shall be stored indoors or otherwise completely screened from view of adjacent parcels and rights-of-way;
- (vi)** No inventory of products shall be displayed or sold on the premises other than what has been produced on the premises;
- (vii)** A minimum site area of 5 acres is required for all home business occupations established after August 16, 2000.
- (viii)** The site must have direct access to a public road.
- (ix)** A maximum of one sign shall be permitted with a Rural Home Business Occupation. Signs shall be restricted to a maximum of 4 square feet in area, and shall not be illuminated. Signs shall be mounted flat against the main face of the dwelling or accessory building or at the driveway entrance to the premises where the home business occupation is conducted. If placed at the driveway entrance, the sign shall not be located on the road right-of-way or road easement;

- (x) Type II Home Occupation signs shall contain no commercial message other than the name of the business and its hours of operation. For purposes of this provision, "commercial message" means any wording, logo, or other representation that, directly or indirectly, names, advertises, or calls attention to a business product, service, or other commercial activity;
- (xi) Outdoor storage buildings, and off-street parking spaces established after August 16, 2000, shall be located at least 50 feet from all property lines and public rights-of-way, or screened by landscaping or buildings so as not to be visible from off-site.
- (xii) A minimum of one parking space shall be provided for each non-resident employee, based on the maximum number of employees present at any one time.
- (xiii) All parking spaces shall be located a minimum of 50 feet from property lines and public rights-of-way, and shall be screened by landscaping, a fence, or buildings so it is not visible from the public rights-of-way or from adjacent residences.

(2) PROHIBITED USES

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

- (i) Auto and other vehicles repair (except as noted above);
- (ii) Funeral homes;
- (iii) Medical or dental clinics or hospitals;
- (iv) Renting of trailers, cars, or other equipment;
- (v) Restaurants;
- (vi) Tourist homes;
- (vii) Exterior storage of Contractor's equipment and material;

(3) TYPE II HOME OCCUPATION PERMIT

Type II Home Occupations must be registered with the Director of Zoning and Codes. The approval process is an administrative process which is outlined in Section 12-307(d). A Permit will be issued for the Home Business Occupation upon verification that the applied for use is compliant with the requirements of this Section.

(u) HOME OCCUPATION, TYPE III TRANSITIONAL

(1) Purpose

To provide for the scheduled elimination of Home Occupations that existed in Douglas County on August 16, 2000 and do not meet the requirements for a Type I or Type II Home Occupations

(2) Permitted Uses

A use that was in existence on August 16, 2000, as a home occupation which does not meet the requirements for a Rural Home Occupation or a Rural Home Business Occupation.

(3) Registration

All Type III Home Occupations (Transitional) were required to be registered under this Section by December 31, 2001. Any Type III Home Occupations (Transitional) which were not registered by that time were required to cease on December 31, 2001. No new Type III Home Occupations are permitted in the County and there is no registration process for new Type III Home Occupations.

(4) Right to Continue

- (i)** A Type III Home Occupation (Transitional) registered under this subsection may continue to operate as though it were a lawful, nonconforming use until the first of the following shall occur:
- (ii)** The cessation of the business for a period of ninety (90) days or more;
- (iii)** The failure of the operator of the business to pay any county taxes or fees when due;
- (iv)** The violation by the operator of the business to pay any county taxes or fees when due;
- (v)** The discovery of any material misrepresentation in the original application;
- (vi)** Expiration of long-term leasehold agreement with the property owner; or
- (vii)** The expiration of the scheduled elimination period on May 1, 2006. Prior to the expiration of a use permit on the scheduled elimination date, the County's comprehensive land use plan, Horizon 2020, must be amended to provide for location criteria and policies for commercial and industrial uses in the County which are appropriate for the registered Transitional Home Occupation uses. If these amendments to Horizon 2020 have not occurred by May 1, 2006, the elimination date shall be suspended until such amendments have been adopted **or until steps have been taken to bring the remaining Type III Home Occupation into compliance with the Zoning Regulations.**

(5) Development Standards for Operation

- (i)** Transitional Home Occupations shall be allowed to continue for the stated period subject to the following conditions:
- (ii)** There shall be no expansion of inventory of the business from the amount maintained on August 16, 2000;
- (iii)** There shall be no increase in the number of Nonresident Employees (as defined in Section 12-314 working on the premises above the number working there on August 16, 2000;
- (iv)** Equipment stored or used on the premises shall not exceed in size or quantity the equipment used on the premises on August 16, 2000;
- (v)** The business activity shall not expand to any portion of a building or any portion of a site not occupied on August 16, 2000;
- (vi)** Only non-retail business uses shall be allowed;
- (vii)** The owner of the business must live on the premises;
- (viii)** A maximum of one sign shall be permitted with a Transitional Home Occupation. Signs shall be restricted to a maximum of 8 square feet in area, and shall not be illuminated. The allowed sign may be wall-mounted or freestanding, located outside of public right-of-way; and
- (ix)** Signs shall contain no commercial message other than the name of the business and its hours of operation. For purposes of this provision, "commercial message" means any wording, logo, or other representation that directly or indirectly names, advertises, or calls attention to a business, product, service, or other commercial activity.

(6) Termination

- (i)** All Type III Home Occupations (Transitional) which were not registered under this subsection prior to December 31, 2001 were required to cease operation and remove all inventory, equipment and activity not allowed with a Type I or Type II Home Occupation by January 1, 2002.
- (ii)** Any Transitional Home Occupation which meets the requirements of this Section and is duly registered under this Section shall cease on May 1, 2006, or on the earlier occurrence of one of the other events enumerated in sub-section (g), shall cease on May 31, 2006, or on the earlier date on which such event occurs, and all inventory, equipment, and activity not allowed with either a Type I or Type II Home Occupation shall be removed from the premises before the first day of business for government offices after such date.

(v) LODGING

(1) Standards that apply In the LI District:

Lodging facilities are permitted in IL LI Districts that are 20 acres or greater in area.

(w) MANUFACTURING AND PRODUCTION USES

(1) Standards that apply in the BG District

No outside storage of material is permitted, and no industrial use in the BG District shall occupy more than 6,000 sq. ft of floor area.

(2) Standards that apply in the HI District

(i) Any industrial use established in the HI District may be enlarged, remodeled, or extended to the extent of not to exceed 5 percent of its assessed value in any one year without obtaining a permit from the Zoning and Codes Office as required in Section 12-310(b).

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

(3) Standards that apply in the LDI District

(i) To be considered a low-demand industrial use, an industrial development must be able to be served by an on-site sewage management system and be located on a hard-surfaced road.

(4) Standards that apply in the LI DISTRICT

(i) All industrial uses shall be conducted within a completely enclosed building with no open storage of raw, in process, or finished material and supplies or waste material.

(ii) Finished or semi-finished products manufactured on the premises may be stored in the open if screened from streets by landscaping, fences, or walls.

(5) Standards that apply in all districts:

(i) All main plant buildings shall be of concrete, structural steel, or masonry construction and limited to 45 feet in height, unless otherwise approved by the Board of Zoning Appeals.

(ii) Adequate parking and loading space shall be provided off the street for all employees and traffic to the plant.

(iii) Loading operations shall be conducted at the side or rear of buildings.

- (iv) No parking or storage of material or products shall be permitted in the required front yard.
- (v) The front yard shall be landscaped with trees, grass, shrubs, or pedestrian walks and maintained in a neat and attractive condition.
- (vi) All fencing shall have a uniform and durable character and shall be properly maintained.

(x) MINING AND EXCAVATION

(1) EXISTING USE.

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

(2) NEW MINES OR EXCAVATION AREAS

Mining, extraction and excavation of raw materials at new locations within Agricultural, Valley Channel Districts in Douglas County shall require that an approved plan of restoration of land be submitted to the Lawrence/Douglas County Metropolitan Planning Commission for its review and recommendation to the Board of County Commissioners. This plan shall show that all excavated material will be returned to a level no higher than the elevation of surrounding land, and that proper drainage is provided. All shafts or tunnels must be left in a safe condition when abandoned. The mining CUP/site plan application must show relevant information including specific setbacks, phasing, prevailing winds, road networks, dust inhibiting plan, water use, ground water table, drainage study, and other information as may be deemed necessary to make an informed decision.

(y) MOBILE HOME

(1) Standards that apply in the A district:

One or more mobile homes shall be allowed as an accessory use to a farm so long as:

- (i) They are occupied by a family related by blood, or marriage, to the occupant of the main dwelling, or by a person or persons employed on the farm.
- (ii) The mobile home must be at least 150 feet from another dwelling and must be provided with a water supply and sanitary sewer facilities,

- (iii) The mobile home may not be used as a rental income property.
- (iv) Mobile homes shall not be located within the F-W or F-F Overlay Districts.
- (v) A mobile home, when permitted as an accessory use, building or structure according to the provisions of these regulations, shall be used exclusively for residential purposes and shall not be used for a storage building.

(2) Standards that apply in the CCI district:

- (i) A mobile home may be used as a mobile classroom, or other accessory non-residential use for a community, civic or institutional use.

(3) Standards that apply in all Districts:

- (i) A mobile home may be used as a construction office or tract office, provided it has been approved as a Temporary Business Use according to the provisions of Section 12-307(b).
- (ii) A mobile home may be used as a mobile classroom, or other accessory non-residential use for a nonconforming community, civic or institutional use.
- (iii) A mobile home may not be used as a storage facility.

(z) NURSING AND CONVALESCENT HOMES

(1) Standards which apply in all Districts:

- (i) The home must be located on a hard-surfaced road.
- (ii) The home must be in an area which is served by fire/medical emergency vehicles.
- (iii) All state licenses must be obtained.
- (iv) Adequate on-site sewage management system must be provided and approved by the Douglas County Health Department.

(aa) RAILROAD RIGHTS-OF-WAY AND AUXILIARY FACILITIES

(1) Standards that apply in the A District

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

(2) Standards that apply in the A-1 & R-1 Districts

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

(3) Standards that apply in the LI & LDI District

Railroad right-of-way may include railroad sidings in addition to a strip of land with tracks and auxiliary facilities for track operation.

(4) Standards that apply in the HI District

Railroad right-of-way may include railroad sidings in addition to a strip of land with tracks and auxiliary facilities for track operation. Railroad switching and classification yard, roundhouse and repair and overhaul shops are also permitted.

(bb) RECREATION FACILITIES, ACTIVE (INCLUDING PRIVATE SWIMMING POOLS)

(1) Standards that apply in the VC District

Public or private commercial recreational facilities and structures, provided such structures conform to the requirements of Valley Channel District listed in Section 12-303(k).

(1) Standards that apply in all districts

(i) Facilities shall be limited to those for games and outdoor uses such as swimming, shuffleboard, tennis, handball, or other similar uses and locker rooms.

(ii) Excluded from these use standards are family pools and pools that are accessory uses to lodging facilities and clubs or lodges.

(iii) Game fields, courts and buildings shall not be located within 25 ft of the side or rear property lines.

(iv) View reducing fencing and/or landscaping shall be provided to screen any outside use and parking areas from abutting properties. Parking areas outside the fenced area shall be screened with hedges at least 3 ½ feet in height around parking area to screen adjoining properties from headlights.

(v) Any pumps and filters located above ground shall be at least 50 ft from abutting properties and screened to minimize noise trespass to adjoining properties.

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

considered a privilege subject to review and subject to revocation by the County Commissioners if said use becomes a general business in nature rather than an accessory use operated for the convenience of patrons of the facility. Drive-thru facilities are expressly prohibited. Food preparation and dispensing shall conform with the Douglas County Health Code and regulations of the State of Kansas. Outdoor advertising of food or food services is prohibited.

- (vii) All lights shall be shielded to reflect or direct light away from adjoining property and the sky. Only cut off luminaries are permitted and poles shall be no higher than 25 feet or for field sports, no higher than necessary to safely light the field based on a lighting plan prepared by an engineer.

(cc) RELIGIOUS INSTITUTIONS

Buildings for religious assembly, including churches, temples, convents and monasteries are subject to the following conditions:

(1) Standards that apply in the A-1 District:

- (i) Principal means of access in the A-1 District shall be from a road with a classification of collector or higher.
- (ii) Minimum site area of 3 acres is required.

(2) Standards that apply in the R-1 District:

- (i) Principal means of access in the R-1 District shall be from a road with a classification of collector or higher.
- (ii) Minimum site area of 30,000 sq. ft. is required.

(dd) RESIDENTIAL DESIGN MANUFACTURED HOMES

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

- (i) Minimum dimensions of body width shall be 22 feet;
- (ii) Minimum roof pitch shall be 2.5 inches in height to 12 running inches;
- (iii) Siding material shall be wood, masonry, composition board or finished aluminum lap siding or other materials normally found on site built homes.
- (iv) Roofing materials shall be wood shingles, composition shingles or fiberglass shingles, asphalt shingles, clay or concrete tile or slate;

- (v) On level sites the main floor shall be no greater than 20 inches above finished grade at the foundation. On sloping or irregular sites the side closest to grade level shall not be greater than 20 inches above finished grade at the foundation; and
- (vi) The home shall be permanently mounted on a foundation or basement which meets the provisions of the Building Code.

(ee) RETAIL NURSERY

1) Standards that apply in the A District.

The following standards apply to retail nurseries that are located within the A District and therefore require approval through a Conditional Use Permit:

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

(ff) RETAIL STORES

- (1) There shall be no slaughtering of animals or poultry on the premises of any retail store.
- (2) Greenhouses are permitted in conjunction with florist shops.

(gg) RIDING STABLE/ARENA, COMMERCIAL

Any buildings for keeping of animals shall be located at least 200 feet from any side or rear property lines.

(hh) ROOMING AND BOARDING HOUSES

- (1) All rooming and boarding houses must have a full-time resident manager or owner.
- (2) All rooming and boarding houses must be approved through the site planning process to insure adequate water and on-site sewer facilities.
- (3) Meals may be provided; however, no meals are provided to outside guests.

(ii) SALVAGE YARDS

- (1)** All exterior storage and processing areas shall be screened as follows:
 - (i)** A salvage yard abutting a collector or arterial road must be screened from the road right-of-way or road easement by a solid masonry wall or solid wood fence at least 6 feet in height and be designed and located to prevent visibility of stored or stacked material. The fence shall be located no closer than 15 feet to any road right-of-way or road easement. In no case shall the height of the solid fence exceed 10 feet.
 - (ii)** A salvage yard abutting a local road must be screened from the road right-of-way or road easement through view reducing means, such as fencing or landscaping.
 - (iii)** Fencing shall be placed along the side and rear of all processing and storage areas and may be of any approved type. Live screening may be used in lieu of fencing where deemed appropriate.
 - (iv)** No open burning of junked, salvaged, or discarded materials is permitted. Incinerators may be used for burning of wastes or the conducting of salvage operations if such incinerators are of a type approved by the Kansas State Department of Health and Environment.

(jj) SCHOOLS; PUBLIC OR PRIVATE

(1) Standards that apply in the LI and HI Districts

Vocational/technical schools are permitted within the U-IL and U-IH Districts

(kk) SIGNAGE

(1) Standards that apply in all districts

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

(2) Standards that apply in the A District

- (i)** For the purpose of restricting outdoor advertising signs, the area within this district shall be considered as defined for residential purposes only.
- (ii)** Accessory identification sign for a permitted use or sign advertising products raised on the premises; provided sign area shall not exceed 30 square feet in area.
- (iii)** No outdoor advertising structures shall be allowed along County or Township roads in "A" Agricultural District except as heretofore mentioned. Outdoor advertising along Federal and State roads shall be in compliance with all Federal and Kansas laws and regulations

governing and concerning such signs, and shall comply with the conditions as set forth herein.

- (iv) Outdoor advertising signs or structures shall not have a maximum area exceeding 300 square feet. Both sides of the sign structure may be used for advertising purposes.
- (v) Any advertising sign or structure erected shall be set back a minimum distance of 25 feet from any public right-of-way line, and shall not be closer than 100 feet to any road, highway or street intersection.
- (vi) Each such sign shall be mounted on a single ground pole. There shall be a minimum ground clearance of 12 feet between ground level and the bottom of the sign structure. In no case shall the sign structure exceed 30 feet in height.
- (vii) Such signs shall be serviced by underground electrical wiring.
- (viii) Advertising signs shall observe a minimum interval of 1500 feet in all directions between signs.
- (ix) For Value Added Agricultural Business. One sign, limited to no more than 6 square feet in area, shall be visible from a public road, identifying the business. The sign shall be located 10 feet or more from the road right-of-way, road easement line. No other signs may be posted or erected on the property.

(3) Standards that apply in the A-1 District

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

(4) Standards that apply in the BN District

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

(5) Standards that apply in the BL District

- (i) Only one non-flashing unanimated area marker designating or identifying a commercial development area is permitted.
- (ii) The area marker shall not exceed four (4) feet in height from the ground and shall be limited to 15 sq. ft. in area.
- (iii) The sign shall be located a minimum of ten (10) feet from a road right-of-way or road easement unless along a Federal or State Highway for which it will then comply with the conditions set forth

by the Kansas Department of Transportation, but in no case shall it be less than the conditions set forth in this Resolution.

- (iv) Each business may have one non-flashing unanimated sign attached flat to the face of the building. The sign shall not exceed 30 sq. ft.

(6) Standards that apply in the BG & HI District

- (i) Outdoor advertising structure or sign and any sign or display in excess of 100 square feet in area shall be attached flat against a wall of a building.
- (ii) Outdoor advertising signs or structures shall not have a maximum area exceeding 300 square feet. Both sides of the sign structure may be used for advertising purposes.
- (iii) Any advertising sign or structure erected shall be set back a minimum distance of 25 feet from any public right-of-way line, and shall not be closer than 100 feet to any road, highway or street intersection.
- (iv) Each such sign shall be mounted on a single ground pole. There shall be a minimum ground clearance of 12 feet between ground level and the bottom of the sign structure.
- (v) In no case shall the sign structure exceed 30 feet in height.
- (vi) Such signs shall be serviced by underground electrical wiring.
- (vii) Advertising signs shall observe a minimum interval of 1500 feet in all directions between signs.

(7) Standards that apply in the LDI & LI

Accessory signs in excess of 60 square feet in area shall be attached flat against a building.

(II) SINGLE FAMILY DWELLINGS

Single family dwellings require a building permit and are permitted on eligible parcels. Site planning is not required for single family dwellings.

(1) Standards that apply in the A District

Single-family dwellings are permitted provided the property is exempt from the Subdivision Regulations for Douglas County; or provided that a plat, which has been previously provided to the land owners by the county public works department prior to December 4, 1996, has been approved by all necessary parties and filed no later than January 15, 1997, which said plat establishes lot(s) taking access from a single tract which serves all single family residences thus platted and gives them access to the entire lot

but which does not create a public right of way or public road or on an eligible parcel created through the Certificate of Survey process outlined in the Subdivision Regulations for Douglas County.

(2) Standards that apply in the V-C District:

No building for human habitation shall be permitted with the exception of any structure used as a farm dwelling, provided a minimum area of 5 acres per dwelling unit is provided.

(mm) STORAGE, LIGHT EQUIPMENT

Storage, open or enclosed, of light equipment which is not the property of the landowner must meet the following standards.

- (1)** Open or enclosed storage must meet the minimum yard requirements of the district in which it is located.
- (2)** Open storage must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and residences.

(nn) STORAGE, HEAVY EQUIPMENT

Heavy Equipment storage facility principal and accessory uses, open or enclosed, must meet the following standards:

- (1)** Wholesale and retail sales are not permitted on the premises.
- (2)** Open, covered, or enclosed storage shall meet the minimum yard requirements of the district in which it is located.
- (3)** Open Storage must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and adjoining properties.

(oo) STORAGE, MINI-OR SELF STORAGE

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

- (1)** Shall be located within an Urban Growth Area or within the appropriate zoning district.
- (2)** Shall take direct access from a hard surfaced road classified as 'collector' or higher.
- (3)** Security fencing and lighting shall be provided for the entire facility. Security fencing is fencing which permits visibility while obstructing access. An example would be a 6 foot high chain link fence.

- (4)** All outdoor lights shall, to the maximum extent feasible, confine emitted light on the property on which the light is located and shall not be directed upwards toward the sky. All lights are to be shielded to reflect or direct light away from adjoining property but may be of sufficient intensity to discourage vandalism and theft. No light poles may be higher than 15 ft. Photometric plans shall be submitted with the site plan. Maximum illumination at lot line is as follows:
- (i)** .2 foot-candles , or less, if adjacent to a residentially zoned or developed property
 - (ii)** 1 foot-candle if adjacent to non-residentially zoned or developed property.
- (5)** Screening, must be provided on any side which abuts a residentially zoned district or residentially developed property with a view reducing wall, fence, berm landscaping materials or a combination of these.
- (6)** Accessway width shall be a minimum of 20 feet for one-way traffic and 25 feet for two-way traffic (to allow parking within the drive aisles).
- (7)** Off-street parking shall be required on the basis on 1 space for each 8,000 square feet of floor area in the facility, plus 1 space for each employee, but in no case shall the number be less than 5 spaces.
- (8)** All storage shall be kept within an enclosed building, unless a portion is designated for covered (non-enclosed) or exterior vehicle storage. This area may be used for storage of trucks, automobiles, trailers, boats or recreational vehicles, including motor homes. Exterior storage of unregistered and/or disassembled vehicles is prohibited. Accessways and individual spaces must be shown on the site plan and physically designated on the site. One vehicle and trailer will be permitted per stall. Any covered (non-enclosed) or exterior vehicle storage shall be screened from adjacent public roads, residentially zoned properties or residentially developed property with a view reducing wall, fence, landscaping materials or a combination of these measures.
- (9)** Activities which are prohibited on the premises include miscellaneous or garage sales, commercial shipping and receiving, and the servicing or repair of motor vehicles, boats, trailers, lawn mowers and other similar equipment. Storage spaces shall not be used for storage of commercial or industrial trucks and/or trailers, workshops, hobby shops, manufacturing or similar uses. Human occupancy shall be limited to that required to transport, arrange and maintain stored materials.
- (10)** The area shall be properly policed by the owner or operator for removal of trash and debris.
- (11)** Keyless keypad entry system is required, or a similarly secure entry system with monitoring ability.

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

(pp) TELECOMMUNICATION AND BROADCASTING TOWERS

The following are application requirements and standards for the use and construction of radio or television broadcasting towers and/or apparatus, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building, or of any height if lighted; whether publicly or privately owned.

(1) Application, site plan

At the time of application for Conditional Use Permit a site plan is required to be submitted. The applicant shall submit a site plan in sufficient detail, as determined by Planning Director, to evaluate its conformance with applicable standards and guidelines. The site plan shall include:

- (i) Written authorization from the property owner of the proposed tower site.
- (ii) Submission of a site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures, proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours, and existing land uses surrounding the site. If any accessory building is proposed, details of the building including elevations and proposed use of the building is required to be submitted with the application.
- (iii) Report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.

(2) Notification

In addition to notifying property owners within 1,000 feet of the communication tower request all owners of record of unincorporated property located within a 1 mile radius of the proposed tower request must also be notified with written notice by the applicant.

- (i) The applicant shall submit a Certificate of Mailing for the notice required by this Section, and a list of notified property owners at

the time of application for a Conditional Use Permit. An application for a Conditional Use Permit for a communication tower shall not be valid without an executed Certificate of Mailing.

(ii) The notice shall be sent by regular mail, postage pre-paid, by the applicant. The notice shall provide:

- a A brief description and location of the proposed communication tower;
- b Projected date for construction;
- c The person, with contact telephone number and address, designated by the applicant to respond to questions concerning the proposed communication tower;
- d The date the Conditional Use Permit application will be submitted to the Planning Office for review and process;
- e A statement with substantially the following information:

Notice of Conditional Use Permit (CUP) Consideration pending before the Lawrence-Douglas County Planning Office.

This letter is being sent to the owners of unincorporated property for the purpose of informing the property owner(s) and other interested parties about the proposed communication tower development describe further in this letter. This letter is being provided to advise property owner(s) of the pending development. For further information, contact the applicant's designated representative or the Lawrence-Douglas County Planning Office at (785) 832-3150.

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

(3) General Provisions

- (i) An effort in good faith must be made to locate new antenna on existing towers, or other structures. A request for a new tower must be accompanied by evidence that application was made to locate on existing towers, with no success.
- (ii) A proposal for a new communications tower shall not be approved unless the applicant can document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:
 - a The planned equipment would exceed the structural capacity of existing and approved towers, considering existing and

planned use of those towers, and existing and approved towers cannot be reinforced to accommodate the planned or equivalent equipment at a reasonable cost.

- b** The planned equipment would cause RF interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost.
- c** Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonable in parity with other similar equipment in place or approved.
- d** Other reasons that make it impracticable to place the equipment planned by the applicant on existing and approved towers.

(iii) All towers shall be designed to accommodate at least 3 two-way antennas for every 150 feet of tower height, or at least 1 two-way antenna and 1 microwave facility for every 150 feet of tower height. The above requirements may be modified to provide the maximum number of compatible users within the radio frequency emission levels.

(iv) The owner, at the owner's expense, shall remove any tower that is not in use for a period of three years or more.

(v) A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.

(4) Independent Review

(i) Applicant's for new telecommunications towers are required, in addition to the Condition Use Permit filing fee applicable to all requests for Conditional Use Permits, to make a deposit with the Planning Director of a fee sufficient to cover the cost of an independent study and shall sign a form authorizing the County to use those funds to hire consulting engineers to review the application and to advise the County on the extent to which the applicant has, or has not, met the Burden of Proof, required in this section. The fee shall be set by the Board of County Commissioners based upon a list of County-approved consultants and the standard industry fee for the study required to make a determination. Upon the conclusion of the review process, any funds remaining unexpended shall be refunded to the applicant, and the applicant shall be provided with an accounting for the funds expended.

(ii) The following standards shall apply to a determination of whether telecommunications towers will be permitted. These standards are in addition to those in the next sub-section.

- a** No new telecommunications tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the County that no existing telecommunications tower or other structure can accommodate the applicant's proposed telecommunications antenna. Evidence submitted to demonstrate that no existing telecommunications tower or structure can accommodate the applicant's proposed telecommunications antenna may consist of any of the following (the claimed "hardship" may not be created by the applicant):
- b** No existing telecommunications towers or structures are located within the geographic area required to meet the applicant's engineering requirements;
- c** Existing telecommunications towers or structures are not of sufficient height, and could not be extended to become sufficient in height, to meet the applicant's engineering requirements;
- d** Existing telecommunications towers or structures do not have sufficient structural capacity to support the applicant's proposed telecommunications antenna and related equipment; and the existing or approved telecommunications tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;
- e** The proposed telecommunications antenna would cause excessive electromagnetic interference with an existing telecommunications antenna on the telecommunications tower or structure, or the telecommunications antenna on the existing telecommunications tower or structure would cause interference with the proposed telecommunications antenna; and reconfiguration would not resolve the interference problem; or
- f** The applicant demonstrates that there are other limiting factors, not including the provisions of this Article, that render existing telecommunications towers or structures unsuitable for its proposed telecommunications antenna.

(5) Additional Development Standards

In addition to the requirements listed above, the following standards shall apply:

- (i)** The location of a ground mounted tower must be such that it is setback at least equal to the height of the tower to the nearest property line measured from the center of the tower. A ground

mounted tower may be set back less than the tower height to the nearest property line if documentation from a registered engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed set back area. All guy wires, similar support devices and other apparatus shall be no closer than twenty (20) feet from any property line.

- (ii)** Towers may be placed on the roof of a building or on top of other structures using either of the following to determine tower height and setback:

 - a** Tower height above the roof/structure may be as high as the setback distance to the nearest roof/structure edge.
 - b** The height of a ground-mounted tower may be used for a roof/structure-mounted tower if the required setbacks for a ground tower are satisfied.
- (iii)** Additional setbacks may be required to contain ice-fall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Set backs shall apply to all tower parts including guy wire anchors, and to any accessory facilities.
- (iv)** All towers should be located in areas zoned commercial, industrial, or agricultural, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts were made to locate the proposed tower in non-residentially zoned areas.
- (v)** All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers should be a galvanized finish or painted gray or light blue unless other standards are required by the FAA. In all cases, mono pole towers shall be preferable to guyed towers or free standing structures. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements.
- (vi)** Screening shall be provided to screen facilities from view of abutting residences and from view of public right-of-way. Screening may include 6 foot high fence, evergreen landscaping, or a combination of both. Tree size shall be a minimum of 6 feet in height for evergreen trees. Trees shall be spaced 15 feet on center and shall be located 10 feet away from the chain link fence.

(qq) VALUE ADDED AGRICULTURAL BUSINESS

- (1)** A Value Added Agricultural Business may be permitted by right, with a Conditional Use Permit or as a Home Occupation based on the following criteria:

 - (i)** A Value Added Agricultural Business that operates on property that meets the agricultural exemption criteria as defined in Section 14 and that utilizes commodities which are produced on-site is a use permitted by right and a Conditional Use Permit is not required.
 - (ii)** A Value Added Agricultural Business that operates on property that meets the agricultural exemption criteria and utilizes commodities which are not produced on-site shall require a Conditional Use Permit.
 - (iii)** A Value Added Agricultural Business that operates on property that does not meet the agricultural exemption shall require registration as a Home Occupation, if the use meets the Home Occupation standards.
- (2)** Value Added Agricultural Businesses shall meet each of the following location and development standards:

 - (i)** A maximum of 4 non-resident, full-time equivalent employees, as defined in Section 12-314, shall be allowed.
 - (ii)** The total square footage for all buildings used in the operation, production, and storage of materials shall not exceed 10,000 square feet.
 - (iii)** Structures are required to be upgraded to meet commercial building code requirements if used for more than storage of raw agricultural materials.
 - (iv)** Deliveries to and from the site by Commercial Vehicles that exceed 5 tons Gross Vehicle Weight (GVW) shall be limited to two trips (a trip consists of travel to and from the site) per day.
 - (v)** No part of the production of the value-added product may result in dispersal of smoke or particulate matter emissions that exceeds federal EPA standards.
 - (vi)** All equipment used in the production of the value-added product shall be located wholly within a building or structure, or be screened from public rights-of-way and adjacent residential buildings.
 - (vii)** The associated noise, light and vibrations from the production operation shall not be perceptible at the site boundary/property lines.
 - (viii)** Storage of products shall be enclosed within a building or structure or screened so that it is not visible from the site boundary/property lines.

- (ix)** The site must have direct access to a full maintenance public road and the site shall meet the minimum frontage requirements in accordance with the Access Management Regulations.
- (x)** Signage is required per Section 12-305(II).

(rr) WHOLESALE ESTABLISHMENT OR WAREHOUSE

(1) Standards that apply in the BG District:

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

SECTION 12-307 DEVELOPMENT REVIEW PROCEDURES

(a) CONDITIONAL USE PERMITS

Recognizing that certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a zoning district, certain conditional uses listed in the Permitted Use Table in Section 12-304, when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted in the zoning districts noted in the table.

(1) AUTOMATIC CONDITIONAL USE STATUS

If an existing use was allowed by-right at the time it was established, but is now regulated as a Conditional Use, the use will be considered an approved Conditional Use and will be allowed to continue without a public hearing. Any alterations or expansions of the use are subject to the Conditional Use structural changes or addition procedures of Section 12-307(a)(10).

(2) REVIEW PROCESS

(i) Before the establishment of, or before any changes in a conditional use, the application shall be filed with the Planning Office requesting such establishment or change. The Planning Commission shall hold a public hearing as provided for in these regulations, and shall review such plans and statements and shall, after a careful study thereof, submit a recommendation with findings of fact and minutes and/or vote of the Planning Commission to the Board of County Commissioners within thirty (30) days following said hearing, which shall include, but not be limited to, the following criteria:

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

g Conformance with the Comprehensive Plan; and,

h Professional Staff recommendation.

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

(3) APPLICATION

Application for a Conditional Use Permit shall be submitted to the Planning Office upon appropriate forms available from the Planning Office. Such application shall be made in accordance with the Planning Office submission deadlines. A pre-application meeting with a member of the Planning Staff is required at least 7 days prior to the formal submission of a Condition Use Permit application.

(4) APPLICATION MATERIALS

Each application for a Conditional Use Permit shall be accompanied by the following:

(i) A certified property owner list from the Douglas County Clerk for all owners of property located within 1000 feet of the subject property and located within the unincorporated areas of the county. If the subject property is adjacent to the City limits, the area of notification shall be extended to at least 200 feet into the incorporated area.

(ii) The review fee, which is listed on the fee schedule in the Planning Office; and

(iii) 16 copies of such plans and accompanying data as to demonstrate its conformance with the requirements of the Zoning Regulations. Electronic copies in PDF or TIF formats are encouraged. If an electronic copy is provided only one paper copy is necessary.

(5) PUBLIC HEARING NOTICE

Newspaper, and mailed notice of the Planning Commission's public hearing shall be provided by Planning Staff.

(i) CONTENT

All newspaper and mailed notices shall:

- a** Indicate the date, time and place of the public hearing or date of action that is the subject of the notice;
- b** Describe the property involved in the application by address or by general description;
- c** Describe the nature, scope and purpose of the application or proposal; and
- d** Indicate where additional information can be obtained.

(ii) TIMING

The Planning Office is responsible for ensuring that notice is published in the official newspaper of Douglas County. The notice shall appear in the newspaper at least 20 days before the date of the public hearing.

The Planning Office is responsible for mailing notice to the owner of the subject property and all property owners listed on the certified property owner list. Required notices shall be mailed at least 20 days before the public hearing. When required notices have been properly addressed and deposited in the mail, failure of a part to receive such notice will not be grounds to invalidate any action taken by the Planning Commission or Board of County Commissioners.

(6) REVIEW PROCESS—PLANNING COMMISSION

All Conditional Use Permit applications shall first be reviewed by Planning Staff and submitted to the Planning Commission for a recommendation. The Planning Commission shall hold a public hearing thereon.

At any public hearing held to consider a proposed Conditional Use Permit an opportunity shall be granted to interested parties to be heard.

The hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations and findings of fact. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the Conditional Use Permit to the Board of County Commissioners. If the Planning Commission fails to make a recommendation on a Conditional Use Permit the Planning Commission shall be deemed to have made a recommendation of disapproval.

(7) PROTEST PETITION

If a valid protest petition is filed with the County Clerk, a super-majority vote (at least 3/4) of all the members of the Board of County Commissioners shall be required to approve the Conditional Use Permit, regardless of the Planning Commission's recommendation.

To be valid, the protest petition must be filed in the office of the County Clerk within 14 days after conclusion of the public hearing at the Planning Commission and must be signed by the owners of record of 20% or more of the total area required to be notified for the Conditional Use Permit. A property owner list for the notification area of the Conditional Use Permit can be obtained from the County Clerk's office. The protest petition forms are available in the Planning Office.

(8) TIME LIMITATIONS.

If requested improvements or uses are not implemented, or a building permit is not obtained for the site, within 1 year from the date of the Conditional Use Permit approval by the Board of County Commissioners, the Conditional Use Permit shall become null and void. Applicants may request the Board of County Commissioners to approve a one-year time extension if the request is submitted to the Planning Office prior to the original expiration date. Any use which requires a Conditional Use Permit which is not used for a period of three (3) consecutive years shall be considered abandoned and the CUP will become null and void.

(9) ASSURANCE OF PERFORMANCE (BONDS)

The Board of County Commissioners may require the applicant to file with the County Clerk, a performance bond during the period of construction, reconstruction, or alteration, such bond to be in an amount determined by the Commissioners to be sufficient to insure completion of plans as submitted.

(10) ADDITIONS OR STRUCTURAL ALTERATIONS TO CONDITIONAL USE PERMITS

Additions or structural alterations to Conditional Uses after they have been approved will be processed in the following manner:

The Planning Director may administratively approve changes to the site plan which the Planning Director determines are 'minor'.

Changes to the site plan which are determined by the Planning Director to be other than minor shall be returned to the Board of County Commissioners for approval.

Any change in use will require a revised Conditional Use Permit with public notification and approval process as required for the original Conditional Use Permit.

(11) AMENDMENT, SUSPENSION AND REVOCATION

- (i) The Board of County Commissioners is authorized to amend, suspend, or revoke an approved Conditional Use Permit in accordance with this subsection.

- a** Upon its own initiative, or upon the recommendation of County staff or the Planning Commission, the Board of County Commissioners may establish a public hearing date to consider the proposed amendment, suspension, or revocation of an approved Conditional Use Permit. Notices of the public hearing shall be mailed to the property owner of record and the tenant of the property with the Conditional Use Permit by certified mail, return-receipt requested, no less than 20 days prior to the public hearing date. One notice of the public hearing shall be published in the official county newspaper no less than 20 days prior to the date of the public hearing.
- b** At the public hearing, the Board of County Commissioners shall receive and consider all relevant information and evidence concerning the Conditional Use Permit. The Board of County Commissioners may continue the public hearing and retain jurisdiction over the proposed amendment, suspension, or revocation as it deems appropriate.
- c** After the conclusion of the public hearing, The Board of County Commissioners shall consider all relevant information and evidence concerning the Conditional Use Permit. The Board of county Commissioners may amend, suspend, or revoke the Conditional Use Permit if it finds, based upon a preponderance of the information and evidence, that such action is supportable in fact.
- d** Any motion for the amendment, suspension, or revocation of a Conditional Use Permit shall clearly state the grounds for revocation, which may include incorporation of findings presented by County staff. Any motion for the amendment of a Conditional Use Permit shall clearly state the terms and conditions of such change and at what time further review shall be appropriate. Any motion for the amendment of a Conditional Use Permit shall also clearly state the terms and conditions of the amendment to the Conditional Use Permit.
- e** The Board of county Commissioners shall make 1 or more of the following findings if it seeks to amend, suspend, or revoke the Conditional Use Permit:

 - 1) A condition of the Conditional Use Permit has been violated;
 - 2) Violation of County Code provisions governing the Zoning Regulations;
 - 3) Violation of other applicable Code provisions or any

state or federal law or regulation by the property owner or agents of the property owner, provided that such violations relate to the conduct or activity authorized by the Conditional Use Permit or the qualifications of the property owner or agents of the property owner to engage in such conduct or activity.

(b) TEMPORARY BUSINESS USES.

Temporary business uses may be permitted in any district upon the review and finding of the Board of County Commissioners that the proposed use will not adversely affect public health, safety and general welfare. In making such determination, the Board shall consider the intensity and duration of the use, the traffic that can be expected to be generated by the use, the applicant's plans for dealing with sanitation and other public health and safety issues, and other factors which the Board in its discretion determines will affect the public health, safety and welfare.

(1) TEMPORARY BUSINESS USE-DEFINED

'Temporary business use' shall mean the conducting of any of the activities enumerated in this Section on real property which is not owned and regularly used by the applicant/sponsor of such activity for such purpose. 'Temporary business use' shall not include the activities of persons, families, groups or social or religious organizations that conduct fund raising, social or religious activities on real property which is owned and regularly used by such persons, families or groups for such activity. An activity enumerated below, held on property which is leased or borrowed for the purpose of conducting the activity shall be presumed to be a 'temporary business use' which is subject to the requirements of this Section.

Temporary business uses shall not necessarily require an intent to earn a profit by operation thereof and shall include the following activities:

- (i)** Batching plant, including portland cement, concrete or asphalt.
- (ii)** Construction building or construction materials yard.
- (iii)** Real estate tract sales office.
- (iv)** Flea market or swap meet.
- (v)** Concerts, musical performances, plays and other performing arts events.
- (vi)** Circus or carnival.
- (vii)** Movie or video filming operations involving a combined crew, cast and extras of greater than 10 persons, except that one permit may be acquired for a single movie or video filming operation at different locations over a 6 month period provided the applicant informs the

Douglas County Sheriff of each filming location 24 hours prior to commencing filming operations.

- (viii) Other temporary business uses not otherwise permitted in the district in which the real property is located.

(2) APPLICATION PROCEDURE

An applicant for a temporary business use permit shall make application to the office of the Director of Zoning and Codes no less than 28 days before the date of the proposed temporary business use. For good cause shown, the Board of County Commissioners may allow an application to be filed on shorter notice. All applications shall be accompanied by a non-refundable application fee in an amount set by resolution of the Board of County Commissioners. In the application the applicant shall identify each sponsor of or other persons with a financial interest in the proposed activity.

(i) TEMPORARY BUSINESS USE PLAN

Each temporary business use application shall be accompanied by 10 copies of a plan in which the applicant explains the activity, the number of persons anticipated to attend, the location of the event, and detailed information concerning the applicant's plans and procedures for the following:

- a** Controlling traffic, parking and road conditions during the event, including provisions for off-road parking;
- b** Addressing health and sanitation concerns at the site, including toilet and drinking water facilities and supplies adequate to meet the anticipated crowd plus a reasonable allowance for additional persons, including certification by Lawrence-Douglas County Health Department that all sanitation and health concerns have been adequately addressed in the applicant's plans;
- c** Providing adequate illumination at the site if the event is to be held at night;
- d** Providing adequate security at the site, including the hiring of private security guards;
- e** Providing adequate fire safety precautions at the site, including consultation with the township fire department and approval prior to the activity;
- f** Evidence that the applicant has secured or can secure adequate general liability and property insurance coverage for the event; and

- g** If applicable, the serving of alcoholic beverages, including cereal malt beverage.

(ii) PUBLIC NOTICE REQUIREMENTS

Upon receipt of the application for a temporary business use permit, the Director of Zoning and Codes shall notify the applicant of the date scheduled for a public hearing on such application before the Board of County Commissioners. No less than 10 days prior to the public hearing the Director shall send notice of the date, time and place of the hearing by first class mail to the following persons:

- a** The owners and occupants of properties within 1,000 feet of the boundaries of the site at which the proposed use will occur; and,
- b** The owners and occupants of residential structures served by driveways which take access from the public road which shall serve as the primary access to the proposed site and that are within 1 mile of the main entrance to such site.
- c** The public notice provided for herein also shall contain a copy of the temporary business use plan required in Section 12-306(b)(2)(i) or a summary thereof and shall include a statement that additional information may be obtained from the Zoning and Codes Office. The failure of any of the above described persons to receive the notice shall not invalidate any proceedings held concerning a temporary business use permit application. The notice required by this subsection shall only be required to be sent to the non-owner occupants of properties described herein if the names and addresses of such persons can be ascertained from records of the County that are available to the Director of Zoning and Codes.

(iii) PUBLIC HEARING AND DECISION BY BOARD

Each application for a Temporary Business Use Permit shall be exempt from the Conditional Use Requirements of Section 12-307(a) but the application shall be the subject of a public hearing before the Board of County Commissioners on the date and at the time and place set out in the notice required to be given under Section 12-307(b)(2)(ii). After the public hearing, the Board may approve or deny the permit, or the Board may continue the hearing or defer a decision on the permit application until a subsequent meeting.

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

(iv) PERMIT NOT ASSIGNABLE

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

(c) TYPE I HOME OCCUPATIONS

- (1)** A permit is required for Type I Home Occupations. The application form is available from the Douglas County Zoning and Codes Office. Upon receipt by the Zoning and Codes office of a completed application form, the compliance of the requested occupation will be reviewed with the conditions in this section. A Type I Home Occupation permit will be issued for a use if it is found to be compliant with the conditions and standards in these Regulations. The Type I Home Occupation use permit is valid for a period of twelve months from the date of issuance.
- (2)** To renew the permit, a renewal application form must be filed at the Douglas County Zoning and Codes Office. Renewal of a Type I Home Occupation Permit for the same use can be requested either by mail or in person. It is the responsibility of the Type I Home Occupation business owner to annually renew the use permit. The fees charged for the initial permit and for the renewal permit are based on a separate Fees and Enforcement Policy resolution adopted by the County Commission.

(d) TYPE II HOME OCCUPATIONS

- (i)** A permit is required for Type II Home Occupations. The registration and approval process is an administrative procedure. The application form, available from the Douglas County Zoning and Codes Office, must be filled out and submitted to the Zoning and Codes office. Upon submittal of a completed application, the Zoning and Codes Director will verify that the requested use is compliant with the provisions of this Section. The use permit is valid for 12 months.
- (ii)** This is an annual registration and permit process. It is the responsibility of the Type II Home Occupation owner to annually

renew the Permit. After initial registration and issuance of a permit, the renewal of the registration and permit may be either by mail or in person. Fees for the initial registration and use permit and for renewal of the registration and permit are based on a separately adopted Fees and Enforcement Policy Resolution by the County Commission.

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

(e) APPEALS OF ADMINISTRATIVE DECISIONS CONCERNING HOME OCCUPATIONS

(1) PURPOSE

To provide aggrieved business owners an opportunity to appeal determinations made by the Douglas County Zoning and Codes Director.

(2) APPEALS FROM DECISIONS OF DOUGLAS COUNTY ZONING AND CODES DIRECTOR

Any person owning a home business that is dissatisfied with the final determination of the Douglas County Zoning and Codes Director as it relates to the applicability of Sections 12-306(s) and 12-306(t) to such person's home business, may appeal such determination to the Douglas County Commission. The provisions in 12-306(s) and 12-306(t) are not provisions that can be appealed to Board of County Commissioners.

(3) APPOINTMENT OF COUNTY COMMISSIONER TO ACT FOR COUNTY COMMISSION

The Board of County Commissioners may, from time to time, appoint a hearing officer to hear and decide appeals made pursuant to Section 12-307(f)(2). In the event that there is a single Commissioner so appointed, the decision of that Commissioner shall be deemed to have been made by the entire Douglas County Commission and the aggrieved person shall have no right to appeal to the entire Commission.

(4) APPEALS FROM BOARD OF COUNTY COMMISSIONERS

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

(5) FINAL DETERMINATION OF APPEAL NOT PREREQUISITE TO ENFORCEMENT

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

(f) SITE PLAN APPROVAL

(1) PURPOSE AND INTENT

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

(2) WHEN REQUIRED

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

- a** Whenever development, other than residence and accessory buildings occurs;
- b** Whenever a use is altered, changed or intensified in a manner that increases parking, or outside storage requirements;
- c** Whenever the parking area, access aisles or circulation pattern is varied, and
- d** Whenever a site plan is required in any other part of the Zoning Regulations.

(i) No building permit shall be issued for the erection or alteration of a structure or building meeting any of the criteria above until a site plan has been submitted and approved as set forth herein.

(ii) Residential uses are hereby expressly exempted from the provisions of this article.

(3) APPLICATION

A pre-submittal meeting is required with a member of the Planning Staff 7 days prior to the submittal of the site plan application. A site plan application, 10 copies of the site plans, and a review fee shall be submitted by the property owner, or his certified agent, to the Planning Office. If an electronic copy of the site plan is provided, only 1 paper copy is necessary. The review fee is non-refundable.

(4) REVIEW PROCESS

The Planning Staff shall review the site plan for conformance with the

Zoning Regulations of the County, shall schedule the application on a County Commission agenda, and shall make a report, with recommendations, to the Board of County Commissioners. After receiving the report of the Planning Staff, the Board of County Commissioners shall approve the site plan, with or without conditions, deny it, or defer it for further study.

(5) SITE PLAN CONTENTS

A site plan shall:

- (i)** Be prepared per the standards of these regulations at a scale of 1 inch equals 50 feet or larger;
- (ii)** Be arranged so that the top of the plan represents north or, if otherwise oriented, is clearly and distinctly marked;
- (iii)** Plan must include a written and graphic scale and a north arrow;
- (iv)** Show boundaries and dimensions graphically, and contain a written legal description of the property;
- (v)** Show the present and proposed topography of the area by contour lines at an interval of not more than 5 feet;
- (vi)** Show, by use of directional arrow, the proposed flow of storm drainage from the site;
- (vii)** Show the location of existing and proposed structures and indicate the number of stories, gross floor area, and entrances to all structures;
- (viii)** Show the location and dimensions of existing and proposed curb cuts, access aisles, off-street parking, loading zones and walkways;
- (ix)** Indicate location, height, materials for screening walls and fences;
- (x)** List the type of surfacing and base course proposed for all parking, loading and walkway areas;
- (xi)** Show the location and size, and provide a landscape schedule of all perimeter and interior landscaping including grass, ground cover, trees and shrubs. The schedule must show that landscape materials will be no smaller or less dense than the following standards:

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

- (xii) Describe the proposed use of the site and list the number of required off-street parking spaces. If the exact use is not known at the time a site plan is submitted for review, off-street parking requirements shall be calculated by the general use group using the greatest off-street parking requirement of that use group;
- (xiii) Show the proposed location, indicate direction, and list amount of illumination of proposed lighting together with information on screening proposed for the lighting and steps taken to prevent glare;
- (xiv) Show location and dimensions of each outdoor storage area;
- (xv) Provide a note on the site plan indicating that the site plan for a public or governmental building(s) and facility(ies) has been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities, appendix A to 28 CFR part 36.

(6) CONDITIONS OF APPROVAL

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

- (i) That the proposed use is a permitted use in the District in which the property is located;
- (ii) That the proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses;
- (iii) That the vehicular ingress and egress to and from the site and circulation within the site provides for safe, efficient, and convenient movement of traffic. not only within the site but on adjacent roadways as well;
- (iv) That the site plan provides for the safe movement of pedestrians within the site;
- (v) That there is a sufficient mixture of grass, trees, and shrubs within the interior and perimeter (including public right-of-way) of the site so that the proposed development will be in harmony with adjacent land uses and will provide a pleasing appearance to the public. Any part of the site plan area not used for building, structures, parking or access ways shall be landscaped with a mixture of grass, trees, and shrubs; and
- (vi) That all outdoor trash areas are screened.

(7) ASSURANCE OF PERFORMANCE

The Board of County Commissioners may require the applicant to file a cash deposit or performance bond with the Douglas County Clerks as a condition of approval, to insure completion of approved landscaping, fencing, off-street parking, and loading, drainage and other specific items of the site plan. The amount of the performance bond shall be recommended by the Planning Staff, based upon current costs, and set by the Board of County Commissioners. If upon inspection of the completed project by the zoning enforcement officer, it is found that the conditions of the site plan have been met, the performance bond shall be released to the applicant. If the applicant does not comply within a reasonable time with the conditions of the site plan, the zoning enforcement officer shall give written notice to the applicant and the bonding company. (Reasonable time shall be determined by the life of the performance bond as stated thereupon, less 60 days.) If the conditions of the site plan have not been met 30 days prior to the expiration of the performance bond, the county shall bring such action as is necessary to insure completion of the site plan conditions. However, if the applicant can show that he has tried to the utmost of his ability to meet the conditions of the site plan within the time period allotted, but that adversities not of his making have been the cause of his failures to meet the site plan conditions, the Board of County Commissioners may require that he extend the performance bond for a specified period of time. In general, no initiation of commercial, or office activity shall take place before all of the conditions of the site plan and other provisions of the Zoning Regulations have been satisfied, except:

- (i) That consideration shall be given to seasons of the year and adverse weather conditions in requiring completion of landscaping plans before initiation of such activity. Where it has been determined that adverse weather has delayed landscaping, the commercial or office activity may commence with the provision that the landscaping must be completed within 6 months.

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

(8) APPROVED SITE PLAN CHANGE

An applicant who wishes to change an approved site plan must contact the Planning Office. If the proposed changes are of a nature that the revised site plan will be substantially similar to the approved site, the Planning Director may approve the revised site plan. If the proposed changes substantially rearrange use grouped types, parking, landscaping, drainage, lighting, etc., the applicant must apply for approval of the revised plan in the manner set forth in Section 12-307(g)(3).

(9) TIME LIMITATIONS

If no building permit is issued for the site within 2 years from the date of the site plan approval by the Board of County Commissioners, the site plan shall be and become null and void. Applicants may request the Board of County Commissioners to approve a one-year time extension if the request is submitted to the Planning Office prior to the original expiration date.

(10) ASSURANCE OF PERFORMANCE (BONDS)

The Board of County Commissioners may require the applicant to file with the County Clerk, a performance bond during the period of construction, reconstruction, or alteration, such bond to be in an amount determined by the Commissioners to be sufficient to insure completion of plans as submitted.

(g) ZONING MAP AMENDMENTS

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

(1) INITIATION

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

The Board of County Commissioners, from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. A proposal for such amendment may be initiated by the Board of County Commissioners or the Planning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Such application shall be made in compliance with the submission schedule which is available in the Planning Office.

(2) APPLICATION

Application for a zoning map amendment shall be submitted to the Planning Office upon appropriate forms available from the Planning Office. Such application shall be made in accordance with the Planning Office submission deadlines. A pre-application meeting with a member of the Planning Staff is required at least 7 days prior to the formal submission of a zoning map amendment application.

(3) APPLICATION MATERIALS

Each application for a zoning map amendment shall be accompanied by the following:

- (i)** A conceptual plan and data necessary to demonstrate that the proposed amendment is in general conformance with the

Comprehensive Plan and that the public necessity, convenience and general welfare require the adoption of the proposed amendment.

- (ii) A general location map, which shall show the location of the property in relation to at least one intersection of two public, full-maintenance roads.
- (iii) A certified list from the Douglas County Clerk for all owners of property located within 1000 feet of the subject property and located within the unincorporated areas of the county. If an amendment is proposed for lands which are adjacent to the city's limits, the area of notification shall be extended to at least 200 feet in the incorporated area.
- (iv) If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.

(4) EVALUATION CRITERIA

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

- (i) Zoning and Uses of Properties Nearby;
- (ii) Character of the Area;
- (iii) Suitability of Subject Property for the Uses to Which It has been Restricted;
- (iv) Length of Time Subject Property has Remained Vacant as Zoned;
- (v) Extent to Which Removal of Restrictions will Detrimentially affect Nearby Property;
- (vi) Relative Gain to the Public Health, Safety, and Welfare by the Destruction of the Value of the Petitioner's Property as Compared to the Hardship Imposed upon the Individual Landowners;
- (vii) Conformance with the Comprehensive Plan; and,
- (viii) Professional Staff Recommendation.

(5) PUBLIC HEARING NOTICE

Newspaper and mailed notice of the Planning Commission's public hearing shall be provided by Planning Staff.

(i) NOTICE CONTENT

All newspaper and mailed notices shall:

- a** Indicate the date, time and place of the public hearing or date of action that is the subject of the notice;
- b** Describe the property involved in the application by address or by general description;
- c** Describe the nature, scope and purpose of the application or proposal; and
- d** Include a statement that a complete legal description is available for public inspection and shall indicate where such information can be obtained.

(ii) TIMING OF NOTICE

The Planning Office is responsible for ensuring that notice is published in the official newspaper of Douglas County. The notice shall appear in the newspaper at least 20 days before the date of the public hearing.

The Planning Office is responsible for mailing notice to the owner of the subject property and all property owners listed on the certified property owner list. Required notices shall be mailed at least 20 days before the public hearing. When required notices have been properly addressed and deposited in the mail, failure of a part to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Board of County Commissioners.

(6) REVIEW PROCESS—PLANNING COMMISSION

All such proposed amendments shall first be reviewed by Planning Staff and submitted to the Planning Commission for a recommendation. The Planning Commission shall hold a public hearing.

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

The hearing may be adjourned from time to time and at the conclusion of the same, the Planning Commission shall prepare its recommendations and findings of fact. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Board of County Commissioners. If the Planning Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval.

The newspaper and mailed notice provided by the Planning office is sufficient to permit the Planning Commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning

classification of lesser change than that set forth in the notice. A recommendation of a zoning classification of lesser change than that set forth in the notice shall not be valid without re-publication and, where necessary, re-mailing, unless the Planning Commission has previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications.

(7) LESSER CHANGE TABLE

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

(8) PROTEST PETITION

If a valid protest petition is filed with the County Clerk, a super-majority vote, at least 3/4 of all the members of the Board of County Commissioners would be required for approval of the Zoning Map Amendment, regardless of the Planning Commission's recommendation.

To be valid, the protest petition must be filed in the office of the County Clerk within 14 days after the conclusion of the public hearing at the Planning Commission and must be signed by the owners of record of 20% or more of the total area required to be notified for the Zoning Map Amendment. A property owner list for the notification area of the Zoning Map Amendment can be obtained from the County Clerk's office. The protest petition forms are available in the Planning Office.

To be valid, the protest petition must be filed in the office of the County Clerk within 14 days after conclusion of the public hearing at the Planning Commission and must be signed by the owners of record of 20% or more of the total area required to be notified for the Zoning Map Amendment. A property owner list for the notification area of the Zoning Map Amendment can be obtained from the County Clerk's office. The protest petition forms are available in the Planning Office.

(9) BOARD OF COUNTY COMMISSIONERS ACTION

When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the findings of fact therefor, the Board of County Commissioners may:

- (i)** Adopt such recommendation by resolution;
- (ii)** Override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Board of County Commissioners; or

- (iii) Return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove.

If the Board of County Commissioners returns the Planning Commission's recommendations, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation and findings of fact. Upon the receipt of such recommendation, the Board of County Commissioners, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation and findings of fact by resolution, or it need take no further action thereon.

If the Planning Commission fails to deliver its recommendation to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioners' report, the Board of County Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

The proposed rezoning shall become effective upon publication of the adopting resolution.

(10) APPEALS

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

(11) LIMITS ON SUCCESSIVE APPLICATIONS

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

However, an application for the rehearing may be accepted by the Planning Commission within 12 months after a denial if it is accompanied by an affidavit setting forth facts which, in the judgment of the Planning Commission, constitute a substantial change from the original application. All requests for rehearing as provided for in this section shall be submitted to the Planning Office 15 days prior to a regularly scheduled meeting of the Lawrence-Douglas County Planning Commission and shall be included on the agenda for that meeting as non-public hearing item. If the Planning

Commission determines that the application constitutes a substantial change from the original application, the item shall be advertised and a public hearing shall be held at the next regularly scheduled meeting of the Planning Commission.

(h) TEXT AMENDMENTS

(1) INITIATION

An amendment to the text of the Zoning Regulations may be initiated by the Board of County Commissioners and the Planning Commission. Applications for text amendments by private parties shall be filed with the Planning Director and will be presented to the Planning Commission or the Board of County Commissioners for initiation. Any proposed amendment shall follow the process set forth in this section after initiation.

(2) PUBLIC HEARING NOTICE

Newspaper notice of the Planning Commission's public hearing shall be provided by Planning Staff.

(i) NOTICE CONTENT

The newspaper notice shall:

- a** Indicate the date, time and place of the public hearing;
- b** Describe the nature, scope and purpose of the application or proposal; and
- c** Include a statement that additional information can be obtained from the Planning Office.

(ii) TIMING OF NOTICE

The Planning Office is responsible for ensuring that notice is published in the official newspaper of Douglas County. The notice shall appear in the newspaper at least 20 days before the date of the public hearing.

(3) STAFF REVIEW/REPORT

The Planning Director will review each proposed text amendment. Based on the results of this review, the Planning Director will provide a report on the proposed amendment to the Planning Commission and Board of County Commissioners. The following review criteria shall be considered when reviewing the proposed text amendment:

- (i)** Whether the proposed text amendment corrects an error or inconsistency in the Zoning Regulations or meets the challenge of a changing condition; and
- (ii)** Whether the proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of these Zoning Regulations.

(4) Planning Commission's Review/Recommendation

The Planning Commission shall hold a public hearing on the proposed text amendment, review the proposed text amendment in accordance with the review criteria listed in Section 12-307(i)(3) and make a recommendation that the Board of County Commissioners approve, approve with modifications or deny the proposed amendment. The Planning Commission is also authorized to forward the proposed amendment to the Board of County Commissioners with no recommendation.

(5) Board of County Commissioner's Decision

After receiving the Planning Commission's recommendation, the Board of County Commissioners shall take one of the following actions on the proposed text amendment:

- (i)** Approve, approve with modifications, or deny; or
- (ii)** Return the application to the Planning Commission for further consideration together with a written explanation of the reasons for the Board of County Commissioner's failure to approve or disapprove.
 - a** The Planning Commission, after considering the explanation by the Board of County Commissioners, may resubmit its original recommendation with its reasons for doing so or submit a new or amended recommendation.
 - b** Upon the receipt of such recommendation, the Board of County Commissioners may, by a simple majority vote, approve the proposed text amendment, approve it with modifications, or deny it.
 - c** If the Planning Commission fails to deliver its recommendations to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioner's report, the Board of County Commissioners will consider such course of inaction as a resubmission of the original recommendations and proceed accordingly.

(6) DATE OF EFFECT

The text amendment to the Zoning Regulations will become effective upon publication of the adopting resolution.

(i) WRITTEN INTERPRETATIONS

Requests for written interpretations of these Regulations shall be submitted in writing to the Planning Director.

(1) PROCEDURE

Following the receipt of a request for a written interpretation, the Planning Director shall review and evaluate the issue for which an interpretation is

requested, consult with other staff, as necessary; request additional information or documentation as necessary and render a written interpretation.

The interpretation shall be provided to the applicant in writing and shall be filed in the official record of interpretations, which is available for public inspection.

(2) APPEALS

Appeals of the Planning Director's written interpretation may be taken to the Board of Zoning Appeals. If the appeal results in a change of interpretation, the new interpretation shall be filed in the official record of interpretations maintained by the Planning Director. The appeal must be filed with the Board of Zoning Appeals within 10 working days after the Planning Director's decision. Appeals may be filed by any person aggrieved, any officer of the County, or any governmental agency or body affected by any interpretation. The procedure for filing appeals is contained in Section 12-307(b)(9).

Section 12-308 NONCONFORMITIES

(a) GENERAL

(1) SCOPE

The regulations of this Section govern uses, structures, lots, signs and other situations that came into existence legally but that do not conform to one or more requirements of the Zoning Regulations. These are referred to in the Zoning Regulations as "nonconformities." Nonconformities are legal situations and have legal status under the Zoning Regulations.

(2) GENERAL POLICY

To encourage development consistent with the Zoning Regulations and to provide landowners with reasonable use of their land, it is the general policy of the County to allow uses, structures, signs, lots and other situations that came into existence legally, in conformance with then-applicable requirements, to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with these existing Regulations as is reasonably possible. Provided, however that where a previously complying building or structure no longer complies with these Regulations solely because of a governmental taking or acquisition, including dedication of additional easement for road right-of-way or road easement as required in Section 11-110(d)(4)(ii) of the Subdivision Regulations, the failure to comply created by the taking, acquisition, or dedication shall not create or constitute a nonconformity.

(3) INTENT

The regulations of this Section are intended to:

- (i)** Recognize the interests of landowners in continuing to use their property;
- (ii)** Promote reuse and rehabilitation of existing buildings; and
- (iii)** Place reasonable limits on the expansion and alteration of nonconformities that have the potential to affect adversely surrounding properties or the County as a whole.

(4) AUTHORITY TO CONTINUE

Any nonconformity that existed at the adoption of these Regulations or any legal use that becomes nonconforming upon the adoption of any amendment to these Regulations, may be continued in accordance with the provisions of this Section.

(5) DETERMINATION OF NONCONFORMITY STATUS

The burden of proving that a nonconformity exists rests with the subject landowner.

(6) REPAIRS AND MAINTENANCE

- (i) Incidental repairs and normal maintenance necessary to keep a nonconforming structure in sound condition are permitted unless such repairs are otherwise expressly prohibited by these Zoning Regulations.
 - (ii) Nothing in this Section will be construed to prevent structures from being structurally strengthened or restored to a safe condition, in accordance with an official order of the County Zoning and Codes Office or the Lawrence-Douglas County Health Department.
- (7) **Change of Tenancy or Ownership**
Nonconformity status runs with the land and is not affected by changes of tenancy, ownership, or management.

(b) NONCONFORMING USES

(1) DEFINITION

A nonconforming use is a land use that was legally established, but that is no longer allowed by the use regulations of the zoning district in which it is located.

(2) EXPANSION OR CHANGES

- (i) A nonconforming use shall not be changed unless:
 - a Such changes is required by law or order;
 - b The use is changed to a use permitted in the district in which it is located;

A nonconforming use may be changed to another similar or less intensive use if reviewed and approved by the Planning Director upon a finding that the new use is no more intensive in character than the original nonconforming use.
 - c Authority has been granted by the Board of County Commissioners to extend a nonconforming use throughout those parts of a building which were manifestly designed or arranged for such prior to the date when such use or building became nonconforming; or,
 - d The change has been authorized by the Board of Zoning Appeals in accordance with the authority granted in Article 12-309(b)(4).
- (ii) Nonconforming use expansion of a residential use may be allowed only when
 - a the expansion does not increase the number of dwelling units,
 - b does not exceed 50 percent of the floor area of the original use; and
 - c complies with all setback and height standards of the

applicable Zoning District.

(iii) Nonconforming use expansion of non-residential uses may be allowed only when:

- a** the expansion does not exceed 25 percent of the floor area of the original use;
- b** does not encroach into an A, A-1 or R-1 Zoning District,;
- c** complies with setback and height standards of the applicable Zoning District; and
- d** complies with all off-street parking and loading requirements.

(3) MOVING

A nonconforming use may not be moved in whole or in part to another location on the premises unless the movement or relocation eliminates or decreases the extent of nonconformity.

(4) LOSS OF NONCONFORMITY STATUS

(i) When a nonconforming use is abandoned, the uses nonconforming status is lost and any subsequent use of the premises shall comply with the regulations of the Zoning District in which it is located. A nonconforming use will be considered abandoned when any of the following occurs:

- a** the intent of the owner to discontinue the use is apparent;
- b** the use has been discontinued for a period of 12 months or more;
- c** the characteristic equipment and furnishings associated with the nonconforming use have been removed from the premises and have not been replaced by similar equipment within 90 days, unless other facts show intention to resume the nonconforming use;
- d** the nonconforming use has been replaced by a conforming use; or
- e** a Building Permit to reconstruct a damaged nonconforming use in accordance with Section 12-308(b)(3)(iii) has not been secured within 12 months of the date of occurrence of such damage or construction under that permit has not been diligently pursued.

(ii) When a building or structure, the use of which does not conform to the provisions of these Zoning Regulations, is damaged to the extent of more than 50 percent of its fair market value, the use may not be restored except in conformity with the regulations of the Zoning District and any applicable overlay district.

- (iii) A building permit to reconstruct a damaged structure shall be obtained within 12 months of the date of occurrence of such damage or demolition, and once issued, construction shall be diligently pursued.
- (iv) Whenever a nonconforming use has been changed to a conforming use, the nonconforming status is lost and any subsequent use of the property shall comply with the regulations of the zoning district in which it is located.

(5) Accessory Uses

A use which is accessory to a principal nonconforming use shall not be continued after the principal use has been abandoned, unless the accessory use is a permitted use in the Zoning District in which it is located and it complies with applicable standards and regulations of that Zoning District.

(c) NONCONFORMING BUILDINGS OR STRUCTURES

(1) Definition

A nonconforming building or structure is a building or structure that was legally established, but no longer complies with the Height, Area and Bulk Standards of these Regulations. Provided, however, that where a previously conforming structure no longer conforms with the regulations of these Regulations as a result of the adoption of amendments to Section 12-305(b) Height, Area and Bulk Requirements or through the dedication of additional easement for road right-of-way or road easement as required in Section 11-810(d)(4)(ii) of the Subdivision Regulations, the lawful use may be continued although the building or structure does not conform to the these Regulations.

(2) STRUCTURAL ALTERATIONS

- (i) No nonconforming building or structure shall be changed, enlarged, or otherwise structurally altered unless:
 - a The change or enlargement does not increase the extent of nonconformity;
 - b Such change is required by law or order;
 - c A building or structure which was made nonconforming solely by its failure to satisfy setback requirements along road frontage(s) because of the granting, dedication or condemnation of required public road easement for right-of-way; may be changed, extended, enlarged or structurally altered if the change does not further reduce existing building or structure's setback from the road right-of-way or road easement or otherwise expand its nonconformity; or
 - d The change or expansion has been authorized by the Board

of Zoning Appeals in accordance with the authority granted in Section 12-309(b)(4);

- (ii) When a structure is nonconforming because it encroaches into a required side or rear setback, this provision will be interpreted as allowing other portions of the structure to be expanded out to the extent of the existing encroachment, as long as there is no greater encroachment into a required setback.
- (iii) When a structure is nonconforming because it encroaches into a required front setback, this provision will be interpreted as prohibiting other portions of the structure from being expanded out to the extent of the existing encroachment.

(3) USE OF NONCONFORMING STRUCTURE

A nonconforming structure may be used for any use allowed in the Zoning District and any applicable overlay district.

(4) MOVING OR RELOCATION OF A NONCONFORMING STRUCTURE

A nonconforming structure may be moved in whole or in part to another location on the premises only if the movement or relocation decreases or eliminates the nonconformity.

(5) DAMAGE OR DESTRUCTION OF A NONCONFORMING STRUCTURE

- (i) Any non-residential building damaged by more than 50% of its fair market value shall not be restored if the use of such building is not in conformance with these Zoning Regulations.
- (ii) Residential nonconforming buildings or structures damaged by more than 50% of its fair market value shall be permitted to rebuild except when located in the floodway overlay district. The building or structure may not be rebuilt to a greater density than existed before the damage. Rebuilding shall not be allowed unless setback and parking requirements of the district are met, provided however, that rebuilding of a nonconforming residential building to which Section 12-308(a)(2) is applicable may rebuild on the existing foundation as long as the rebuilding does not further reduce the setback to the public road, or otherwise expand its nonconformity. Reconstruction must be completed within 12 months of the time the damage occurred.

(6) REPAIRS TO NONCONFORMING STRUCTURES

Such repairs and maintenance work as are required to keep it in sound condition may be made to a nonconforming building or structure, provided, that no structural alterations shall be made except such as are required by law or regulation or expressly permitted by these Regulations.

(7) Loss of Nonconforming Status;

Once a nonconforming structure is abandoned, its nonconforming status is lost and the structure, or any replacement, shall comply with the regulations of the Zoning District in which it is located, even if the compliance means that the structure shall not remain and no replacement structure may be constructed. A nonconforming Structure will be considered abandoned when any of the following occurs:

- (i) The intent of the owner to discontinue all uses in the structure is apparent;
- (ii) no use has been maintained in the structure for a period of 12 months or more and no concerted effort has been undertaken by the owner to maintain the use
- (iii) All equipment and furnishings have been removed from the premises and have not been replaced by similar or other equipment and furnishings within 90 days, unless other facts show intention to resume use of the structure; or
- (iv) a building permit to reconstruct a damaged nonconforming structure in accordance with Section X has not been secured within 12 months of the date of occurrence of the damage, or construction under that permit has not been diligently pursued.

(8) Accessory Structures

A structure accessory to a principal nonconforming structure shall not be continued after the principal structure has been abandoned, unless the accessory structure is a permitted structure in the Zoning District in which it is located and it complies with applicable standards and regulations of that Zoning District.

(d) NONCONFORMING LOTS OR ELIGIBLE PARCELS

(1) DEFINITION

A nonconforming lot or eligible parcel is a tract of land, designated on a duly recorded subdivision plat or by a duly recorded deed, or by other lawful means, that was established prior to adoption of the County's first zoning regulations or that complied with all applicable area, width and depth standards of the Zoning District in which it was located at the time of its creation, but which does not comply with the minimum area, width and depth requirements of the zoning district in which it is now located.

(2) DEVELOPMENT

A lot that is nonconforming as to the required minimum dimensions, for the zoning district may be developed to the extent that the development can be accomplished in accordance with the other standards set out in this Section.

(3) REDUCTION NOT PERMITTED

The owner of a nonconforming lot shall not take any voluntary action that will further reduce the lot area. Any such action by the owner may be

prosecuted as a violation of these Regulations.

(4) USE

A nonconforming lot may be used for any use allowed in the zoning district.

SECTION 12-309 THE BOARD OF ZONING APPEALS

(a) ORGANIZATION

- (1)** The Board of Zoning Appeals previously created, shall continue in effect with the powers and authority provided in this section. The Board shall consist of five members, all of whom shall be residents of that portion of the unincorporated areas of Douglas County; one member may be a member of the Planning Commission. Members are to be appointed by the Board of County Commissioners and shall serve without compensation. Members shall be appointed for terms of three years each. Vacancies shall be filled by appointment for the unexpired term. The Board of Zoning Appeals shall adopt rules for the conduct of its business and such rules shall be made available to the public. An affirmative vote of a majority of the Board of Zoning Appeals shall be required to overrule any decision, ruling, or determination of the official charged with enforcement of these Regulations or to approve any special exception or variance.

(b) POWERS

(1) APPEALS

The Board of Zoning Appeals shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this resolution.

(2) EXCEPTIONS

The Board of Zoning Appeals shall have the power to hear and decide special exceptions to the provisions of the Zoning Regulations in those instances where the Board of Zoning Appeals is specifically authorized to grant such exceptions, and only under the terms of these Zoning Regulations. In no event shall exceptions to the provisions of these Zoning Regulations be granted where the use or exception contemplated is not specifically listed as an exception in these Zoning Regulations. Under no conditions shall the Board of Zoning Appeals have the power to grant an exception when conditions of such exception, as established in these Zoning Regulations are not present.

(3) VARIANCES

A variation in the yard requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, at the time of the enactment of such regulations or restriction, or by reason of exceptional topographical conditions or other extraordinary and exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and

exceptional practical difficulties to, or exceptional hardship upon, the owner of such property. Such grant or variance shall comply, as nearly as possible, in every respect with the spirit, intent, and purpose of the zoning plan; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, or profit.

The Board of Zoning Appeals shall have the power to grant a variance from the specific terms of these Regulations. A variance may not permit any use not permitted by the Zoning Regulations in such district. A variance may be granted on a case-by-case basis if the Board of Zoning Appeals finds that all of the following conditions have been met:

- (i) That the variance requested arises from a condition which is unique and which is not ordinarily found in the same zoning district; and is created by these Regulations and not by an action or actions of the property owner or the applicant;
- (ii) That the granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (iii) That the strict application of the provisions of these Regulations will constitute unnecessary hardships upon the property owner represented in the application;
- (iv) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and,
- (v) That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

(4) EXCEPTIONS FOR NONCONFORMING USES

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

- (i) A nonconforming commercial use to extend over the entire eligible parcel or a larger portion of the eligible parcel where there is now a commercial use on a portion of the eligible parcel.
- (ii) A nonconforming commercial use on a property between two

eligible parcels which are legally used for commercial uses.

- (iii) A nonconforming use in any part of a building to be extended vertically or laterally to other portions of the building. In a building occupied by a nonconforming commercial or industrial use, the nonconforming use of the same classification may be expanded to the remainder of the building.
- (iv) The expansion of an existing nonconforming building and the existing use thereof, upon the eligible parcel occupied by such building or erection of an additional building upon an eligible parcel occupied by a nonconforming commercial or industrial establishment and which additional building is an integral part of such establishment.
- (v) Where a zoning district boundary line crosses an eligible parcel, a use of either classification on the whole eligible parcel within 100 feet of said district boundary line.
- (vi) Off-street parking areas, adjacent to or at a reasonable distance from the premises on which parking areas are required by the parking regulations of these Regulations where practical difficulties, including the acquisition of property, or undue hardships are encountered in locating such parking areas on the premises and where the purpose of these Regulations to relieve congestion in the streets would best be served by permitting such parking off the premises.
- (vii) To waive or reduce the parking and the loading requirements in any district whenever the character or use of the building is such as to make unnecessary the full provision of parking or loading facilities, or where such regulations would impose an unreasonable hardship upon the use of the property.
- (viii) An exception to the sign requirements in the LI (Limited Industrial) District.

(5) SPECIAL YARD AND HEIGHT EXCEPTIONS

The Board of Zoning Appeals may approve the following special yard exceptions, if the Board of Zoning Appeals finds that such exception will not substantially adversely affect the legal uses of adjacent and neighboring property provided such exceptions are approved by the Board of Zoning Appeals:

- (i) An exception in the yard regulations on a lot or eligible parcel where there is a front, side, or rear yard on the adjacent lot or

eligible parcel that does not conform with such yard regulations.

- (ii) A yard exception on a corner lot or eligible parcel, or eligible parcels that are opposite or adjoining permanent open spaces, including parks and playgrounds.
- (iii) An exception in the depth of rear yard on a lot or eligible parcel where there are nonconforming rear yard conditions on adjacent or neighboring lots or eligible parcels.
- (iv) An exception to the height regulations in the LI (Light Industrial) District.

(6) ADDITIONAL CONDITIONS

In permitting special exceptions, granting variances, or hearing and deciding appeals, as the case may be, the Board of Zoning Appeals may limit or condition its approval, authorization, or decision upon any one or more of the following specifications:

- (i) No outside signs or advertising structures except professional or directional signs.
- (ii) Limitation of signs as to size, type, color, location, or illumination.
- (iii) Amount, direction, and location of outdoor lighting.
- (iv) Amount and location of off-street parking and loading space.
- (v) Cleaning and painting.
- (vi) Gable roof or other type.
- (vii) Construction and materials.
- (viii) Connected or disconnected with other buildings.
- (ix) Exits or entrances, doors, and windows.
- (x) Paving, shrubbery, landscaping, or ornamental, or screening fence, wall, or hedge.
- (xi) Time of day or night for operating.
- (xii) No store front.
- (xiii) No structural changes.

(xiv) Control or elimination of smoke, dust, gas, noise, or vibration caused by operations.

(xv) Such other conditions as are necessary.

(7) LAPSE AND EXTENSION OF EXCEPTION OR VARIANCE

(i) After the Board of Zoning Appeals has approved an exception or granted a variance, the exception or variance so approved or granted shall lapse after the expiration of one year if no substantial construction or change of use has taken place in accordance with the plans for which such exception or variance was granted.

(ii) For good cause shown, the expiration date may be extended by the Board of Zoning Appeals for a period not to exceed 6 months. The application for extension or modification may be made by letter to the Director of Zoning and Codes and will be considered only if received before the expiration date of the variance. The Director of Zoning and Codes shall place such request on the agenda of the Board of Zoning Appeals. The Director of Zoning and Codes shall notify the applicant by first class mail of the date of the proposed consideration by the Board of Zoning Appeals. On that date the Board of Zoning Appeals shall hear from the applicant and may hear from other interested parties. Only one such extension may be granted.

(8) MEETINGS

The Board of Zoning Appeals shall annually elect 1 of its members as chairperson. The Board shall appoint a secretary who may be an officer or an employee of Douglas County and shall adopt rules in accordance with the provisions of any resolution of the Board of County Commissioners. Meetings of the Board of Zoning Appeals shall be held at the call of the chairperson, and at such other times as the Board of Zoning Appeals may determine. The chairperson, or in his absence the acting chairperson, may administer oaths. The Board of Zoning Appeals shall keep minutes of its proceedings, showing evidence presented, the findings of fact by the Board of Zoning Appeals, the decision of the Board of Zoning Appeals, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the Zoning and Codes Office and shall be a public record.

(9) PROCESS

The Board of Zoning Appeals shall administer the details of appeals from or other matters referred to it regarding the application of the Zoning Regulations as herein provided. The Board shall fix a reasonable time for the hearing of an appeal or any other matter referred to it. Notice of the time, place and subject of such hearing shall be published once in the

official county newspaper at least 20 days prior to the date fixed for hearing. A copy of the notice shall be mailed to each party to the appeal and to the Planning Commission.

(10) APPEALS

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

Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the county or any governmental agency or body affected by any decision of the officer administering the provisions of the Zoning Regulations. Such appeal shall be taken within 10 working days, by filing a notice of appeal specifying the grounds for the appeal and the payment of the required fee. The officer from whom the appeal is taken, shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.

(11) APPEAL OF A DECISION FROM THE BOARD OF ZONING APPEALS

Any person, official or governmental agency dissatisfied with decision of the Board of Zoning Appeals may appeal to the District Court to determine the reasonableness of any such order or determination. Such appeal shall be filed within 30 days of the final decision of the Board of Zoning Appeals.

(12) FLOODPLAIN MANAGEMENT VARIANCES

(i) Variances from the floodplain management regulations may be granted by the Board of Zoning Appeals; however, variances shall not be issued within the regulatory floodway if any increase in flood levels during the regulatory flood would result. In approving a variance request, the Board of Zoning Appeals shall consider all technical evaluations, all relevant factors, and standards specified in Section 11 of these Regulations and meeting the terms of K.S.A. 12-734. In addition, the following factors shall be considered:

- a** The danger of injury from materials swept onto other lands;
- b** The danger of life and property due to flooding or erosion damage;
- c** The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the

individual owner or occupant;

- d** The importance of the services provided by the proposed facility to the community;
- e** The necessity to the facility of a waterfront location, where applicable;
- f** The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- g** The compatibility of the proposed use with existing and anticipated development;
- h** The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- i** The safety of access to the property in times of flood for ordinary and emergency vehicles;
- j** The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- k** The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges; and,
- l** Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures below the regulatory flood level, providing items (1) to (11) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(ii) CONDITIONS

Upon the consideration of the above factors and purposes of this Section the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary.

(iii) VARIANCE REQUIREMENTS

- a** Variances shall be issued only upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.
- b** Variances shall be issued only upon (1) a showing of good

and sufficient cause, (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or in victimization of the public, or conflict with existing local laws or ordinances.

- c** Any applicant to whom a variance is granted shall be given a written notice that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- d** The Director of Zoning & Codes shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request.

SECTION 12-310 CERTIFICATES, PERMITS AND FILING FEES

(a) CERTIFICATES OF OCCUPANCY

No vacant land shall be occupied or used, except for those agricultural uses which qualify for an agricultural exemption, a certificate of occupancy shall have been issued by the administrative officer.

- (1)** No premises shall be used, and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use, except for those agricultural uses which qualify for an agricultural exemption, until a certificate of occupancy has been issued by the Director of Zoning and Codes, stating that the building or proposed use of a building or premises complies with the building laws and the provisions of these regulations.
- (2)** Certificates of occupancy shall be applied for coincident with the application for a building permit and shall be issued within 10 days after the erection or structural alteration of such buildings shall have been completed in conformity with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the Director of Zoning and Codes.
- (3)** No permit for excavation for any building shall be issued before application has been made for certificate of occupancy.
- (4)** A certificate of occupancy shall be required of all nonconforming uses. Application for a certificate of occupancy for any uses which become nonconforming uses as a result of the requirements of this Resolution shall be filed with the administrative officer within 12 months from the effective date of these Regulations.

(b) BUILDING PERMITS

- (1)** No building or mobile home shall be erected, constructed, structurally altered, moved, converted, extended or enlarged, except for ordinary repairs, without the owner or owners first having obtained a building permit or an exemption in accordance with Section 106.2 of the County Code, established by Home Rule Resolution No. 07-4-3 in the case of agricultural structures, from the Director of Zoning and Codes. Such permit shall require conformity with the provisions of these Regulations. When issued, a building permit shall be valid for a period of 6 months.
- (2)** No building permit by the Director of Zoning and Codes, lawfully issued prior to the effective date of these Regulations, or of any amendment hereto, and which permit, by its own terms and provisions, is in full force and effect at said date, shall be invalidated by the passage of these Regulations, or any such amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions and resolutions, rules, and regulations appertaining thereto, and in effect at the

time of the issuance of said permit; provided that all such permits shall expire not later than 60 days from the effective date of these Regulations, unless actual construction has begun and continued pursuant to the terms of said permit.

(3) GRANTING OF BUILDING PERMITS IN THE VALLEY CHANNEL OR FLOOD PLAIN OVERLAY DISTRICTS

The granting of a building permit for the erection, moving in, altering, or enlarging of any building or structure in a Valley Channel or regulatory flood plain shall not constitute a representation or warranty of any kind or nature by the Douglas County or any agency or employee thereof; of the practicability or safety of any action or improvement described by such permit and shall create no liability upon or course of action against the County or any agency or employee thereof for any damage that may result pursuant thereto

(4) INTERIOR REPAIRS OR REMODELING

No building permit will be required to repair or remodel the interior of a building as long as exterior walls or roof lines are not altered.

(4) PENALTY

Any person who fails to obtain a building permit prior to commencing construction or moving a mobile home on the property shall pay a fee in addition to the cost of the building permit. The fee is set by the Board of County Commissioners and is listed on the fee schedule at the Zoning and Codes Office.

(5) BUILDING PERMIT COST

The cost of a building permit for a mobile home, manufactured home, a residential dwelling, a residential design manufactured home, moved home, or a converted home shall be based upon the adopted County Building Code.

The cost of a building permit for a quasi-public, commercial or industrial building shall be based upon valuation as determined by the data contained in the latest bimonthly publication entitled "Building Standards." Public agencies shall be exempt from a building permit fee.

Once the building valuation has been determined, the building permit fee shall be calculated from the Building Permit Fees table which is available at the Zoning and Codes Office.

(6) CONSTRUCTION REQUIREMENTS

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

- (i)** Provide a minimum floor area of 800 square feet for each family.
- (ii)** Provide for each family a kitchen sink and a water closet installed in

a room or compartment separated from other portions of the dwelling by partitions extending from floor to ceiling with entrance provided by a solid door. All water closets and kitchen sinks shall be connected with a water supply and sewage disposal system to be approved by the Director of Zoning and Codes.

- (iii) Provide framing for the structure that develops strength and rigidity capable of withstanding winds of 20 pounds per square foot pressure, and provide framing for the roof capable of supporting a live load of 30 pounds per square foot plus the structural dead load.
- (iv) Provide exterior wall surfacing of brick, stone, concrete, concrete blocks, wood siding, or other similar durable and satisfactory materials but not of tar paper, canvas, cardboard, corrugated metal, unfinished slab siding, or other similar temporary or unsubstantial materials.

(7) OTHER INSPECTION AND FEES

Other inspection and fees shall be set by the Board of County Commissioners and a fee schedule is available at the Zoning and Codes Office.

Additional fees will apply to the following:

- (i) Inspections outside of normal business hours;
- (ii) Reinspection;
- (iii) Additional plan review required by changes, additions, or revisions to approved plans.

(8) APPLICATION MATERIALS

All applications for building permits shall be accompanied by a drawing or plat in duplicate or as required by the Director of Zoning and Codes, showing the following:

- (i) Location of proposed building(s) on the lot or eligible parcels, required street right-of-way line, base setback line, and required yard setback line. If necessary, a boundary survey prepared by a licensed surveyor shall be included.
- (ii) All easements, public or private; on-site sewage management system; source of potable water supply and location.
- (iii) The drawings shall contain suitable notation indicating the proposed use of all lands and buildings.
- (iv) Vicinity sketch showing relationship of parcel to surrounding lands and existing road network.
- (v) Title block, which shall include a north arrow, date, legal description of the property, name of owner, and scale.
- (vi) Scale of drawings: For a parcel containing one acre or less-- 1" = 50'; over one--acre 1" = 100'.

- (vii) A complete set of construction plans.
- (viii) Road access entrance location, culvert size, and materials, as approved by the Douglas County Public Works Department, Kansas Department of Transportation, or Township Board, as appropriate.

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

(c) FILING FEES

(1) APPEALS TO THE BZA

All persons, firms, or corporations (except any Federal or State governmental agency or any political subdivision thereof) appealing to the Board of Zoning Appeals shall be required to pay, in advance, a review fee. A fee schedule is available from the Zoning and Codes Office. No part of the review fee shall be refunded after review of the request has begun.

(2) PUBLIC HEARING ITEMS

All persons, firms, or corporations (except any Federal or State governmental agency or any political subdivision thereof) applying for a Conditional Use Permit, or a change in the classification of the district or a portion thereof, necessitating the publication of notices in the newspaper shall be required to pay, in advance, a review fee for expenses relative thereto. A fee schedule is available from the Planning Office. No part of the review fee shall be refunded after review of the request has begun.

(3) PUBLICATION FEE

If a proposed amendment is approved by the Board of County Commissioners, the property owner shall pay to the Director of Zoning and Codes a publication fee before the resolution is published. A fee schedule is available from the Zoning and Codes Office.

SECTION 12-311 FLOODPLAIN MANAGEMENT REGULATIONS

(a) STATEMENT OF PURPOSE AND INTENT

(1) STATEMENT OF PURPOSE

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

(2) STATEMENT OF INTENT

(i) The intent of these regulations is to avoid additional costs for home owners upon annexation and to minimize losses due to floods or flood waters by provisions designed to:

- a** Prohibit the placement of fill, materials, and structures which would obstruct flood flows and decrease the storage capacity of the regulatory floodway unless it can be demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b** Require structures in the floodplain and public utilities vulnerable to floods be provided with flood protection at the initial construction stage.
- c** Protect individuals from the purchase of lands rendered unsuitable for intended uses by their proximity to floodplain.
- d** Minimize public expenditures for flood control projects and damage to public improvements within the regulatory floodplain.
- e** Maintain property values adjacent to the floodplain and minimize flood blight areas.
- f** eligibility for property owners in the Federal Flood Insurance Program.

(ii) These regulations are designed and intended to be administered in a manner which will:

- a** Restrict or prohibit uses dangerous because of water and erosion hazards or which will result in undue increases in erosion, flood heights, or velocities.

- b** Control grading (fill or excavation), dredging, and development which may unduly increase the potential for flood damage.
- c** Require that uses protect private and public investments by requiring flood proofing.
- d** Control alteration of floodplains, stream channels and natural barriers which accommodate or channel floodwaters.
- e** Prevent or regulate construction of barriers that unnaturally divert flood waters or cause increased flood hazards. Construction in floodplains should be directed to the outer limits of the floodway fringe before it is allowed to encroach further into the floodplain.

(b) FLOODPLAIN OVERLAY DISTRICTS

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

The Floodplain Overlay Districts consist of: the "F-W" Floodway Overlay District; and, the "F-F" Floodway Fringe Overlay Districts.

(1) FLOODPLAIN OVERLAY DISTRICTS MAP

The official floodplain overlay districts map shall be used in conjunction with the official zoning districts map. The official floodplain overlay districts map shall show the boundaries of the "F-W" Floodway and the "F-F" Floodway Fringe Overlay Districts. These boundaries shall be consistent with the regulatory floodway and regulatory floodway fringe as identified by the Federal Emergency Management Agency (FEMA) through a scientific and engineering report entitled, "The Flood Insurance Study for the County of Douglas, Kansas, and Incorporated Areas November 7, 2001," with the accompanying Flood Insurance Rate Maps and revisions thereto.

(c) FLOOD INSURANCE

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

(d) FLOODPLAIN DEVELOPMENT WITHIN THE CITY OF LAWRENCE URBAN GROWTH AREA (UGA)

(1) DEVELOPMENT OF PROPERTY IN THE FLOODPLAIN OVERLAY DISTRICT

Development of land or subdivision of property (including minor subdivisions) within the City of Lawrence Urban Growth Area (UGA) and a floodplain overlay district shall be permitted only where an approved hydrologic and hydraulic study demonstrates that there will be no rise in the base flood elevation and no increase in flood velocities at any point

resulting from the proposed development.

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

(2) FLOODWAY RESTRICTIONS.

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

- (i) Flood control and stormwater management structures;
- (ii) Road improvements and repair;
- (iii) Utility easements/Rights-of-way; and,
- (iv) Public improvements or public structures for bridging the floodway.

(3) HYDROLOGIC AND HYDRAULIC STUDY

- (i) Hydrologic and hydraulic studies shall comply with the following standards:
 - a The study shall be signed and sealed by a professional engineer, licensed in the State of Kansas;
 - b The study shall be submitted for approval by the Douglas county Director of Public Works concurrent with the initial submittal of a floodplain development permit application, preliminary plat, development plan or site plan;
 - c Hydrologic and hydraulic methods of analysis shall be consistent with those used in the current Flood Insurance Study for Douglas County;
 - d The study shall extend an adequate distance upstream and downstream of the proposed development to encompass the hydraulic effects of the proposed development;
 - e The study shall determine the water surface elevations of the base flood for the existing stream and for any proposed development. Based on the assumption of full watershed development and other factors, the findings of the hydrologic and hydraulic study may differ from the Flood Insurance Study. At a given location, the higher water surface elevation shall be the base flood elevation for compliance with the provisions of this Article;

- f** The study shall identify the velocities of the base flood for the existing stream and for any proposed development;
 - g** The study shall determine the areas of inundation of the base flood for the existing stream and for any proposed development. The area of inundation shall be dimensioned to the property corners for use in revising the Floodplain Overlay Districts on all property within the extent of the study; and
 - h** In areas outside Zone AE, the study shall also identify the floodway for the proposed development.
- (ii)** For a hydrologic and hydraulic study that proposes an alteration of FEMA's designated floodplain or floodway, a letter of map revision (LOMR) must be obtained before a building permit will be issued for any lot containing a Zone A, AE, AH or AO of the current FIRM.

(e) DEVELOPMENT STANDARDS AND CRITERIA

(1) LAND DISTURBANCE.

Land disturbance or removal of vegetation within the floodplain overlay districts shall be minimized to the extent possible. When excavation, grading, removal of vegetation or other modifications to the cross-sectional geometry of the floodplain are proposed in order to meet the requirements set forth in Section 12-306(b)(7)(ii), those modifications shall comply with the following:

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

(2) GENERAL STANDARDS

Development in areas that are included in the Floodplain Overlay Districts shall be required to meet the following general standards:

- (i)** No structure, fill, or other uses within the floodway overlay district shall be permitted which will increase the base flood elevation.

- (ii)** Public improvements shall be waterproofed to the base flood elevation. Any space below the base flood elevation shall be watertight with walls substantially impermeable to the passage of water with structural components having the capabilities of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. The interior and content of the structures shall remain substantially dry.
- (iii)** Water lines shall be designed to eliminate infiltration of flood waters into systems.
- (iv)** Sewer lines shall be designed to eliminate infiltration of floodwaters into systems and discharge from the systems into the floodwaters.
- (v)** Residential Construction: New construction or substantial improvements of a residential structure shall be elevated, anchored to prevent flotation, collapse, or lateral movement of the structure and shall be constructed to resist and minimize flood damage. Construction shall be with materials resistant to flood damages, utilizing methods and practices that minimize flood damages, and with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- (vi)** Non-Residential Construction: All new construction and substantial improvements that fully enclose areas below the lowest floor which are usable solely for parking of vehicles, building access or storage in an area other than a basement; and, which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- (vii)** Storage of material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after the flood warning. Storage of materials that are buoyant, flammable, explosive or potentially injurious to human life at times of flooding shall not be permitted.
- (viii)** On site waste disposal systems shall be designed to avoid impairment due to flooding.
- (ix)** All new construction and substantial improvements that fully enclose

areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

- (x) 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.

(3) SPECIFIC STANDARDS

In addition to these general standards, development shall be required to meet the following specific standards:

- (i) Residential Construction. New construction and substantial improvement of residential structures have the lowest floor, including basement, elevated a minimum of 2 feet above base flood elevation.
- (ii) Non-Residential Construction. All new construction and substantial improvements of non-residential structures shall have (a) the lowest floor (including basement) elevated a minimum of 1 foot above the base flood elevation; or, (b) together with attendant utility and sanitary facilities, be designed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and (c) a registered professional engineer or architect shall develop and/or review the structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting applicable provisions of the Federal Emergency Management Regulations [44FR311177, the Section 60.3(c)(3)(ii) & Section 60.3(c)(8)(ii), and amendments thereto.]
- (iii) Existing Manufactured (Mobile) Home Park - All manufactured homes to be placed in an existing park located in a floodplain

overlay district are required to be firmly secured to an adequately anchored foundation system to resist floatation, collapse, or lateral movement, which may include, but is not limited to, the use of over-the-top or frame ties to ground anchors. (This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.)

- (iv)** Manufactured (mobile) homes to be placed or substantially improved in an expansion to an existing manufactured (mobile) home park where the repair, reconstruction, or improvement of the streets, utilities and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced are required to have the manufactured home chassis elevated by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely attached to an adequately anchored foundation such that the lowest floor of the manufactured home is elevated at least two feet above the base flood elevation. A licensed land surveyor shall certify that the elevation of a proposed structure is above the specified base flood elevation.
- (v)** A licensed land surveyor shall certify that the elevation of a proposed structure is above the specified base food elevation.
- (vi)** In areas where a federally base flood elevation has not been provided by the FIS, the county shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources until such other data has been provided by FEMA for use and enforcement of this Article.
- (vii)** Require that recreational vehicles placed on sites within the identified floodplain on the community's FIRM either (1) be on the site for fewer than 180 consecutive days, (2) be fully licensed and ready for highway use, or (3) meet the permit requirements and the elevation and anchoring requirements for manufactured homes in this ordinance. A recreation vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- (viii)** All proposals for development must include base flood elevation data.
- (ix)** In Zones AO and AH, adequate drainage paths shall be required around structures on slopes, in order to guide flood waters around and away from proposed structures.

(4) LETTERS OF MAP REVISION (LOMR).

Structures placed on property that has been removed from the floodplain by a LOMR shall have the lowest floor, including basement, elevated above the base flood elevation in compliance with Section 12-306(b)(7)(iii.)

(f) ADMINISTRATION AND RECORDS

(1) ADMINISTRATION

The Director of Zoning and Codes shall be vested with the administration of these regulations. It shall be his responsibility to review all requests for Floodplain Development Permits and to enforce the regulations in this Article. Each permit shall be reviewed in consideration with the following:

- (i)** Satisfying all the requirements of this Article.
- (ii)** Obtaining all the necessary permits from federal, state, or local government agencies prior to approval of the development permit.
- (iii)** The location of the proposed development in relation to the floodway and the assurance that any encroachment meets the standards in this Article and K.S.A. 12-766.

(2) RECORDS

The Director of Zoning and Codes, as administrator of these regulations, shall record and maintain a record of all development permits issued. Documentation of these permits shall include:

- (i)** The proposed use, residential or non-residential;
- (ii)** The elevation of the floodway for the area developed; and,
- (iii)** Certification that the elevation of the lowest floor is above the base flood elevation by the required one foot.
- (iv)** The Director of Zoning and Codes shall submit a biennial report on the appropriate federal annual report form to the Administrator concerning the community's participation in the Federal Insurance Program.

(g) DEVELOPMENT PERMIT

- (1)** No development shall occur in, on, or over any land designated by this Article and shown on the official Floodplain Overlay District Map as being within the Floodplain Overlay District without obtaining approval from the Director of Zoning and Codes.

(2) APPLICATION

Application for a development permit shall be made by the property owner or his certified agent to the Director of Zoning and Codes upon appropriate forms, which are available at the Zoning and Codes Office. Such application shall be made at least 10 days prior to the approval of a development permit. The application shall be accompanied by a fee; no part shall be returnable to the applicant after review of the permit request has begun. The application fee shall be made payable to the Director of Zoning and Codes. The fee schedule is available at the Douglas County Zoning and Codes Office.

(3) APPLICATION MATERIALS

An application for a development permit shall be accompanied by the following information:

- (i)** Identification and description of proposed use or development;
- (ii)** Legal description of the property;
- (iii)** Plan of the proposed development or use at a scale of 1 inch equals 50 feet or larger showing the floodway and floodway fringe as designated by the Federal Insurance Administrator;
- (iv)** Use and type of structures proposed;
- (v)** The elevation (in relation to mean sea level) of the lowest floor, including basements, of all structures or proposed fill;
- (vi)** A statement of the elevation flood proofed by a licensed land surveyor;
- (vii)** Proposed developments which include alteration of watercourses must:
 - a** In river or tributary situations, the Director of Zoning and Codes will notify any adjacent community, state coordinating agency for the National Flood Insurance Program, and the Federal Insurance Administration prior to any alteration or relocation of a watercourse.
 - b** Evidence submitted by the applicant's engineer or architect showing that no adverse impacts will result from the alteration and the flood carrying capacity within the altered or relocated portion of the watercourse is not diminished.
- (viii)** Any additional data which the Director of Zoning and Codes or County Engineer requests which is pertinent to the issuance of a development permit.

(h) CERTIFICATION OF ELEVATION

Within 60 days after a building permit has been issued, a certification of elevation must be received, approved and recorded at the Director of Zoning & Codes' Office.

The development permit must include certification from a land surveyor (licensed to do business in the State of Kansas) that the lowest floor, including basement, is a minimum of 1 foot above the regulatory flood elevation. The building permit is null and void after said 60 day period if such certification is not provided. Occupancy of the structure shall be illegal prior to the approval of a development permit.

(i) NONCONFORMING USES AND STRUCTURES IN THE REGULATORY FLOODPLAIN

All nonconforming uses and structures within a Floodplain Overlay District shall be

subject to the following requirements in addition to other provisions of the County's Zoning Resolution:

- (1)** No nonconforming use or structure shall be altered, repaired or modified unless a permit is issued under this Article.
- (2)** No permit for the alteration, repair or modification of a nonconforming use in the floodway fringe shall be issued unless such alteration, repair or modification includes flood proofing by elevation to or above the base flood elevation. No permits shall be issued for alteration, repair or modification in the floodway that will obstruct flow or increase the height of the base flood elevation.
- (3)** Uses or adjuncts thereof which are or become nuisances, shall not be entitled to continue as nonconforming uses.
- (4)** The Director of Zoning and Codes, before issuing a development permit for the alteration, repair or modification of a nonconforming use or structure, shall request a decision from the Board of Zoning Appeals in determining the adequacy of the proposed flood proofing measures for the proposed alteration, repair or modification of the nonconforming use or structure. The Board of Zoning Appeals shall make this determination in accordance with the following specific criteria:
 - (i)** The susceptibility of the structure or use to flood damage.
 - (ii)** The availability and expense of alternate flood proofing techniques.
 - (iii)** The safety of the flood proofing measures.

(j) AREAS OF SHALLOW FLOODING (ZONES AO AND ZONE AH)

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

(1) ZONE AO

- (i)** All development and substantial-improvements of residential structures, including mobile homes or manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified);
- (ii)** All development and substantial-improvements of any commercial, industrial, or other non-residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely flood proofed to that so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and

- (iii) Drainage paths must be provided to adequately guide floodwaters around structures.

(2) ZONE AH

- (i) The development standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in these Regulations; and
- (ii) Drainage paths must be provided to adequately guide floodwaters around structures.

(k) AMENDMENTS

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

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

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

(l) VARIANCES

The Board of Zoning Appeals shall hear and decide all variances from the requirements of these Regulations and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Director of Zoning and Codes in the enforcement or administration of these Regulations. Section 12-309 explains the procedure for filing an application for a variance. Any person aggrieved by the decision of the Board of Zoning Appeals or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

(m) DEFINITIONS

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

1. Agency. The Federal Emergency Management Agency (FEMA).
2. Areas of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
3. Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.
4. Base Flood Elevation. The water surface elevation of the base flood as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study, whichever is higher.
5. Community. Any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
6. Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures requiring the issuance of building permits, mining, fill, dredging, grading, paving, excavation or drilling operations (excluding wells for potable water), or storage of equipment or materials.
7. "Eligible Community". A community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
8. Existing Construction. For the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. "existing construction" may also be referred to as "existing structures".
9. Existing Manufactured Home, Park or Subdivision. A manufactured home, park or subdivision for which the construction of facilities for servicing the lot(s) on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) are completed before March 2, 1981, the effective date of the adoption of the first County floodplain management regulations.
10. Existing Structures. (See "Existing Construction")
11. Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets.)
12. Flood. A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a

severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

13. Flooding. [See "Flood"].
14. Flood Insurance Rate Map (FIRM). The official map of a community on which the both the special flood hazard areas and the risk premium zones have been delineated.
15. Flood Insurance Study (FIS). An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations.
16. Floodplain. The land area inundated by a flood of a given magnitude as determined by the Flood Insurance Study or by an approved Hydrologic and Hydraulic Study.
17. Floodplain Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
18. Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction
19. Flood proofing. 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.
20. Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.
21. Floodway Encroachment Lines. The lines marking the limits of floodways on Federal, State and local floodplain maps.
22. Floodway Fringe. The area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.
23. Freeboard. A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.
24. Habitable Floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof.
25. Highest Adjacent. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

26. Historic Structure. Any structure that is: (a) Listed individually in the National Register of Historic places (a listing maintained by the Department of Interior) or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either;
- a) by an approved state program as determined by the Secretary of the Interior, or
 - b) directly by the Secretary of the Interior in state without approved programs.
27. Hydrologic and Hydraulic Study. An engineering study that is done in accordance with Section 12-311(d)(3) et al.
28. Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render to structure in violation of the applicable non-elevation design requirements of this ordinance.
29. Manufactured Homes [See "Mobile Home"]
30. Market Value. An estimate of what is fair, economic, just and equitable value under normal local market conditions. If market value cannot be determined, the construction estimate can be used.
31. Mean Sea Level. For purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.
32. Mobile or Manufactured Home. A structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The terms "mobile home" or "manufactured home" does not include a "recreational vehicle".
33. New Construction. For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of

the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

34. Overlay District. A special zoning district that has been "overlaid" on a base zoning classification to add to or alter some or all of the base district zoning regulations.
35. Participating Community. [See "Eligible Community"]
36. Person. Includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
37. Principally Above Ground. When at least 51 percent of the actual cash value of the structure, less land value, is above ground
38. Recreational Vehicle. A vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.
39. Special Flood Hazard Area (SFHA). See ["Area of Special Flood Hazard"].
40. Start of Construction. This includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair reconstruction, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation or placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.
41. State Coordinating Agency. The Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.
42. Structure. For the purpose of this article the definition of structure shall mean, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principal above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a

building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

43. Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
44. Substantial Improvement. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure; either (1) before the improvement or repair is started or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
45. Urban Growth Area. The area that is defined in the City and County Comprehensive Land Use Plan as the Urban Growth Area (UGA) surrounding the City of Lawrence.
46. Variance. A grant of relief by the community from the terms of floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.
47. Violation. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.
48. Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.
49. Zone A. The special flood hazard area inundated by 100-year flood where no base flood elevations have been determined.
50. Zone AE. The special flood hazard area inundated by 100-year flood where the base flood elevations have been determined.
51. Zone AH. The special flood hazard area inundated by 100-year flood with flood depths of 1 to 3 feet (usually areas of ponding); where base flood elevations have been determined.
52. Zone AO. The special flood hazard area inundated by 100-year flood with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); where

average depths have been determined. For areas of alluvial fan flooding velocities have also been determined.

SECTION 12-312 PARKING AND LOADING REGULATIONS

(a) OFF-STREET PARKING REQUIREMENTS

Except as otherwise provided in these Regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart in Section 12-312(b), accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent sub-sections of this section.

(b) OFF-STREET PARKING REQUIREMENTS

Column 1	Column 2	Column 3
Use or Use Category	Spaces required per basic measuring unit	Additional Requirements
AGRICULTURAL AND AG-RELATED		
Farmer's Market	1 per 100 sq. ft.	4 spaces minimum
Farm Stand	1 per 250 sq. ft. of retail floor area	
Animal hospital or clinic	1 per 400 square feet of floor area	4 spaces minimum for Hospital or clinic for large animals
Retail Nursery/ Commercial Greenhouse	1 per employee on largest shift + 1 per 200 sq. ft. of customer service area	4 spaces minimum
Animal hospital or clinic	1 per 400 square feet of floor area	4 spaces minimum for Hospital or clinic for large animals
Commercial riding stable/arena	1 per employee on largest shift + 1 per 3 stalls. If spectator seating is provided, 1 space per 4 seats required also.	Arena without stable, a space per 1,000 sq ft of arena area. If spectator seating is provided, 1 space per 4 seats required also.
Sale Barn	1 per 600 sq. ft. of floor or activity area	
Commercial Slaughtering/Processing	1 per employee on largest shift	
Grain Storage Structure, Commercial		
Value Added Agricultural Business		
Concentrated Animal Feeding Operations		
RESIDENTIAL		
Single-family dwelling	1 per dwelling unit	
Group Home, General	1 + 1 per employee on largest	

	shift	
Rooming boarding or lodging house	1 per 2 sleeping rooms	
Bed and Breakfast	1 per guest room + 1 per 1.5 employee	
Caretaker Residence	1 per residence	
RECREATION AND ENTERTAINMENT		
Passive Recreation	Golf course: 2 spaces per hole + 1 space for each employee on largest shift	
Entertainment or Spectator Sports	Facilities with fixed seating: 1 per 4 seats. Facilities without fixed seating: 1 per 200 sq. ft. of floor area for indoor uses; 1 per 500 sq. ft. of activity area for outdoor uses.	8 per tennis court
Participant Sports, Indoor	1 per 200 sq. ft.; 8 per tennis court; 1 space per lane for bowling alley	
Participant Sports, Outdoor	1 per 500 sq. ft. of activity area or 8 per tennis court	Pool, excepting private swimming pools accessory to homes: 1 space per each seventy (70) square feet of pool area.
Country Club or golf club	1 per 5 members	
Campground	1 per camp space	
Lodging	1 per guest room or suite	
RELIGIOUS ASSEMBLY		
Religious institution, auditorium or place of assembly	1 per 5 seats or bench seating spaces	(Seats in main auditorium only)
COMMUNITY FACILITIES		
School, including high school, college, university, technical or vocational schools	1 per 1.5 teachers plus 1 per 3 students	Or 8 per classroom, whichever is greater
School: elementary and middle schools (typically grades K through 9)	1 per 1.5 teachers and employees	

Fraternal or service clubs	1 per 500 sq. ft. of floor area or 1 per 5 active members, whichever is greater	
Public library, museum, art gallery or community/civic facilities	1 per 300 sq. ft. of floor area	
MEDICAL FACILITIES		
Nursing or convalescent home	1 per 5 patent beds + 1 per 1.5 employees	
Day Care Home, Occupant or Non-Occupant Provider	1 per 1.5 employees	
Day Care Center	1 per 1.5 employees + 4 spaces	
COMMERCIAL		
Dog kennel, commercial	1 per employee on largest shift + 1 per 1,000 sq ft of floor area	
Restaurant, (excluding drive-in)	1 per 100 square feet of customer service area, or 1 per 3 persons based upon maximum occupancy, whichever is greater.	
Restaurant, drive-in	1 per each employee on the largest shift	
Bar or Tavern	1 per 100 sq. ft. of customer service area or 1 per 3 persons based upon maximum occupancy, whichever is greater.	
Lodging	1 per guest room or suite	
Personal service establishment	1 per 200 sq. ft. of floor area	Retail food stores over 4,000 sq. ft.: 1 per 100 sq. ft. of floor area
Retail Sales,	1 per 300 square feet of floor area	2 spaces minimum;
Equipment Sales and Rentals	1 per 5,000 sq. ft. of open sales area + 1 per 500 sq. ft. of enclosed sales area + 2 per service bay	
Construction Sales and Services	1 per 500 sq. ft. of floor area + 1 per employee on largest	

	shift	
Fuel Sales, with convenience store	1 space per 100 sq. ft. of customer service area plus 1 stacking space at end of each fuel island	
Fuel Sales, without convenience store	2 spaces plus 1 stacking space at end of each fuel island	
Office	1 per 400 square feet of floor area + 1 per 1.5 employees	
Bank/Financial Institution	1 per 300 sq. ft. of floor area	
Research Facility	1 per 1.5 employee on largest shift + 1 per 750 sq ft of floor area	
Business Support Services	1 per employee on largest shift + 1 per 500 sq. ft. of floor area	
Food storage locker	1 per 200 sq. ft. customer service area	
Adult Entertainment	1 per 400 sq. ft. of floor area	
INDUSTRIAL		
Mining/Excavation	1 per employee on largest shift	
Salvage Yard	1 per employee on largest shift + 1 customer space	
Storage: Warehousing/Wholesale Storage and Distribution/	1 per 5,000 sq. ft. of floor area or 1 per employee on largest shift, whichever is greater	
Equipment Storage	1 per 50 storage spaces	Mini- or Self-storage requires 1 space for each 8,000 sq. ft. of floor area + 1 space for each employee; a minimum of 5 spaces required. [Section 12-306(pp)(7)]
Equipment Repair	2 per service bay, not counting the service bay	
Manufacturing and Production	1 per employee on largest shift or 1 per 1,500 sq. ft. of production area whichever is greatest	Plus spaces for storage of trucks or other vehicles used on connection with the

		business or industry
Asphalt or Concrete batch plant	1 per employee on largest shift	
OTHER		
Utility	1 per 1.5 employees	

(1) ACCESSIBLE PARKING SPACES

- (i)** The following table shall be used to determine the number of accessible parking spaces to be provided for persons with disabilities:

TOTAL PARKING SPACES IN LOT	MINIMUM REQUIRED NUMBER OF ACCESSIBLE SPACES
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1000	2% of total spaces
Over 1000	20 spaces plus 1 space for every 100 spaces over 1000

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

request of residents with disabilities.

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

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

(2) INTERPRETATION OF THE CHART

- (i) The use regulations for each district are not affected by arrangement of uses in the chart.
- (ii) The parking requirements in this section do not limit other requirements in these Regulations for parking contained in the district regulations, particularly in the Industrial Districts, where special requirements may be imposed.
- (iii) The parking requirements in this section do not limit special requirements which may be imposed in connection with Conditional Uses.
- (iv) Floor area as used in the chart shall be as defined in Section 12-314.
- (v) Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
- (vi) The parking space requirements for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics of parking demand generation.
- (vii) In the case of mixed uses, uses with different parking requirements occupying the same building or premises, or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.
- (viii) Whenever a building or use, constructed or established after the effective date of these Regulations, is changed or enlarged in floor area, number of employees, number of dwelling units, seating

capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, such spaces shall be provided on the basis of the enlargement or change.

(3) JOINT USE AND OFF-SITE FACILITIES

- (i)** All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served.
- (ii)** Up to 50 percent of the parking spaces required for entertainment/spectator sports, indoor participant sports, restaurants or bars/taverns , and up to 100 percent of the parking spaces required for a religious intitution may be provided and used jointly by banks, offices, retail stores, personal service establishments and similar uses not normally open, used, or operated during the same hours; provided however, that a written agreement thereto is properly executed and filed as specified below.
- (iii)** In any case where the required parking spaces are not located on the same eligible parcel with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the County Attorney and shall be filed with the application for a building permit.

4) DESIGN STANDARDS

- (i)** As defined in Section 12-314, an off-street parking space is a gravel or hard-surfaced area not in a road or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a road or alley by a graveled or hard-surfaced driveway which affords satisfactory ingress and egress for automobiles.
- (ii)** Entrances or exits for all parking facilities shall comply with existing or future Zoning Regulations of Douglas County.

(b) OFF-STREET LOADING REQUIREMENTS

(1) APPLICABILITY

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

(2) OFF-STREET LOADING CHART

Column 1	Column 2	Column 3
Use or Use Category	Floor Area (as defined in Section 13) in Square Feet	Loading Spaces Required
Restaurant, wholesale house, retail store, warehouse, repair, general service, manufacturing or industrial establishment	2,000 – 10,000	1
	10,001-20,000	2
	20,001-40,000	3
	40,001-60,000	4
	Each 50,000 over 60,000	1 additional
Lodging, offices or office building,	5,000 – 10,000	1
	10,001 – 100,000	2
	100,001 – 200,000	3
	Each 100,000 over 200,000	1 additional
Funeral home or mortuary	2,500 – 4,000	1
	4,001 – 6,000	2
	Each 10,000 over 6,000	1 additional

(3) INTERPRETATION OF THE CHART

- (i) The loading space requirements apply to all Districts; however, special requirements may be imposed in the HI District.
- (ii) The loading requirements in this section do not limit special requirements which may be imposed in connection with Conditional Uses.

(4) MIXED USES IN ONE BUILDING

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

(5) DESIGN STANDARDS

- (i) As defined in Section 12-314 a loading space is a space within the

main building or on the same eligible parcel, providing for the standing, loading, or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

- (ii)** Loading spaces for a funeral home may be reduced in size to 10 by 25 feet and vertical clearance reduced to 8 feet.
- (iii)** No unenclosed loading platform, space or area shall be constructed on any side of a building that is adjacent to a residential zoning district or area.

SECTION 12-313 VIOLATIONS, PENALTIES AND ENFORCEMENT

(a) RESPONSIBILITY FOR ENFORCEMENT

The Director of Zoning and Codes is responsible for enforcing the Zoning Regulations, except as otherwise expressly stated.

(b) VIOLATIONS

1) COMPLIANCE REQUIRED

All buildings and land used and all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered shall comply with all applicable provisions of these Regulations.

2) TYPES OF VIOLATIONS

Unless otherwise expressly stated by these Regulations or state law, any violation of the Zoning Regulations, including but not limited to the following, will be subject to the remedies and penalties provided for in this Section.

- (i)** to use land or buildings in any way not consistent with the requirements of the Zoning Regulations;
- (ii)** to engage in development activity in any way not consistent with the requirements of these Regulations;
- (iii)** to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits or approvals under these Regulations without obtaining all such required permits or approvals;
- (iv)** to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits under these Regulations in any way inconsistent with any such permit or approval or any conditions imposed thereon;
- (v)** to obstruct or destroy any notice required to be posted or otherwise given under these Regulations; or
- (vi)** to violate any lawful order issued by any person or entity under these Regulations.

(c) CONTINUING VIOLATIONS

Each day that a violation remains uncorrected after receiving notice of the violation from the County constitutes a separate violation of the Zoning Regulations for purposes of calculating cumulative penalties.

(d) LIABILITY

The owner, tenant or occupant of any land or structure, shall be presumed to know of activity occurring on the premises and thus may be charged with a violation under these Regulations for any violation occurring on any premises. Where an architect, engineer, contractor, builder, land surveyor, agent or other person appears to have participated directly in a violation of these Regulations, the Director of Zoning and Codes may also charge such person with a violation of

these Regulations. All persons found to be responsible for the actions or inactions leading to a violation may be charged jointly and severally with violations as a result of the same incident or circumstances.

(e) REMEDIES AND ENFORCEMENT POWERS

(1) WITHHOLD PERMITS AND APPROVALS

The Director of Zoning and Codes may deny or withhold all permits, certificates, or other forms of authorization on any land, or structure or improvements thereon:

- (i)** upon which there is an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the County;
- (ii)** owned or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the County.

(2) APPROVAL OF PERMITS AND APPROVAL WITH CONDITIONS

Instead of withholding or denying a permit or other authorization, the official with authority to approve the permit or authorization may grant such authorization only if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety or general welfare.

(3) REVOKE PERMITS AND APPROVALS

Any permit or other form of authorization required under these Regulations may be revoked by the Director of Zoning and Codes or by any County official with authority to issue such permit when the Director of Zoning and Codes or other County official determines: there is departure from the plans, specifications, or conditions as required under terms of the permit; the development permit was procured by false representation or was issued in error; or any of the provisions of these Regulations are being violated.

(4) STOP WORK

Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of these Regulations, the Director of Zoning and Codes may order the work to be immediately stopped.

- (i)** The stop-work order shall be in writing and directed at the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
- (ii)** Violation of a stop-work order constitutes a violation of these Regulations and is subject to the remedies provided in this Section.

(5) REVOKE PLANS OR RELATED APPROVALS

Where a violation of these Regulations involves a failure to comply with approved plans, or conditions to which the approval of such plans was made subject, the County may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan or other approval or condition its continuance on strict compliance with these Regulations, the provisions of financial security to ensure that construction is completed in compliance with approved plans, or such other conditions as the County may reasonably impose. Any required financial security shall be in a form approved by the County.

(6) FORFEITURE AND CONFISCATION OF SIGNS

Any sign installed or placed on public property, except in compliance with the applicable regulations of the County resolutions and regulations, will be subject to forfeiture to the County and to confiscation. In addition to other remedies and penalties of this Section, the County has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

(7) LEGAL RELIEF

The County may commence a civil action or proceeding in District Court to stop any violation of these Regulations or of a permit, certificate or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation. The relief sought may include:

- (i)** an injunction or other equitable relief;
- (ii)** an order in the nature of mandamus or abatement;
- (iii)** a judgment or order enforcing any requirement of, or under, these Regulations to pay a fee or reimburse, or compensate the County, including when the County is required or authorized to take specified action at the expense of the landowner; or
- (iv)** any other judgment or order available under Kansas law.

(8) CRIMINAL PENALTIES

Any person, firm, or corporation who shall violate any of the provisions of these Regulations, or fail to comply with any order or regulation thereunder, or who shall engage in development activity in violation of any specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall, of each and every violation and non-compliance respectively be deemed guilty of a misdemeanor, and upon conviction therefore shall be, for each offense:

- (i)** fined a sum not less than \$10 nor more than \$500;
- (ii)** imprisoned for not more than 6 months; or

(iii) both fined and imprisoned.

(9) OTHER PENALTIES AND REMEDIES

The County may seek such other penalties and remedies, and employ such other enforcement powers, as are provided by Kansas law for violations of zoning, subdivision, sign or related provisions.

(f) ENFORCEMENT BY OTHERS

(1) CITIZENS

Pursuant to K.S.A. 12-761(b), any person, the value or use of whose property is or may be affected by a violation of these Regulations, is authorized to maintain a suit or action in any court of competent jurisdiction to enforce the provisions of these Regulations and to abate nuisances maintained in violation thereof.

(2) STATE OFFICIALS

Pursuant to K.S.A. 12-761(c) and in the case of violations to the flood protection regulations, Section 12-311, the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas Board of Agriculture are authorized, in addition to other remedies, to institute injunction, mandamus, or other appropriate action or proceeding to prevent, correct or abate the violation.

(g) CONTINUATION OF PREVIOUS ENFORCEMENT ACTIONS

Nothing in these Regulations prohibits the County's continuation of previous enforcement actions, undertaken by the County pursuant to previous and valid resolutions, regulations and laws.

(h) REMEDIES CUMULATIVE

The remedies and enforcement powers established in these Regulations are cumulative, and the County may exercise them in any order.

(i) ENFORCEMENT PROCEDURES

(1) NON-EMERGENCY MATTERS

In the case of violations of these Regulations that do not constitute an emergency or require immediate attention, the County shall give notice of the nature of the violation to the landowner or to any other person who is violating these Regulations or to any applicant for any relevant permit, after which the persons receiving notice will have 10 days to correct the violation before further enforcement action will be taken. Notice shall be given in person, by United States Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

(2) EMERGENCY MATTERS

In the case of violations of these Regulations that constitute an emergency situation as a result of public health or safety issues or public concerns or violations that will create increased problems or costs if not remedied immediately, the County may use the enforcement powers available under these Regulations without prior notice, but the County shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the landowner, to any other person who is violating these Regulations and to applicants for any relevant permit.

SECTION 20-314 DEFINITIONS

Please note that any terms related to the Floodplain or Floodplain Regulations are located in Section 12-311(n) of these Regulations.

ABUTTING Having a common border with or being contiguous to another property.

ACCESSORY STRUCTURE An accessory structure is a subordinate structure, the use of which is clearly incidental to or customarily found in connection with, and located on the same eligible parcel as the principal building.

ACCESSORY USE An accessory use is one, which is clearly incidental to or customarily found in connection with, and on the same lot or parcel as the principal use of the premises. "Accessory Use" includes, but is not limited to, the following:

- 1) Residential accommodations for servants or guests and not rented or otherwise used as a separate domicile and containing no kitchen facilities or separate utility meters.
- 2) Residential accommodations for caretakers on the same eligible parcel with any use permitted in the Commercial or Industrial Districts.

ADJACENT Property that touches the subject property, including the right-of-way of the subject property.

ADJOINING Same meaning as 'adjacent'.

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

- 1) **Adult arcade** means any place to which the public is permitted or invited, wherein there are coin-operated, slug-operated, electronically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices which are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "certain sexual activities" or "specified anatomical areas."
- 2) **Adult Media Outlet** means a commercial establishment which offers for sale or for rental, or another form of consideration, "adult media" and which meets at least one of the following tests:
 - a) More than thirty (30%) of the floor area is devoted to adult media (not including storerooms, stock areas, bathrooms, basements or any portion of the business not open to the public);
 - b) More than thirty percent (30%) of the gross sales (including rentals) result from the sale or rental of adult media;
 - c) More than thirty percent (30%) of the dollar value of all merchandise displayed at any time is attributable to adult media;

- d) More than thirty percent (30%) of all inventory consists of adult media at any time;
 - e) More than thirty percent (30%) of the merchandise displayed for sale consists of adult media; or
 - f) More than thirty percent (30%) of the stock in trade consists of such items at any time.
- 3) Adult cabaret means a nightclub, bar, restaurant, or similar commercial where a significant and substantial portion of its business is featuring:
- a) Persons who appear in a state of nudity; or
 - b) Live performances, which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
 - c) Films, motion pictures, videocassettes, slides, or other photographic reproductions, which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."
- 4) Adult Encounter Parlor – An establishment where a significant and substantial portion of its business is the provision of premises where customers either congregate, associate, or consort with employees who engage in "specified sexual activities" with or in the presence of such customers, or who display "specified anatomical areas" in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.
- 5) Adult Media means books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities" or "specified anatomical areas".
- 6) Adult motel means a hotel, motel or similar commercial establishment which:
- a) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions, or
 - b) Offers a sleeping room for rent for a period of time that is less than 10 hours, or
 - c) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.
- 7) Adult Motion Picture Theater means a commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or other similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

- 8) Adult live theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

Adult Entertainment Business or Sexually Oriented Business. The types of uses included under this category are subject to regulation through review, approval and adoption of a Condition Use Permit. The operation of an Adult Entertainment Business requires commercial or industrial zoning in addition to the approval of a Conditional Use Permit. Adult Entertainment Businesses shall include but not be limited to the following:

1. Adult arcades;
2. Adult media outlet,
3. Adult cabarets;
4. Adult motels;
5. Adult motion picture theaters;
6. Adult retail establishment;
7. Adult theaters
8. Escort agencies;
9. Nude model studios; and
10. Sexual encounter centers

AGRICULTURAL USES OR PURPOSES Agricultural uses include such uses as farming, dairying, pasturage, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for producing and storing the products. The term shall include incidental retail sales by the producer of products raised on the farm in a 'farm stand'.

AGRICULTURAL EXEMPTION Agricultural uses are exempt from the provisions of these Regulations if they meet the following criteria: premises contain 40 acres or more or a form 1040F is filed with the farmer's income tax return showing that \$1000 of income or more was generated by the agricultural use.

AGRITOURISM Agritourism is typically defined as the crossroads of traditional agriculture and tourism. Agritourism is the act of visiting a working farm or any agricultural, horticultural or agri-business operation for the purpose of enjoyment, education or active involvement in the activities of the farm or operation. Admission fees may be charged and sales of farm products, including gift items made on the farm or other farms in the area, and incidental gift sales are permitted.

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

ALLEY A narrow public thoroughfare not exceeding 16 ~~sixteen-(16)~~ feet in width which provides only a secondary means of access to abutting properties and is not intended for general traffic circulation.

AVAILABLE SEWER Any public sewer within 200 feet of a building.

BASEMENT That portion of a building that is partly or completely below the grade plane. A basement shall be considered as a story above the grade plane where the finished surface of the floor above the basement is:

1. More than 6 feet above the grade plane; or
2. More than 12 feet above the finished ground level at any point.

BASE SETBACK LINE The line from which all required setbacks are measured for those sides of a property with road frontage. The Base Setback Line corresponds to the established ultimate road right-of-way line as set forth in Section 12-305(a).

BED AND BREAKFAST A transient lodging establishment, generally in a detached dwelling, primarily engaged in providing overnight or otherwise temporary lodging for the general public and may provide meals for compensation.

BOARDING OR ROOMING HOUSE A single family dwelling where lodging is provided for compensation. Meals may or may not be provided, but there is one common kitchen facility.

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

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

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

BUILDING, PRINCIPAL. Any building which houses the principal use on the property.

BUSINESS SUPPORT SERVICES Services rendered to a business establishment or individual including office or business equipment rental or leasing, telecommunications, printing, engraving, blueprinting and photocopying.

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

COMMERCIAL GREENHOUSE An agricultural enterprise using a controlled

environment [temperature and humidity] for the commercial cultivation and production of plants.

CONCENTRATED FEEDING ANIMAL OPERATIONS A parcel or building, or combination parcels and **buildings** where animals are kept and raised in confined situations. Concentrated Feeding Animal Operations congregate animals, feed, manure and urine, and production operations on a small land area. Feed is brought to the animals rather than the animals grazing or otherwise seeking feed in pastures, fields, or on rangeland.

CONSTRUCTION SALES AND SERVICES Construction activities and incidental storage on lots or eligible parcels other than construction sites. Also includes landscape contractors and landscape maintenance businesses and the sale of materials used in the construction of buildings or other structures, including the sale of paint, fixtures and hardware, but excludes those uses classified as 'Heavy Equipment' uses. Typical uses include home improvement or building materials stores, building contracting/construction offices with shops and/or outside storage yards, tool and equipment rental or sales, and landscape maintenance/contractor offices with shops and/or outside storage yards.

PLANNING COMMISSION The Lawrence-Douglas County Planning Commission.

CONVALESCENT CARE OR NURSING HOME A building where regular nursing care is provided for more than one person not a member of the family which resides on the premises.

COUNTRY CLUB A non-profit membership club with social and recreational facilities for members, their families, and invited guests. Typical activities include golf, swimming, riding, club house, and pro shop.

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

DAY CARE A home, center, nursery, pre-school, or school in which care is provided for less than 24 hours per day meeting one of the following three (3) definitions:

- 1) **Day Care Home** "Day Care Home" means the care of 12 or fewer individuals as an accessory use to an occupied residence in which the occupant(s) shall be the primary provider(s) of the care for individuals other than his or her own family. The primary provider(s) may have an employee(s) to assist with care services. "Primary provider" means the licensee who has the ongoing responsibility for the health, safety and well-being of individuals in care.
- 2) **Non-Occupant Primary Provider Day Care Home** "Non-Occupant Primary Provider Day Care Home" means the care of 12 or fewer individuals as an accessory use to an occupied residence in which the occupant(s) is (are) not the primary provider(s) of care for individuals other than his or her own family.

"Primary provider" means the licensee who has the ongoing responsibility for the health, safety and well-being of individuals in care. The Primary provider(s) may have an employee(s) to assist with care services.

- 3) **Day Care Center** "Day Care Center" means the care of individuals, for less than 24 hours, away from the home of the parent or legal guardian in a place other than an occupied dwelling; and includes but is not limited to child care facilities, preschools, play groups, kindergartens and before and after school programs not operated by the public schools, and other establishments offering care to groups for children or adults for less than 24 hours for more than two (2) consecutive weeks, with specific exclusion of temporary or seasonal religious instructional schools, including summer Bible school and Religious Institution classes. Centers for infants and toddlers or for children with disabilities may have fewer than thirteen (13) children but be licensed as a center because the program meets child care center regulations.

DETACHED DWELLING A residence which is not attached to any other residence; is surrounded by open space.

DISTRICT Any section of Douglas County within which the zoning regulations are uniform.

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

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

DWELLING A building that contains A dwellings unit used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

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

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

ELIGIBLE PARCEL Platted lot, Residential Development Parcels, and parcels which are exempt per the standards in Section 11-801(d) of the Subdivision Regulations or have vested rights per Section 11-801(e) of the Subdivision Regulations are eligible for building permits.

ELIGIBLE PARCEL AREA The total horizontal area within the property lines of the

eligible parcel.

ELIGIBLE PARCEL DEPTH The distance between the front and rear property lines.

ELIGIBLE PARCEL WIDTH The distance between the side property lines of an eligible parcel measured parallel to the abutting road.

ENTERTAINMENT AND SPECTATOR SPORTS Provision of cultural, entertainment, athletic, and other events to spectators. Also includes events involving social or fraternal gatherings. For sports geared primarily to participants, see definition for 'Participant Sports'.

EQUIPMENT, HEAVY Vehicle or other apparatus commonly used in commercial, industrial, or construction enterprises, including but not limited to trucks, trailers, bulldozers, cranes, and backhoes.

EQUIPMENT, LIGHT Automobiles, noncommercial trucks, motorcycles, trailers with less than 10,000 lbs. gross cargo weight, motor homes, and boats.

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

FARM STAND A place, with or without buildings or structures, for the seasonal sale of products raised on the premises, such as fruit, vegetables, produce, and dairy products. A farm stand is differentiated from a Farmer's Market in scale. A farm stand involves only one producer or vendor where a Farmer's Market may include multiple vendors or producers.

FARMERS MARKET An area, with or without buildings or structures, where groups of individual sellers offer for sale to the public such items as fresh produce, dairy products, fresh flowers, arts and crafts items and food and beverages (but not to include second-hand goods). The vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

FUEL STATION (gas station) Any building, structure, or land used for the dispensing, sale, or offering for sale at retail of any automobile fuels. Such an establishment may offer for sale at retail other convenience items as a clearly secondary activity and may also include a carwash. A fuel station may not include major repair work such as motor replacement, body and fender repair or spray painting.

FLOOR AREA

- 1) Commercial business and industrial buildings or buildings containing mixed uses: the sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings but not including:

- a. attic space providing headroom of less than seven feet;
 - b. basement space not used for retailing;
 - c. uncovered steps or fire escapes;
 - d. accessory water towers or cooling towers;
 - e. accessory off - street parking spaces; and
 - f. accessory off - street loading berths.
- 2) Residential buildings: the gross horizontal areas of the several floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

FRONTAGE

- 1) **Road Frontage** The boundary of an eligible parcel that abuts the street or road from which access is taken.
- 2) **Frontage**, That portion of the eligible parcel which lies between the side **property** lines and is adjacent to the road from which access is taken.

GARBAGE Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

GRADE. Also called Grade Plane A reference plane representing the average of finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

GRAIN STORAGE STRUCTURE, COMMERCIAL (grain elevator) Buildings or complexes of buildings for storage and shipment of grain, as a commercial enterprise, rather than as an individual agricultural use.

GROUP HOME, GENERAL Any dwelling occupied by 11 or more persons, including 8 or more persons with a disability who need not be related by blood or marriage and staff residents who need not be related by blood or marriage to each other or to other residents of the home. The Dwelling is licensed by one or more of the following regulatory agencies of the State: Dept. of Social and Healing Arts, Behavioral Sciences Regulatory Board, or State Board of Healing Arts. Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one or more of such person's major life activities; (b) a record of having such impairment; or (c) being regarded as having such impairment.

GROUP HOME, LIMITED A Group Home is any dwelling occupied by not more than 10 persons, including 8 or fewer persons with a disability who need not be related by blood or marriage and not to exceed 2 staff residents who need not be related by blood or marriage to each other or to other residents of the home. The Dwelling is licensed by one or more of the following regulatory agencies of the State: Dept. of Social and Healing Arts, Behavioral Sciences Regulatory Board, or State Board of Healing Arts.

Disability means, with respect to a person: (a) a physical or mental impairment which substantially limits one or more of such person's major life activities; (b) a record of having such impairment; or (c) being regarded as having such impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

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

HEALTH AUTHORITY The Lawrence Douglas County Health officer or an authorized representative.

HEALTH HAZARD Any condition which, in the opinion of the Health Authority, is capable of producing acute or chronic illness in humans. Such conditions include, but are not limited to: sewage on the surface of the ground; rat, fly and mosquito breeding; the proliferation of toxic plants; and the release of toxic or infectious gases, aerosols, sprays, liquids or dusts.

HEIGHT OF BUILDING The vertical distance from the grade to (a) the highest point of the coping of a flat roof; (b) the deck line of a mansard roof; (c) to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

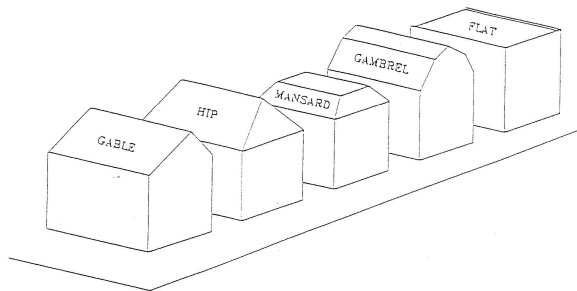


Diagram 1. Height of Building

HELIPORT The area of land, water or a structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

HOME OCCUPATION An occupation or activity which is clearly incidental and secondary to use of the premises for living purposes, which consist of either a Home Occupation Type I, Home Occupation Type II, or Home Occupation Type III, as the context requires.

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

HOME OCCUPATION TYPE I Incidental and accessory home occupations that can be conducted wholly within the dwelling unit and that are ancillary to the primary residential use of the property.

HOME OCCUPATION TYPE II Business occupations which are incidental and accessory to a residence and are conducted within the dwelling unit or within an accessory building that is ancillary to the primary residential use of the property. Such occupations are service-oriented or involve production of materials for sales off premises.

HOME OCCUPATION TYPE III(TRANSITIONAL). A Home Occupation referred to in Section 12-305(u) existing on August 16, 2000, which is allowed to temporarily continue its use for a transitional period pursuant to Section 12-305(u).

LAGOON OR SEWAGE LAGOON An artificial pond designed to exclude surface water and receive raw sewage through a submerged sewer, for biological decomposition.

LITTER "Garbage", "refuse" and "rubbish" as defined herein and all other waste material which is discarded or deposited as herein prohibited or in a manner which creates a health hazard to the public.

LIVESTOCK Any animal customarily kept by humans for the purpose of providing food, clothing, or work, including but not limited to horses or animals of the equine species, cattle or species of the bovine species, goats, or animals of the caprine species, sheep or all animals of the ovine species, hogs or all animals of the porcine species, and fowl; but excluding bees, rabbits and fish.

LOADING SPACE OR LOADING BERTH. A space within the main building or on the same eligible parcel, providing for the standing, loading, or unloading of trucks, having a minimum dimension of 12 by 35 feet and a vertical clearance of at least 14 feet.

LODGING A building in which lodging is provided and offered to the public for compensation and which is open to transient guests and is not a rooming or boarding house as herein defined. May include restaurants, taverns, or club rooms, public banquet halls, ballrooms, and meeting rooms.

LOT A designated area of land established through a Plat through the Subdivision Process to be used, transferred, developed or built upon as a unit.

LOT, AREA The total horizontal area within the lot lines of the lot.

LOT, CORNER A lot located at the intersection of two or more roads. (See lots marked A in the diagram which follows.) A lot abutting a curved road or roads shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees. See lots marked A-1 in the diagram.

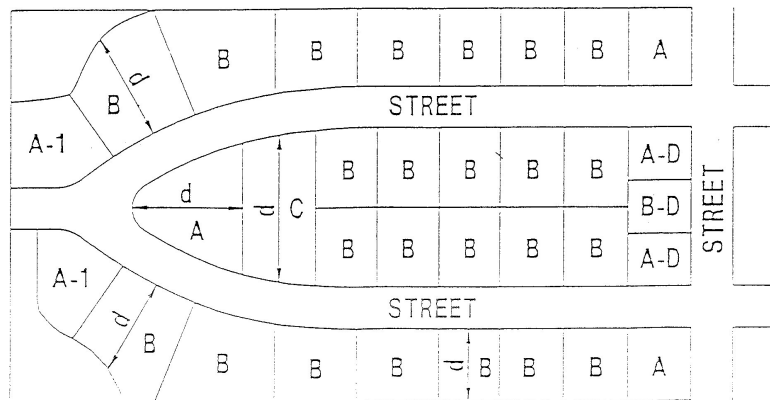


Diagram 2. Lots

LOT, DEPTH OF The distance between the front and rear lot lines.

LOT, INTERIOR A lot other than a corner lot with only one road frontage. (See lots "B" on the diagram.)

LOT LINE The line marking the perimeter of a Lot.

LOT, THROUGH An interior lot having frontages on two roads. (See lot "C" on the diagram.)

LOT WIDTH The distance between the side lot lines of a lot at the required front setback line measured parallel to the abutting road.

MANUFACTURED HOME A structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. Sec. 5403.

MANUFACTURING & PRODUCTION, GENERAL An establishment engaged in manufacturing, assembly, fabrication, packaging or other industrial processing of products primarily from extracted or raw materials or the bulk storage and handling of such products and materials; or an industrial establishment having potential to produce noise, dust, glare, odors or vibration beyond its property line. Also includes any facility using large unscreened outdoor structures that cannot be integrated into the building

design or engaging in large-scale-outdoor storage. Typical examples include: processing and packaging of alcohol beverages, chemical manufacturing, motor vehicle manufacturing, and permanent concrete/batch plant.

MANUFACTURING & PRODUCTION, LIGHT Establishments which are primarily engaged in the manufacturing of finished products or parts including processing, fabrication, assembly, treatment, and packaging of such products that do not require Federal air quality discharge permits and are compatible with nearby residential uses because there are few or no offensive external effects. Also includes incidental storage, sales and distribution of such products. Examples include, but are not limited to, the production of the following: clothes, furniture, wood products, pharmaceuticals, musical instruments, hardware, toys, mechanical components, electronic components, small vehicle assembly and computer software, food products (excluding distilling of beverages, slaughtering of poultry or animals or processing of bulk storage of grain or feeds for animals or poultry).

MINI-STORAGE. Facility which provides storage or warehousing service for individuals to store personal effects within an enclosed building and may provide exterior storage of trucks, automobiles, trailers, boats or recreational vehicles, including motor homes.

MOBILE HOME A vehicle used, or so constructed as to permit being used, as a conveyance upon the public streets and highways and constructed in such a manner as will permit occupancy thereof for human habitation, dwelling or sleeping places for one or more persons, provided further that this definition shall refer to and include all portable contrivances used, or intended to be used, generally for living and sleeping quarters and which is capable of being moved by its own power, towed or transported by another vehicle. A mobile home which is not designed as a dwelling may be used as a mobile classroom, temporary office or similar use.

Mobile homes existing at the date of adoption of the Flood Plain Management Regulations within the floodway or floodway fringe overlay districts shall be required to meet the following regulations in addition to the other requirements of these Regulations:

- 1) Mobile homes shall be anchored to resist floatation, collapse, or lateral movement by providing over-the-top and frame ties in accordance with the state requirements cited in K.S.A. 75-1226 through 1234.
- 2) Any reconstruction or repair of existing mobile homes be required to meet the following regulations:
 - i) Stands or lots be elevated on compacted fill or on pilings so that the lowest floor of the mobile home will be at or above the regulatory flood elevation;
 - ii) Adequate surface drainage and access for a hauler are provided; and,
 - iii) In the instance of elevation on pilings:
 - (a) lots be large enough to permit steps;

- (b) piling foundations be placed in stable soil no more than ten (10) feet apart; and,
- (c) reinforcement be provided for pilings more than six (6) feet above the ground level.

MOBILE HOME PARK The area of land on which two or more mobile homes, being used for living purposes are parked.

NONCONFORMING ELIGIBLE PARCEL OR LOT A nonconforming eligible parcel or lot is a tract of land, designated on a duly recorded subdivision plat or by a duly recorded deed, or by other lawful means, that was established prior to adoption of the County's first zoning regulations or that complied with all applicable area, width and depth standards of the Zoning District in which it was located at the time of its creation, but which does not comply with the minimum area, width and depth requirements of the zoning district in which it is now located.

NONCONFORMING STRUCTURE A nonconforming building or structure is a building or structure that was legally established, but no longer complies with the Height, Area and Bulk Standards of these Zoning Regulations. Provided, however, that where a previously conforming structure no longer conforms with the regulations of these Zoning Regulations as a result of the adoption of amendments to Section 12-305(b) Height, Area and Bulk Requirements or through the dedication of additional easement for road right-of-way or road easement as required in Section 11-810(d)(4)(ii) of the Subdivision Regulations, the lawful use may be continued although the building or structure does not conform to the these requirements.

NONCONFORMING USE A land use which was legally established, but that is no longer allowed by the use regulations of the Zoning District in which it is located.

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

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

PARCEL A contiguous piece of land under the same ownership that was created by a survey, deed, or other instrument recorded with the Douglas County Register of Deeds.

PARKING SPACE, OFF-STREET. A graveled or hard surfaced area not in a road or alley and having an area of not less than 180 square feet, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with

a road or alley by a graveled or hard surfaced driveway which affords satisfactory ingress and egress for automobiles.

PARTICIPANT SPORTS Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis). The following are participant sports:

- 1) **Indoor**—Those uses conducted within an enclosed building. Typical uses include bowling alleys, swimming pools and physical fitness centers.
- 2) **Outdoor**—Those uses conducted in open facilities. Typical uses include driving ranges, ball fields and swimming pools.

PERSONAL SERVICES Provision of small personal items or consumer-oriented, personal services such as general retail sales and personal services of a small, neighborhood-scale. Typical uses include neighborhood grocery stores, drugstores, and barbershops. Provision of informational, instructional, personal improvement and similar services of a non-professional nature such as fine arts studios, martial arts centers, yoga meditation or diet centers.

PREMISES A lot or eligible parcel, together with all buildings and structures thereon.

RECREATION FACILITIES Any franchise, commercial or non-farm business use open to the public (including private clubs) which provide a non-residential use for the patron's enjoyment or relaxation.

RECREATION, ACTIVE Areas and facilities used or designed for active or group sports and recreational activities, including spectator areas associated with such facilities. Such areas include but are not limited to:

- 1) athletic fields and courts;
- 2) skating rinks and swimming pools;
- 3) boat docks and launches;
- 4) zoos;
- 5) community recreation buildings, including but not limited to meeting rooms, class or lecture rooms, band shelters or gazebos, and gymnasiums; and
- 6) Structures accessory to community recreation uses, such as public restrooms, refreshment stands, concession shops selling sporting goods, and
- 7) miniature golf and pitch and putt facilities.

RECREATION, PASSIVE Areas used or designed for passive and individual sports and recreational activities. Such areas include but are not limited to:

- 1) Greens and commons;
- 2) Gardens, arboretums, and conservatories;
- 3) Pedestrian, bicycle, and equestrian paths, trails, and walkways;
- 4) Benches, plaza or seating areas, and picnic areas; and
- 5) Golf courses, not including driving ranges, pitch and putt, or miniature golf.

REFUSE All wastes (except body wastes) including garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles or parts, abandoned farm machinery

and solid market and industrial wastes.

RESIDENTIAL DEVELOPMENT PARCEL A parcel created through the Certificate of Survey Process for the purpose of construction of one single-family residential dwelling unit and permitted accessory uses, buildings, and structures.

RIDING STABLE OR ARENA, COMMERCIAL A structure or land use in or on which equines are kept for sale or hire to the public. Breeding, boarding, or training of equines may also be conducted.

ROAD A public thoroughfare which affords the principal means of access to property abutting thereon.

ROAD, CLASSIFICATION OF The functional classification given to a road based on anticipated future growth, posted speeds, and the current and anticipated traffic levels. For the purposes of these Zoning Regulations, County road classifications are established in Exhibit 9-506 of Chapter 9 of the County Code.

ROAD LINE The perimeter line of a road right-of-way or road easement.

RUBBISH Non-putrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper wrappings, cigarettes, cardboard, cans, yard clippings, leaves, wood, glass, rags, bedding, crockery and similar materials.

SALE BARN An enclosure or structure designed or used for holding livestock for purposes of sale or transfer by auction, consignment, or other means. Other associated agricultural items such as hay, stock panels, etc. may also be sold.

SALVAGE YARD An area of land with or without buildings, used for or occupied by a deposit, collection or storage outside a completely enclosed building of used or discarded materials such as but not limited to waste paper, rags or scrap material; used building materials, house furnishings, machinery, motor vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. A deposit or the storage on a plot of or more wrecked or broken down motor vehicles, a mobile home, a trailer or parts thereof, for one week in an agricultural/residential district, or for 3 weeks or more in any other district, shall be deemed a junk yard/salvage yard.

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

SEWAGE Any liquid waste containing animal or vegetable matter in suspension or solution, including all household wastes from toilets, sinks, showers, washing facilities and floor drains, and may include liquids from laboratories, businesses or industrial operations, containing minerals in solution.

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

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

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

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

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

STORY, HALF A space under a sloping roof at the top of the building, the floor of which is not more than two feet below the plate, shall be counted as a half-story when not more than 60 percent of said floor area is used for rooms, baths, or toilets. A half-story containing living quarters shall be counted as a full story

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

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

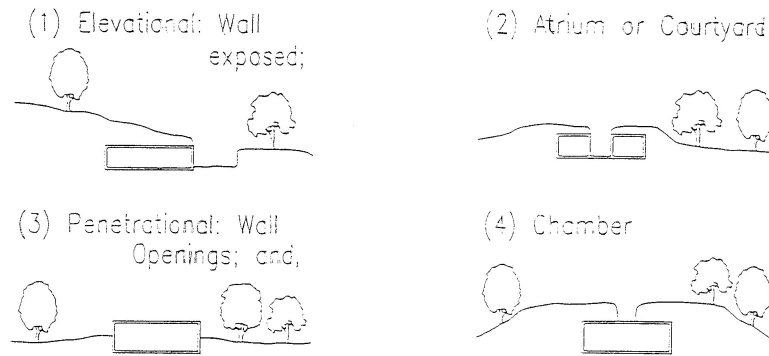


Diagram 3. Underground Structures

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

UTILITIES

- 1) MAJOR** Services and utilities that have substantial impacts. Such uses may be permitted when the public interest supersedes the usual limitations placed on land use and transcends the usual restraints of the district for reasons of necessary location and community-wide interest. Typical uses include: water and wastewater treatment facilities, major water storage facilities, public airports, power generation plans and detention and correction institutions.
- 2) MINOR** Public utilities of a smaller scale which have a local impact. Typical uses include electrical and gas distribution substations, lift stations, water towers, switching boxes. Excludes 'Wireless Telecommunication Facilities' use types.

VALUE ADDED AGRICULTURAL BUSINESS A business that adds economic value to an agricultural product as a result of the further processing of an agricultural commodity or the alternative marketing of agriculturally derived products. A Value Added Agricultural Business is involved in the manufacture of value-added products for end users rather than in the production of raw commodities.

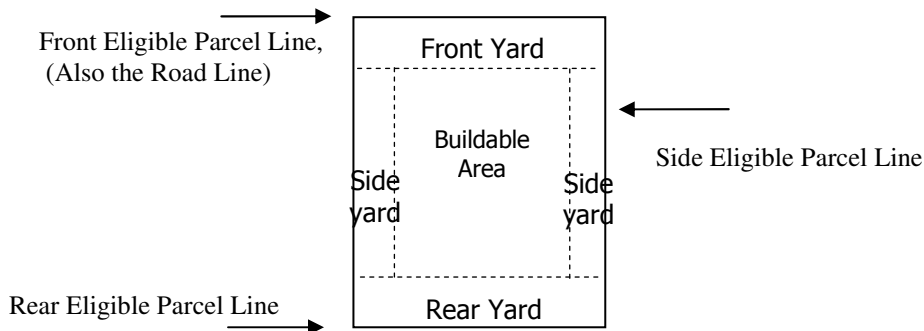
Value-added products may include:

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

WHOLESALE STORAGE & DISTRIBUTION, HEAVY The open-air storage, distribution, and handling of materials and equipment or bulk storage of fuel. Typical uses include monument or stone yards, train yards, and large-scale fuel storage.

WHOLESALE STORAGE & DISTRIBUTION, LIGHT Storage and warehousing services occurring within enclosed structures. Typical uses include wholesale distributors, storage warehouses and moving and storage firms but excludes mini- or self-storage.

YARD An open space other than a court, on an eligible parcel which is unoccupied and unobstructed from the ground upward, except as otherwise provided in these Regulations. 'Yard' refers to the actual open area that exists between a building and a lot or parcel line as opposed to the 'Required Yard' which is listed in Section 12-305.



YARD, FRONT A space extending the full width of an Eligible Parcel between any building and the front property line and is measured perpendicular to the building at the closest point to the front property line. On Eligible Parcels the front yard is parallel to the road from which access is taken. On corner lots, the front yard shall be considered as parallel to the road upon which the lot has its least dimension.

YARD, REAR A space extending the full width of an Eligible Parcel between the principal building and the rear lot line or parcel line and measured perpendicular to the building at the closest point to the rear lot lines.

YARD, REQUIRED The unobstructed open space which is measured from the property line inward a distance as required in Section 12-305 within which no structure shall be located, except as permitted as exceptions to these Regulations. It is the three-dimensional equivalent of the required setbacks for every Eligible Parcel.

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

YARD, EXTERIOR SIDE On a corner property, the side line of an eligible parcel which is adjacent to a road.

YARD, INTERIOR SIDE A side yard on a property which is bounded on both sides by other properties.

