

ZONING REGULATIONS
of
LABETTE COUNTY, KANSAS

Official Copy
as Incorporated by Resolution No. 2024-24-L

Model Code

prepared by the
LABETTE COUNTY PLANNING BOARD

Technical Assistance by

Foster Design Associates LLC
Landscape Architecture & Planning
Wichita, Kansas

in association with

Foster & Associates
Planning Consultants
Wichita, Kansas

and

Labette County Zoning Administrator

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ARTICLE 1. TITLE, PURPOSE, AUTHORITY, JURISDICTION & APPLICABILITY

Section 100 Title

These regulations, including the official zoning district maps made a part hereof, shall be known and may be cited as the “Zoning Regulations of Labette County, Kansas,” and shall hereinafter be referred to as “these regulations.”

Section 101 Purpose

These regulations are intended to serve the following purposes:

- A. To protect the unincorporated rural area from the impacts of development of potential large scale conditional uses;**
- B. To conserve productive farm and ranch land and other agricultural uses;**
- C. To encourage the compact development of the urban areas;
- D. To retain the Labette County Zoning Code for the Great Plains Industrial Park, with its jurisdiction limited to the Park site, and to promote the location of appropriate land uses within the Park in accordance with that Zoning Code;
- E. To promote the public health, safety, morals, comfort and general welfare;
- F. To establish a variety of zoning district classifications according to the use of land and buildings with varying intensities of uses and standards whose interrelationships of boundary zones form a compatible pattern of land uses and buffer areas which enhance the value of each zone;
- G. To protect property values and conserve energy and natural resources;
- H. To provide for adequate light and air and acceptable noise levels;
- I. To facilitate the establishment of easements for the adequate provision of transportation, water supply, sewage disposal and other public improvements;
- J. To provide adequate public notice on proposed changes in these regulations and zoning district maps and an opportunity to be heard on such zoning matters;
- K. To establish and provide procedures for the Board of Zoning Appeals to consider appeals and variances; and
- L. To implement the proposals of the *Land Use Plan* for the zoning jurisdiction.

Section 102 Authority

These regulations are adopted under authority established by K.S.A. 12-741 et seq., as amended, 12-736, 12-3301 thru 12-3305.

Section 103 Zoning Jurisdiction

These regulations apply to the unincorporated area of Labette County except the extraterritorial zoning and subdivision jurisdiction around the City of Parsons. See Section 104 below for applicability. The Parsons jurisdiction extends no more than three miles from the nearest point of the city limits extending not more than one-half the distance between such city and another city which has adopted zoning regulations; provided, that the city within any such area shall have: (1) officially adopted by their governing body by ordinance a comprehensive plan for the city and surrounding planning area; and (2) adopted zoning regulations for the city and for an extraterritorial jurisdiction around the city. This jurisdiction about Parsons includes land in Labette, Liberty, North and Walton townships of Labette County, Kansas.

These regulations apply to the Great Plains Industrial Park (GPIP) solely as an overlay district, and utilize underlying zoning districts established for GPIP by the *Labette County Zoning Code* adopted by the Board of County Commissioners by Resolution No. 2011-42-L on September 19, 2011.

Section 104 Regulatory Applicability

These regulations apply to land use development activities for **conditional uses** listed within each zoning district. These regulations also provide for the processing of amendments, issuance of zoning permits and occupancy certificates and applications for appeals and variances as decided by the Board of Zoning Appeals. **Agricultural Uses are exempt as provided by State statutes.**

ARTICLE 2 INTERPRETATION AND CONSTRUCTION

Section 100 Rules of Interpretation

- A. Minimum Requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals, comfort and general welfare.
- B. Overlapping or Contradictory Regulations.** Where the conditions imposed by the provisions of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- C. Private Agreements.** The provisions of these regulations are not intended to repeal any easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. **The County does not have a responsibility to enforce such private agreements.**

Section 101 Rules of Construction

- A. In the construction of these regulations, the provisions and rules of this Section shall be preserved and applied, except when the context clearly requires otherwise:
1. The word "shall" is mandatory while the word "may" is permissive.
 2. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 3. The word "County" means Labette County, Kansas.
 4. The words "Governing Body" mean the Board of Commissioners of Labette County, Kansas.
 5. The word "Clerk" means the Clerk of Labette County.
 6. The words "Planning Board" mean the Labette County Planning Board.
 7. The words "Land Use Plan" mean the adopted and approved *Land Use Plan 2024-2044 for Labette County, Kansas*.
 8. The word "Board" means the Board of Zoning Appeals and the Labette County Planning Board depending on the subject context.
 9. The words "zoning jurisdiction" mean the area as defined in Article 1 Section 103 for which the jurisdiction of these regulations is applicable for zoning purposes.
 10. K.S.A. means the Kansas Statutes Annotated as published by the Office of the Revisor of Statutes.
 11. Unless otherwise specified, all distances shall be measured horizontally.
- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or other source.

ARTICLE 3. GENERAL PROVISIONS

These General Provisions provide uniform regulations for the administration of the zoning districts herein and the zoning regulations.

Section 100 Activities Exempted by These Regulations

- A. Exemptions.** The following structures and uses shall be exempt from the provisions of these regulations:
1. Poles, wires, cables, conduits, vaults, lift stations, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, but not including major utility substations located on or above the surface of the ground. (See Article 3 Section 103A for LOT SIZE and BULK REGULATIONS FOR PUBLIC UTILITY FACILITIES.)
 2. Railroad tracks, signals, bridges and similar facilities and equipment located on railroad rights of way, and maintenance and repair work on such facilities and equipment.
 3. Buildings, structures, or land used which are owned, by the federal government. When leased by the federal government they are not exempt.
 4. **Use of land for agricultural purposes in all zoning districts** as provided by State statutes and defined in Appendix 1.
 5. Drilling and operating oil or gas wells; provided, that they are not located within **500 feet** of a habitable dwelling unit without the permission of the affected property owner.
 6. Permitted uses in all zoning districts.

Section 101 Districts, Zoning District Maps and Boundaries

- A. Establishment of Districts.** The zoning jurisdiction is hereby divided into the districts as described in Article 4. References to "agricultural districts" shall mean those districts in which agricultural uses are the predominant activity.
- B. Zoning District Maps**
1. The boundaries of the districts described in Article 4 are as indicated on the Official Zoning District Map(s) which is on file with the Zoning Administrator and identified on its face as part of these regulations. The zoning map(s) with all notations, references and other matters shown thereon is as much a part of these regulations as if specifically set forth herein. (See Article 6 Section 100A11 for zoning district map(s) certificate and revisions)
 2. It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, streets, alleys and railroads and other rights of way, be included in the districts established in these regulations. Any area not shown on the zoning district map(s) as being included in any district shall be deemed to be in the most restrictive district.

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- C. **Boundaries.** In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the Official Zoning District Map(s), the following rules shall apply:
1. Where boundary lines are indicated as approximately following streets, alleys, easements, railroads, rivers, streams or bodies of water, such boundaries shall be construed as following the centerlines thereof or otherwise are construed to coincide with lot or tract lines, unless otherwise indicated.
 2. Where the district boundaries do not coincide with the location of boundaries as stated in Section 101C1 above, the district boundaries shall be determined by the use of the scale shown on the zoning district map, unless an exact distance is shown.
 3. Where a district boundary line divides a lot or unsubdivided property in single ownership, the regulations for either portion of the lot may, at the owner's discretion, extend to the entire lot, but not more than 25 feet beyond the boundary line of the district.
- D. **Zoning of Rights of way.** All roads, streets, alleys, public ways, waterways and railroad rights of way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting them. Where the centerline of a road, street, alley, public way, waterway or railroad right of way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

Section 102 General Requirements for All Zoning Districts

The following uses and standards are applied to each zoning district. See [Appendix 1](#) for definitions where applicable.

- A. **Permitted Uses.** No zoning permit or occupancy certificate is required for permitted uses within a zoning district. There is no regulation of existing or new permitted uses within a zoning district.
- B. **Conditional Uses.** See [Article 8 Section 101](#).
- C. **Lot Sizes.**
- D. **Bulk Regulations.**
- E. **Use Limitations.** No conditional use hereafter established or altered shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is, or will be located.

Section 103 Miscellaneous Requirements

A. Lot Size Requirements and Bulk Regulations for Public Utility Facilities. None of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located, except as may be determined wherever a conditional use is approved in certain districts and by subsection three of the definition for HEIGHT, MAXIMUM in Appendix 1: (See Article 3 Section 100A1 for EXEMPTIONS.)

1. Communication structures.
2. Electric and telephone substations.
3. Gas regulator or compressor stations.
4. Pumping stations.
5. Water towers or standpipes.

B. Sewer and Water Facilities.

1. In all districts, it is the intention of these regulations to encourage the installation of public water supplies and sewage disposal systems or to connect to such systems if available for use and provided within an economically feasible distance.
2. In areas where such public facilities are not yet available and on-site wells, cisterns and septic tank systems or lagoon are necessary, the suitability of the lot and the standards for installation of such on-site water supply and sewage disposal systems shall be governed by the County Sanitation Code.

C. Dedication of Rights of way and Easements. As a condition related to a conditional use, the dedication of additional street rights of way; easements for utilities, drainage, access control, fire lanes, building setback lines and other purposes; and the construction, removal or replacement of public improvements necessary to the proper development of the property, may be required either by platting or replatting the land according to the County policies or, in lieu of platting, by a legal document effectuating such dedications and improvements. Such condition may be required whether the property is being divided or held in single ownership. A stated time limit not exceeding one year may be established to ensure compliance with the above conditions during which time the effectuation of the conditional use having been approved with such conditions by the Governing Body shall be withheld from publication by the Clerk. Failure to comply with the conditions during the stated period shall result in making the conditional use null and void. No extension of the time period may be granted without reapplication.

D. Vacated Rights of way. Whenever any road, street, alley, railroad or other right of way is vacated by official action of the Governing Body, the current zoning district(s) for such right of way as provided for by Article 3 Section 101B2 remains in effect after such vacation, unless procedures are initiated to amend the district classification.

Section 104 Site Plan Approval for Conditional Uses

The purpose and intent of site plan approval is to encourage the compatible arrangement of buildings, infrastructure, off-street parking and loading, lighting, signage, screening, buffering, landscaping, ingress and egress and drainage on and from the site, any or all of these, in a manner that will promote safety and convenience for the public and will preserve property values of surrounding properties. Once a site plan has been reviewed and approved by the Planning Board, no changes shall be made except for minor revisions due to unforeseen circumstances as may be determined and approved by the Zoning Administrator. If other than minor revisions are requested, the changes must be shown on a revised plan, transmitted to and approved by the Board.

- A. **Applicability. All conditional uses** in any district shall submit site plans for approval by the Planning Board. Such plans are applicable to all new developments, and for major alterations to an existing site or structure(s) which intensify factors affecting the overall design relationships.
- B. **Enforcement and Appeal.** No zoning permit or occupancy certificate shall be issued by the Zoning Administrator until the related site plan is approved by the Planning Board. Anyone aggrieved by a decision of the Planning Board may appeal to the Governing Body within 30 days for a determination based on the reasonableness of the site plan decision including any conditions attached thereto. Notification shall be given in the same manner as required for an appeal case to the Board of Zoning Appeals. (See [Article 7 Section-103.](#))
- C. **Fees.** Processing fees are included in the Fee Schedule.
- D. **Submittal Time and Review Comments.** Site plans should be submitted to the Zoning Administrator **30 days** before a regular Planning Board meeting so that they can be distributed to interested parties for review and the resulting comments summarized by the Administrator for a report to the Board.
- E. **Number of Plan Copies.** A minimum of **11 legible copies** are needed for proper review unless otherwise determined by the Zoning Administrator. Plans may be submitted in digital format as approved by the Zoning Administrator.
- F. **Site Plan Requirements:**
 - 1. Oriented to north with north arrow and scale plus dimensions and boundary lines for the zoning lot.
 - 2. Show the location and dimensions of all rights of way, access control, easements and setback lines either required by these regulations or by platting.
 - 3. Topography by contour lines required only if slopes exceed 5% or buffer berms are used.
 - 4. Show flow of storm drainage by directional arrows.
 - 5. Locate existing and proposed structures by bulk dimensions plus number of stories, gross floor area and entrances.
 - 6. Show existing and proposed drive entrances, aisles, off-street parking, loading spaces and walkways, including type of surfacing and number of parking spaces.
 - 7. Indicate location, height and materials for screening walls or fences and landscaped areas, including grass, trees and shrubs.
 - 8. Show location, direction and intensity of proposed lighting.
 - 9. Locate all major signs noting type, height and approximate size.
 - 10. Indicate location of outdoor display, storage and trash disposal areas.
 - 11. Other requirements as determined by the Zoning Administrator.

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- G. Conditions of Approval.** All site plans must meet the applicable standards contained in the Zoning Regulations as well as other relevant regulations including the following:
1. Proposed uses are permitted in the district in which the property is located.
 2. Proposed arrangement of buildings, off-street parking, loading, access, lighting, signage, landscaping and screening, and drainage is compatible with adjacent land uses.
 3. 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.
 4. Site plan provides for the safe movement within the site of vehicles and pedestrians.
 5. There is a sufficient mixture of grass, trees or shrubs within the interior and perimeter (including public right of way) of 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 buildings, structures, parking, loading or access ways shall be landscaped with a mixture of grass, trees or shrubs. Landscape treatment will be appropriate with surrounding existing land use.
 6. All outdoor trash disposal areas are screened and outdoor storage areas screened when required.
 7. See Article 8 Section 101 for a checklist of potential conditions for review of conditional uses.

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H. **Assurances.** Site plan performance is assured by issuance of a zoning permit and occupancy certificate. The site plan drawing must include the following certificates:

Owner's Certificate

As the developer of this project approved by this site plan, I do hereby certify that I understand that the project is to be constructed as shown on this final approved plan and that no occupancy certificate will be approved by the Zoning Administrator for the project until all required items have been completed. I further certify that since these requirements run with the project, I will supply a copy of this approved site plan to any successors or assigns who may follow me in ownership of the project.

Signed: _____

(Print name and title)

Planning Board Certificate

Official Site Plan as (approved) (modified) to the conditions approved by the Labette County Planning Board at their meeting of _____, 20__

SIGNED: _____

Chairperson

ATTEST: _____

Secretary

Completion of conditions required by the Planning Board for approval:

Signed: _____

Zoning Administrator

Landscaping must be maintained in a healthy, disease-free and debris-free condition or it will be considered a violation of these regulations.

I. **Design Criteria** From time to time, the Planning Board may adopt additional design criteria in the form of policy statements to assist in reviewing site plans.

ARTICLE 4. ZONING DISTRICTS

Section 100 A-1 Agricultural District

The intent of this district is protect the unincorporated rural area from the impacts of development of potential large scale conditional uses. Further, the intent is to provide protection for agricultural uses in addition to protection provided by State statutes.

A. Permitted Uses (No Zoning Permit Required). All existing and new uses are not regulated and shall be permitted uses, except for the conditional uses listed within this District.

B. Conditional Uses

1. Public improvements, facilities or public utilities of a type embraced within the *Land Use Plan* as required by K.S.A. 12-748.
2. Commercial communication structures, antennas and aerials which exceed maximum structure height bulk regulations.
3. Crew Camps associated with a conditional use application.
4. Sanitary landfills, incineration plants, large recycling collection and processing centers, refuse transfer stations and hazardous waste facilities, publicly and privately owned.
5. Sexually oriented businesses as defined in K.S.A. 12-770 (A) (2) through (15) for which the premises is located at least **1,500 feet** from any: (1) land being used for a public or private school, college, church or park; or (2) building being used for a residence. If such uses are established after such a business is properly approved to operate, the premises shall remain eligible for approving such a business.
6. **Solar Energy Conversion Systems (SECS):** For community and utility commercial large scale systems. (See Supplemental Use Regulations for SECS - RESERVED.)
7. Utility substations, pumping stations and water towers, publicly and privately owned.
8. **Wind Energy Conversion Systems (WECS):** For community and utility commercial large scale systems. (See Supplemental Use Regulations for WECS.)
9. **Battery Energy Storage Systems (BESS):** (See Supplemental Use Regulations for BESS - RESERVED.)
10. Private (Non-Utility) Renewable Energy Transmission Lines.
11. Other Commercial Energy Generating Systems.

C. Lot Size Requirements

1. Minimum lot area:
 - a. Lot area, width and depth shall be reviewed with the Applicant to determine adequate area and dimensions to facilitate the proposed development, meet minimum requirements of the County Sanitation Code and purposes of these regulations.

D. Bulk Regulations

1. Maximum structure height: **60 feet** for buildings; **150 feet** for other structures.
2. Setback Area requirements:
 - a. Front, side and rear setback areas shall be reviewed with the Applicant to determine dimensions to facilitate the proposed development and meet purposes of these regulations.

E. Use Limitations

1. See Article 8 Section 101 for **checklist** to review conditional use applications.
2. See Article 10 for Supplementary Use Regulations.

Section 101 A-2 Agricultural Transition District

The intent of this district is protect the unincorporated rural area from the impacts of development of potential large scale conditional uses. Further, the intent is to provide protection for agricultural uses in addition to protection provided by State statutes. This district also serves as a transition area from incorporated municipalities and villages to the A-1 Agricultural District. More public services would be anticipated than in the A-1 Agricultural District.

A. Permitted Uses (No Zoning Permit Required). All existing and new uses are not regulated and shall be permitted uses, except for the conditional uses listed within this District.

B. Conditional Uses

1. Any conditional uses allowed in the A-1 Agricultural District except:
 - a. Solar Energy Conversion Systems (SECS);
 - b. Wind Energy Conversion Systems (WECS);
 - c. Battery Energy Storage Systems (BESS);
 - d. Private (Non-Utility) Renewable Energy Transmission Lines; and
 - e. Other Commercial Energy Generating Systems.

C. Lot Size Requirements

1. Minimum lot area:
 - a. Lot area, width and depth shall be reviewed with the Applicant to determine adequate area and dimensions to facilitate the proposed development, meet minimum requirements of the County Sanitation Code and purposes of these regulations.

D. Bulk Regulations

1. Maximum structure height: **60 feet** for buildings; **150 feet** for other structures.
2. Setback Area requirements:
 - a. Front, side and rear setback areas shall be reviewed with the Applicant to determine dimensions to facilitate the proposed development and meet purposes of these regulations.

E. Use Limitations

1. See Article 8 Section 101 for **checklist** to review conditional use applications.
2. See Article 10 for Supplementary Use Regulations.

Section 102 V-I Village District

This district is intended to encourage the continued existence of small-unincorporated “villages” by placing very minimal restrictions on their development. No development of new villages is contemplated under these provisions and only fill-in type of development of existing villages with comparable low intensity uses are intended. Existing unincorporated villages are Angola, Dennis, Montana, Strauss and Valeda.

A. Permitted Uses (No Zoning Permit Required)

1. Single family detached dwellings, modulars and manufactured homes.
2. Commercial retail and service type businesses.
3. Light Industrial uses.

B. Conditional Uses

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

C. Standards

1. No restrictions are placed on lot size requirements or bulk regulations except that all zoning lots are required to have minimum setbacks of 25 feet for front setback areas and ten feet for side and rear setback areas.

Section 103 GPIIP Great Plains Industrial Park Overlay District

This district is established as an overlay district solely for the area of the Great Plains Industrial Park (GPIP). It will be applied in combination with underlying zoning districts established for GPIP by the *Labette County Zoning Code* adopted by the Board of County Commissioners by Resolution No. 2011-42-L on September 19, 2011. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties, this district is intended to:

1. Retain the *Labette County Zoning Code* adopted solely for the area of GPIP and based on the values and vision established in the *Comprehensive Master Redevelopment Plan* of the former Kansas Army Ammunition Plant.
2. Retain the Standards and Guidelines included as part of the *Zoning Code* which set forth uniform rules and procedures for the protection of the public health, safety, and welfare, for the development of property within the GPIP, and establish standards to guide development and protect property values.
3. Retain the zoning districts of the *Labette County Zoning Code* listed as follows:
 - a. **Industrial Zone:** Industrial Zones are intended primarily for general industrial uses. The Industrial Zone is divided into three sub-zones based on minimum lot areas and anticipated scale and intensity of development.
 - b. **Industrial-Energy Zone:** Industrial-Energy Zone is intended for largest of the industrial users that require substantial development area, often focused in energy-related production, distribution, research and development.
 - c. **Office - Industrial Zone:** Office - Industrial Zone is intended to serve the smallest of industrial users that are often combined with front office space uses.
 - d. **Office - Residential Zone:** Office - Residential Zone is intended primarily for small office buildings and potentially compatible residential uses.
 - e. **Agriculture - Business Zone:** The Agriculture - Business Zone is intended for general farming and related operations, including crop production and harvesting, as well as business uses associated with or in support of agriculture.
 - f. **Agriculture - Tourism Zone:** the Agriculture - Tourism Zone is intended for general farming and related operations, including crop production and harvesting, as well as tourism uses associated with or in support of agriculture.
 - g. **Lodge / Conference Center Zone:** The Lodge / Conference Center Zone is intended for a lodge or conference facility and associated business, educational, recreational, or community uses.

ARTICLE 5. GRANDFATHERED LOTS, STRUCTURES AND USES

Section 100 Purpose

The purpose of this Article is to provide for the continuance of existing lots, structures and uses which do not meet the requirements and standards of these regulations. These nonconforming lots, structures and uses are considered to be “grandfathered in” relative to administration of these regulations. Accessory structures and uses associated with grandfathered lots, structures and uses are also to be considered grandfathered in. These regulations shall follow State statutes regarding nonconforming (grandfathered) lots, structures and uses. A lot, structure or use is no longer grandfathered once it is approved as a conditional use. See Article 1 Section 104 Regulatory Applicability.

The right to continue a grandfathered lot, structure or use shall not be affected by a change in ownership or operator of the structure or use.

ARTICLE 6. ADMINISTRATION AND ENFORCEMENT

Section 100 Office of the Zoning Administrator

A Zoning Administrator shall be appointed by the Governing Body. The Zoning Administrator shall administer and enforce these regulations, except for those duties specifically assigned to the Clerk.

A. Duties of the Zoning Administrator.

1. Approve and issue all zoning permits and occupancy certificates for **conditional uses** and make and maintain records thereof.
2. Conduct procedures required for the administration of site plan approval and supplemental use regulations for conditional use applications.
3. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations including site plan approval.
4. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Board, Board of Zoning Appeals and Governing Body.
5. Receive, file and forward to the Planning Board the applications and records for all amendments and conditional uses which are initially filed with the Zoning Administrator.
6. Receive, file and forward to the Board of Zoning Appeals the applications and records for all variances which are initially filed with the Zoning Administrator and forward all records of appeals to the Recording Secretary.
7. Maintain permanent and current public records of the zoning regulations, including but not limited to all official zoning district maps, amendments, conditional uses, appeals, variances, applications thereof and records of hearing thereon.
8. Provide such technical and clerical assistance as may be required by the Planning Board, the Board of Zoning Appeals, the Governing Body and other agencies and officials in the exercise of their duties relating to these regulations.
9. Provide the Planning Board an assessment of the impact of a **renewable energy project** upon the County in the zoning case report to further **goals of the *Land Use Plan*** for such projects.
10. Maintain for distribution to the public a supply of the current, zoning regulations, zoning district map(s) and any rules of the Planning Board and the Board of Zoning Appeals. A fee may be charged to defray the cost of printing and distribution.
11. Maintain the official copy of the **zoning district map(s)** showing the district boundaries. Such map(s) shall be marked 'Official copy of zoning district map(s) incorporated into zoning regulations by adoption of Resolution No. _____ by the Board of County Commissioners on the _____ day of _____, 20__' and shall be open to inspection and available to the public at all reasonable business hours. Each map shall be signed by the Chairperson of the Governing Body and attested to by the Clerk. Periodic changes to the map(s) shall be noted by a revision date.

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B. Duties of the Clerk. The Clerk shall maintain certain **official records** and carry out certain responsibilities in the administration of these regulations as follows:

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

Section 101 Zoning Permits and Occupancy Certificates for Conditional Uses

A. Zoning Permits

1. **Permitted uses in all districts shall not be required to obtain a zoning permit. For conditional uses**, unless a **zoning permit** shall first have been obtained from the Zoning Administrator when required, the construction, reconstruction, moving or structural alteration of any building or structure or the improvement of land prior to its use or the use of any land or structure being changed to any other use, **shall not be commenced**. Such permits shall not be issued by any other official, employee, department, board or agency of the County, except as provided for as a temporary permit. Any zoning permit issued in conflict with the provisions of these regulations shall be null and void.
2. No principal or accessory building or structure or use, or portion thereof, shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces, driveways or sidewalks for which a zoning permit has been or is being issued. In any event, when such structures or uses are permitted to be located on or project over such easements, the property owner assumes the risk and liability for any reconstruction or replacement necessary including fences if any maintenance or other improvements are required by a governmental agency or a utility provider.
3. A zoning permit is not initially required for grading and/or excavating a proposed construction site. (Note: If the site is located in or adjacent to a body of water body or in a floodplain area, regulations of the Water Division of Kansas Department of Agriculture may affect the site.)

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4. **Application.** Every application for a **zoning permit** shall be accompanied by the following:
 - a. A drawing or copy of the recorded plat, in duplicate, of the piece or parcel of land, lot(s), block(s), parts or portions thereof, drawn to scale showing the actual dimensions of the zoning lot(s), including any easements thereon. A digital copy in an approved format shall also be provided.
 - b. An approved site plan. See Article 3 Section 104 for requirements. One copy of such drawings shall be retained by the Zoning Administrator as a public record.
5. **Issuance.** A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days **after** the receipt of a **complete application** thereof or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a zoning permit, he shall advise the applicant in writing of the reasons for the disapproval.
6. **Period of Validity.** For conditional uses under supplemental use regulations, the period of validity as stated within the supplemental use regulations shall be followed. For other conditional uses, the period of validity shall be one year. A zoning permit shall become null and void unless construction, reconstruction, moving or structural alteration of a structure is commenced during the period of validity. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued, then application must be made to the Zoning Administrator for an extension of time to continue the project. The Zoning Administrator may grant reasonable **extensions of time** provided no changes have been made in any applicable regulations. If such changes have occurred, application must be made for a new permit based on the provisions of the new or amended regulations in order to continue the project.

B. Occupancy Certificates. **Permitted uses in all districts shall not be required to obtain an occupancy certificate.** No other structures or additions constructed, reconstructed, moved or altered after the effective date of these regulations when required shall be occupied or used for any purpose unless an occupancy certificate shall first have been obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these regulations. No land vacant on the effective date of these regulations shall be used for any purpose and no use of any land or structure shall be changed to any other use unless an occupancy certificate shall first have been obtained from the Zoning Administrator.

1. **Application.** Every application for a zoning permit shall be deemed to be an application for an occupancy certificate.
2. **Issuance**
 - a. No occupancy certificate for a structure or addition constructed, reconstructed, moved or structurally altered or for the new or changed use of any structure or land shall be issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the permit was issued. This includes the requirements for utilities, roads, streets and other public improvements required by **County codes and policies**. Direct access must be available from the frontage of each zoning lot to an opened public road or street or otherwise the improvement of the road or street must be guaranteed by such methods as required by **County policies**.

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

Section 102 Enforcement and Liability for Conditional Uses

- A. It shall be the duty of the Zoning Administrator or any deputies working under his direction to enforce the provisions of these regulations in consultation with the County Counselor in the following manner:
 1. To refuse to issue any zoning permit or occupancy certificate for any building or structure or use of any premises which would violate any of the provisions herein.
 2. To revoke a zoning permit and issue a stop order at any time for a building or structure or use for which the same was issued when it shall appear (1) that there is a departure from the plans, specifications or conditions as required under terms of the permit; (2) that the same was procured by the false representation; (3) that it was issued by mistake, or (4) that it violates any provisions of the zoning regulations.
 3. To cause any building, structure, place or premises to be inspected and examined as required by these regulations and to order in writing the remedying of any condition found to exist therein or threat in violation of any provisions herein.
 4. To institute any appropriate action or proceedings to prevent such unlawful action or use or to restrain, correct, or abate such violation on or about the premises of any building or structure which is constructed, built, moved, structurally altered or reconstructed or land is used in violation of any provisions herein.
- B. The Zoning Administrator or designee charged with the enforcement of these regulations, acting in good faith and without malice in the discharge of the duties described herein, shall not be personally liable for any damage that may accrue to persons or property as a result of any act or by reasons of an act or omission in the discharge of such duties. A suit brought against the Administrator because of an act or omission performed by the Administrator in the enforcement of any provision of these regulations or other pertinent laws or resolutions implemented through the enforcement of these regulations shall be defended by the County until final termination of such proceedings and any judgment resulting therefrom shall be assumed by the County. (See K.S.A. 75-6101, *et seq.* in general and K.S.A. 75-6109 specifically.)

Section 103 Violations

- A. **Penalties.** Pursuant to K.S.A. 12-761, as amended, any violations of these regulations shall be deemed a misdemeanor. The owner or agent of a building, structure or premises in or upon which violation of any provision of these regulations has been committed or shall exist or the lessee or tenant of an entire building or entire premises in or upon which a violation has been committed or shall exist; or the agent, architect, building contractor or any other person who commits, takes part in or assists in any violation or who maintains any building, structure or premise in or upon which a violation has been committed or shall exist, shall be punished by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.

- B. **Remedies.** In case any building or structure is erected, constructed, reconstructed, structurally altered, converted or maintained; or any building, structure or land is used or is proposed to be used in violation of these regulations, the appropriate authorities of Labette County, in addition to using other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or to correct or abate such violation, or to prevent the occupancy of such building, structure or land. In addition to the County, any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these regulations and to abate nuisances in violation thereof.

Section 104 Fees for Conditional Use Applications

For purposes of wholly or partially defraying the costs of the administrative and enforcement provisions described in these regulations, including publication costs, the applicant upon filing an application for a conditional use shall pay the Clerk a fee according to the fee schedule approved by the Governing Body. Such fee shall be based upon the intensity and scale of the proposed conditional use. An application shall not be processed until such fee is received. These fees include application for appeals, variances or a zoning permit including occupancy certificate related to the conditional use.

Section 105 Reports

The Zoning Administrator shall periodically report verbally or in writing to the Governing Body and the Planning Board a summary of all zoning permits issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, conditional uses, appeals and variances. Such a report shall include comments on any problems encountered in the administration or enforcement of these regulations which may especially be of use at the annual review established by Article 8 Section 105.

ARTICLE 7. BOARD OF ZONING APPEALS

Section 100 Authorization

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

Section 101 General Procedures

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

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

Section 102 Jurisdiction

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

- A. To hear and decide **appeals** where it is alleged there is error in any order, requirement, decision or determination (all hereinafter referred to collectively as “decision”) made by the Zoning Administrator in the enforcement of these regulations subject to the procedure and standards set out in Article 7 Section 106.
- B. To hear and decide on **variances** from specific terms of these regulations subject to the procedure and standards set out in Article 7 Section 107.

Section 103 Notice of Hearing

For the hearing on each appeal for a decision or variance, public notice of the date, time and place of the hearing, the legal description or a general description sufficient to identify the property under consideration, and a brief description of the subject of such hearing shall be published once in the official newspaper so that at least **20 days** shall elapse between the date of such publication and the date for the hearing. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available when only a general description of the property is provided in the notice. A copy of such notice shall be mailed to each party making the appeal and to the Recording Secretary of the Planning Board.

The Board shall also provide notice to all owners of record of real property located within at least **1,000 feet** of the property under consideration which is outside of any city and for **200 feet** inside any city which is within the 1,000 - foot notification area. In any event, all the owners of property adjacent to any land contiguously owned by the applicant outside of the property under consideration shall be notified. If any of these notification areas extend into another county, similar notification shall be given to owners of that area. Such notice shall be mailed so that at least 20 days shall elapse between the mailing date and the hearing date. **A list of such owners of record** of real property with their addresses and zip codes shall be provided by the applicant. Failure to receive such notice after it has been properly addressed and deposited in the mail shall not invalidate any subsequent action taken by the Board. If there is no quorum present for the meeting or available at the time of the hearing, the members in attendance may agree to hold another meeting in the future at a stated date, time and place for which, when announced at the present meeting, no further public notice need be given.

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

Section 104 Conduct of Hearing

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

Section 105 Finality and Judicial Review of Decisions

Any order or determination of the Board on an appeal for a decision or a variance, shall be final decisions and shall be subject to judicial review, but not appealable to the Planning Board or the Governing Body.

Any person, official or governmental agency, jointly or separately dissatisfied by any decision of the Board, may present to the County District Court, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom based on a determination of the reasonableness of any such order or determination. Such petition shall be filed with the Court within **30 days** after the date of filing the final decision with the Zoning Administrator.

Section 106 Appeals

An appeal from a decision of the Zoning Administrator with respect to the interpretation, application or enforcement of these regulations may be taken to the Board by any person aggrieved, or by any officer of the County, or any governmental agency or body affected by any decision of the Zoning Administrator.

- A. Time for Appeals.** Appeals shall be made within 30 days after a decision has been made by the Zoning Administrator by filing an application for appeal. Upon the Recording Secretary's receipt of an application for appeal and notification to the Zoning Administrator, the Administrator shall forthwith transmit to the Secretary all of the papers constituting the record upon which the decision being appealed was based.
- B. Application.** An application for an appeal shall (1) be filed with the Recording Secretary, (2) specify the grounds for such an appeal, (3) include the legal description of any property involved with the appeal, (4) be accompanied by an ownership list as required by Article 7 Section 103 and the filing fee, and (5) provide such additional information as may be prescribed by rule of the Board.
- C. Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on petition with notice to the Zoning Administrator and on the basis of due cause shown.
- D. Hearing and Notice.** A hearing on the application for such an appeal shall be held and notice thereof given as specified under Article 7 Sections 103 and 104 and which are consistent with the general procedures and records required by Article 7 Section 101.
- E. Decision.** The Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Zoning Administrator, and may issue or direct the issuance of a permit and/or occupancy certificate. No conditions can be attached to such a decision, unless the Zoning Administrator was equally permitted to attach such conditions by these regulations. The Board shall render a written decision in the form of a resolution on the appeal without unreasonable delay after the close of a hearing and, in all cases, within 45 days after the close of the hearing.

Section 107 Variances

The Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest and provided that the spirit of the regulations shall be observed, public safety and welfare secured and substantial justice done. Variances may be authorized only in those specific instances enumerated in Article 7 Section 107C and then only when the Board has made findings of fact based upon the standards set out in Article 7 Section 107D that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. According to K.S.A. 12-759(e), any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.

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- A. Application.** An application for a variance shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the variance, (3) be accompanied by an ownership list as required by Article 7 Section 103 and the filing fee and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. The particular requirements of these regulations which prevent the proposed use or construction;
 2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;
 3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction;
 4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property; and
 5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed that necessitate the request.
- B. Hearing and Notice.** A hearing on the application for such a variance shall be held and notice thereof given as specified under Article 7 Sections 103 and 104 and which are consistent with the general procedures and records required by Article 7 Section 101.
- C. Authorized.** Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Article 7 Section 107D, and may be granted only in the following instances below and in no others.
1. To vary the applicable minimum lot area, lot width and lot depth requirements.
 2. To vary the applicable bulk regulations, including maximum height and minimum lot coverage and setback area requirements.
 3. To vary the dimensional provisions for obstructions in required setback areas.
 4. To vary the number of required off-street parking and the amount of off-street loading.
 5. To vary dimensional sign provisions.
- D. Standards.**
1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that all the conditions required by K.S.A. 12-759(e) have been met which are listed below:
 - a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
 - b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - c. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
 - e. That granting the variance desired will not be opposed to the general spirit and intent of these regulations.

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2. In determining whether the evidence supports the conclusions required by Section 107D1 above, the Board shall consider the extent to which the evidence demonstrates that:
 - a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
 - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
 - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and
 - d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public roads or streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

E. Conditions. In granting a variance, the Board may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 107D above which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations, including methods for guaranteeing performance. Failure to comply with any of the conditions for a variance which are later attached to a zoning permit shall constitute a violation of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original variance; however, only the requested condition is to be reconsidered at the hearing.

F. Decisions and Records. The Board shall render a written decision containing specific findings of fact in the form of a resolution on an application for a variance without unreasonable delay after the close of a hearing, but in all cases within 45 days after the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board with respect to applications for variances in order to properly issue permits.

G. Period of Validity. No variance granted by the Board shall be valid for a period longer than **180 days** from the date on which the Board grants the variance, unless within such 180-day period a zoning permit is obtained and the variance requested is started. The Board may grant extensions not exceeding 180 days each, upon written application, without further notice or hearing; provided, that such application is filed during the 180 day period of the original grant or an extension thereof.

ARTICLE 8. AMENDMENTS

Section 100 General Provisions for Amendments

These regulations and the districts created under the authority of these regulations may be amended from time to time by the Planning Board following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article 8. Conditional use applications are processed in the same manner. (See Article 8 Section 101 for conditional uses.)

- A. Proposal.** Amendments or conditional uses may be proposed: (1) by the Governing Body, (2) by the Planning Board or (3) upon application by, or on behalf of the owner of the property affected, but only in accordance with the procedure set forth in Section 100B below. When the Governing Body proposes an amendment, it shall transmit its proposal to the Planning Board for a public hearing and recommendation thereon.
- B. Application.** When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby, an application shall (1) be filed with the Zoning Administrator who refers it to the Planning Board for a hearing, (2) be in such form and contain such information as shall be prescribed from time to time by the Board and (3) in all instances contain the following information:
1. The applicant's name, address and telephone number;
 2. The precise wording of any proposed amendment to the text of these regulations or the exact description of the conditional use requested;
 3. In the event that the proposed amendment would change the zoning district classification of any specific property;
 - a. The name, address and telephone number of the owner of the property and, if any, the agent representing the owner;
 - b. The legal description of the property and a general description such as a street address sufficient to identify the property;
 - c. The present and proposed zoning district classifications and existing uses of the property and structure thereon;
 - d. The dimensions of the property and the zoning lot area stated in square feet or acres or fractions thereof, and
 - e. An ownership list of the names, addresses and zip codes of the owners of record of real property located within at least 1,000 feet of the exterior boundaries of the area described in the application. If such area is located adjacent to a city, the ownership list shall provide similar information extending to at least 200 feet inside the corporate limits of the city if such an area would otherwise be part of the 1,000-foot notification area. Furthermore, the ownership list shall include similar information for all owners of record of property adjacent to any land contiguously owned by the applicant outside of the area described in the application. If any of these notification areas extend into another county, similar notification shall be given to owners of that area.

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- C. **Public Hearing.** The Planning Board shall hold a public hearing on each proposed amendment or conditional use that is filed with, referred to, or initiated by the Board. The Board shall select a reasonable time and place for such public hearing, and it shall hold such hearing within 45 days from the date on which the proposed amendment or conditional use is received or initiated. An applicant for an amendment or conditional use may waive the requirement that such hearing be held within 45 days.
- D. **Notice of Hearing.** One of the following three procedures shall be selected to provide proper notice for a public hearing for any zoning amendment or conditional use application:
1. Public notice of a hearing by the Planning Board shall be published once in the official newspaper by the Zoning Administrator. **At least 20 days shall elapse** between the date of such publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district, such notice shall contain the legal description or a general description sufficient to identify the property under consideration. If a general description is used, the notice shall include a statement that a complete legal description is available for public inspection and where such description is available.

In addition to such publication notice, the Zoning Administrator shall mail a written notice of the hearing containing information similar to the published notice thereof to the applicant and to the owners of record of all real property located within at least **1,000 feet** of the exterior boundaries of the area described in the amendment application. If any part of a 1,000-foot notification area extends into any city limits, notification shall also be given for a **200-foot distance inside the city**. Furthermore, such notice shall also be given to all owners of record of property adjacent to any land contiguously owned by the applicant outside of the property under consideration that is not otherwise in the area of notification. Only the above 1,000-foot and 200-foot notification distances are eligible to be part of the legal **protest areas** described in Article 8 Section 103. The notice to adjacent property owners including the applicant shall be mailed so that 20 days shall elapse between the mailing date and the hearing date. Notice shall be addressed to the real property owners as recorded in the Register of Deeds Office and deposited in the mail. The burden of the address for notification of the property owners of interest shall be the responsibility of the applicant. Failure of a party to receive such notice shall not invalidate any subsequent action taken by the Board or the Governing Body.
 2. Whenever five or more owners of record of real property owning 10 or more contiguous lots, tracts or parcels of the same zoning classification initiate a rezoning of their property from a less restrictive to a more restrictive zoning classification, such amendment shall require notice by **publication only** and hearing in like manner as required by Article 8 Section 100C. Such zoning amendment **shall not require written notice and shall not be subject to the protest petition** provision of Article 8 Section 103.

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3. Whenever the Governing Body or the Planning Board initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record of real property, such amendment shall require notice by publication and hearing in like manner as that required by Article 8 Section 100C. In addition, written notice **shall be required to be mailed to only owners of record of real properties to be rezoned** and **only** such owners shall be eligible to initiate a protest petition under Article 8 Section 103.

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

- a. Hearing notice shall be provided to incorporated cities of the County when zoning amendments are being considered within the A-2 Agricultural Transition District. **A planning commission or representatives of the city may** review and provide a recommendation to the Planning Board for approval, approval with suggested conditions or disapproval of the case.

E. Conduct of Hearing.

1. All hearings that these regulations require the Planning Board to conduct for amendments or general revisions in the text of these regulations or the zoning classifications or in district boundaries shall be **open public meetings** according to K.S.A 75-4317 et seq., the Open Meetings Act. Legislative hearings are required for changes or revisions in these regulations.

When a proposed amendment will affect the zoning classification or district boundary of specific property, however, the Board acts in a **quasi-judicial** capacity for the hearing and may upon proper motion proceed to deliberate in **closed session** according to K.S.A. 75-4318. No binding action can be taken in such a session and all voting must be conducted in an open meeting.

2. Any interested person or party may appear and be heard at the hearing or be heard by agent or by attorney.
3. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Board may from time to time prescribe by rule or bylaws which are not in conflict with these regulations or applicable State statutes.
4. The Board shall keep minutes of the proceedings showing evidence presented at hearings, findings of fact by the Board, motions made and the vote of each member upon any question or recommendation. If a member is absent, abstains or disqualified, such fact shall be indicated.
5. The Board may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person prior to or at the public hearing.

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6. The Board may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid, however, without republication and, where necessary, re-mailing of notices.
 7. For action on zoning amendments, a quorum of the Board must be more than one half of the membership as established by resolution. A majority of the members of the Board present and voting at the hearing shall be required to recommend approval or disapproval of the amendment to the Governing Body. If the Board fails to make a recommendation on a rezoning request, the Board shall be deemed to have a recommendation of disapproval.
 8. A hearing may be adjourned from time to time upon a motion to continue in the future at some stated date, time and place. At the conclusion, of a hearing, the Board shall prepare its findings and the factors on which to base its recommendation and vote.
 9. If a meeting is called or a hearing is on the agenda and no quorum is present, the members in attendance may agree to hold the hearing at another meeting in the future at a stated date, time and place or at the next regular meeting for which, when announced at the present scheduled meeting, no further public notice need be given to continue the hearing.
- F. **Report by Planning Board.** Within **14 days** after the close of a public hearing on a proposed amendment, the Planning Board shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and the Zoning Administrator and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the applicant. Such report shall contain a recommendation as to whether the proposed amendment should be approved or disapproved and specific written determinations on the items listed in Article 8 Sections 100G or 100H and on such other items as the Board may consider relevant. The report submitted to the Governing Body shall be accompanied by a summary of the hearing on the proposed amendment. In lieu of a report, the above information may be contained in the minutes of the meeting and submitted to the Governing Body.
- G. **Amendments to Text.** When a proposed amendment proposed by the Governing Body or Planning Board would result in a change or revision in the text of these regulations, but would not result in a change of zoning classification of any specific property, a **legislative hearing** shall be held by the Board. The minutes or report shall contain a statement as to the intent and purpose of such proposed amendment.

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H. Review Criteria for Amendments or Conditional Uses. When a proposed rezoning amendment or conditional use would result in a zoning change for any specific property, the report of the Planning Board, accompanied by a summary of the hearing, shall contain statements as to

- (1) the present and proposed district classifications or description of the conditional use,
- (2) the applicant's reasons for requesting such reclassification or conditional use and
- (3) a statement of the factors where relevant upon which the recommendation of the Board is based using the following factors as guidelines: *

Factors Addressed in Zoning Administrator Report: The Zoning Administrator will provide a preparatory report for their review, addressing the following factors:

- a. Does adequate public infrastructure (including water, sewer, and street access) exist or could it be provided, in order to serve proposed uses under the changed zoning classification?
- b. If the zoning change request was approved would the subject property need to be platted or replatted, or have in-lieu-of dedications made, in order to provide needed rights of way, easements, building setback lines, or access control?
- c. Has a required site plan been received and reviewed?
- d. For conditional uses, when applicable, have requirements of supplemental use regulations been met?
- e. What fact-based information in support of or in opposition to the requested zoning change has staff received?
- f. If there has been an error in the application of these Zoning Regulations to the subject property, would the requested zoning change correct the error?

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

Zoning Regulations of Labette County, Kansas

Factors for Planning Board Consideration:

- a. How suitable or unsuitable is the subject property for its current zoning?
- b. Is the length of time the subject property has been vacant or undeveloped under its current zoning a factor in the zoning change request?
- c. How reasonably well-suited will the requested zoning change of the subject property be with the current zoning of nearby properties?
- d. Has the zoning change been requested because conditions in the area of the subject property have changed or are changing? If so, what is the nature and significance of these conditions?
- e. What are the current land uses, character and condition of the subject property and the surrounding neighborhood?
- f. Would the proposed zoning change of the subject property allow land uses which might have detrimental effects on nearby properties, and if so, how?
- g. How would this requested zoning change conform with the County's *Land Use Plan* and other adopted master plans and policies?
- h. Do any professional persons knowledgeable on conditions that affect this zoning change request have information or recommendations to provide, which would be helpful in its evaluation?
- i. How would the potential loss in value or hardship imposed on the Applicant compare to the relative gain to the public health, safety, and welfare if there is a change from the current zone to the requested zone?

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

Section 101 Conditional Uses

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

Conditions may be placed on the property which is the subject of the conditional use application, or on the applicant, or on both.

A. Checklist of Conditions. To aid the Planning Board in review of a conditional use application, potential conditions may include, but are not limited to, requirements affecting the following:

1. Planning requirements
 - a. Parcel or lot size, setback area dimensions, lot coverage or height of buildings
 - b. Infrastructure such as road construction, utilities or storm drainage, which may include platting and/or dedications
 - (1) Change in road or street width
 - (2) Extent and location of entrance or exit drives
 - (3) Parking and surfacing materials
 - c. Screening, fencing and/or landscaping to protect neighboring properties
 - d. Size, location and number of signs
 - e. The period and time of operations
2. Regulatory requirements
 - a. Land Use
 - b. Supplemental Use Regulations
 - c. Site Plan approval
3. Legal requirements (Agreements shall be made available for public review at least 14 days prior to Governing Body action.)
 - a. Development Agreement
 - b. Road Agreement
 - c. Decommissioning Agreement
4. Financial requirements
 - a. Financial Surety Agreement
 - b. Liability Insurance
 - c. Financial Assurances
 - d. Property Value Agreement
5. Public health and safety requirements
 - a. Fire & Emergency Services protection
 - b. Aviation lighting

Zoning Regulations of Labette County, Kansas

6. Environmental requirements
 - a. Environmental Studies, establishing standards for air and water pollution, noise, vibration, lighting and other such conditions
 - b. Water quality
 - c. Flooding protection
 - d. Visual impact
 - e. Noise impact
 - f. Reception interference
 - g. Environmental mitigation
7. Ecological requirements
 - a. Wildlife habitat
 - b. Protected or endangered species
 - c. Avian or bat mortality

Requirements can be made more stringent if potentially injurious effects may be anticipated at nearby properties or in the neighborhood or if those effects are likely to be contrary to the welfare and convenience of the public. **Failure to comply** with any of the conditions required for a conditional use which are attached to a zoning permit, shall constitute a **violation** of these regulations. If an applicant desires to make a change in a condition at a later date, it is necessary to apply for a rehearing and a decision be made in the same manner as the original conditional use; however, only the requested condition is to be reconsidered at the hearing.

Although the Official Zoning District Map is not amended, the procedure for approval of a conditional use shall otherwise be the same as for an amendment to change a zoning district classification or boundary which is set forth in Section 100 of this Article including the provisions for filing protest petitions in Section 103; provided, that any conditions which are attached to the conditional use shall be made a part of the effectuating resolution. Applications for conditional uses shall be accompanied by a **site plan** of the proposed development. Concurrent applications may be processed for changing zoning district classifications as amendments and approving conditional uses on the same property, wherein joint notices are advertised and mailed and hearing held; however, separate motions, review criteria and effectuating resolutions are necessary. No conditional use approval by the Governing Body shall be valid for a period longer than **one year** from the publication date of the effectuating resolution unless (1) another time period is designated as a condition attached to the conditional use; or (2) an application is filed and a zoning permit is approved during the period of validity. The Governing Body may authorize extensions of the validity time period without notice or public hearing for not more than one year upon a written request received within a valid period. Upon expiration of a validity period, the effectuating resolution automatically becomes null and void unless an extension has been granted or a zoning permit has been obtained.

Section 102 Public Project Review

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

Section 103 Filing of Protest

Whether or not the Planning Board approves or disapproves a zoning change, if a written protest petition against a proposed amendment for a specific property or a conditional use shall be filed in the office of the Clerk **within 14 days** after the date of the conclusion of the hearing by the Board which is signed and an accurate legal description of their property provided by the owners of record of 20% or more of any real property proposed to be altered or changed, excluding streets or public ways, or by the owners of record of 20% or more of the real property within the total area required in the official area of notification by Article 8 Section 100D, excluding streets and public ways and specific statutorily excluded property as described below; then the effectuating resolution shall not be passed except by **at least a 3/4 vote** of all the members of the Governing Body.

Property statutorily excluded from determining the sufficiency of a protest petition when calculating the total real property within the notification area is that which was (1) requested by the owner of the specific property or rezoning for a conditional use; or (2) the owner of the specific property requested for rezoning or a conditional use who does not oppose in writing such rezoning or conditional use. (See Article 8 Section 100D2 and D3 for protest petition exceptions for rezoning from a lesser restrictive to a more restrictive zoning classification.)

Section 104 Adoption of Amendments and Conditional Uses by the Governing Body

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

In considering its decision under each of the above set of circumstances, the Governing Body shall take into account the guidelines in Article 8 Section 100H which are relevant to the proposed amendment or conditional use and, having reviewed the Board's findings of fact and the factors upon which their recommendation is based, the Governing Body either adopts the Board's findings and factors by reference or records their own findings of fact and the factors upon which their decision is based.

The proposed amendment or conditional use shall become effective upon publication of the respective adopting resolution. If such an amendment affects the classification or boundaries of any zoning district, the respective resolution shall legally describe the classification or boundaries as amended, shall order the official zoning district map to be changed to reflect such amendment and shall reincorporate such maps as amended.

Section 105 Annual Review

In order to maintain these regulations including the official zoning district map(s), the Planning Board shall annually hold a public review at their first regular meeting of the calendar year to consider amendments, if any, to these regulations. Preceding such a review, the Governing Body, other affected governmental agencies, and interested private organizations and individuals should be notified of the intent to review and their ideas requested. In presentation for such a review, the Zoning Administrator shall maintain a master copy of the current zoning regulations on which are recorded comments and ideas brought to the attention of the Administrator during the preceding year to maintain the intent and purpose of the zoning regulations under changing conditions. and to implement the ***Land Use Plan***.

Section 106 Judicial Review

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

ARTICLE 9. SEVERABILITY AND EFFECTIVE DATE

Section 100 Severability

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

Section 101 Effective Date

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

ADOPTED by the Labette County Planning Board on June 24, 2024.

/s/ _____

Marc Jones, Chairperson

ATTEST:

/s/ _____

Keith Keller, Secretary

APPROVED and ADOPTED by the Board of Commissioners of Labette County, Kansas on July 8, 2024.

/s/ _____

_____, Chairperson

/s/ _____

_____, Commissioner

/s/ _____

_____, Commissioner

Zoning Regulations of Labette County, Kansas

ATTEST:

(S E A L)

/s/ _____

Gena Landis, County Clerk

(Approved by Resolution No. 2024-24-L by the Board of Commissioners of Labette County, Kansas on July 8, 2024, officially published in the Parsons Sun on July 12, 2024, and effective on July 12, 2024.)

ARTICLE 10. SUPPLEMENTAL USE REGULATIONS

Section 100 Wind Energy Conversion Systems

A. Key Issues

1. Key issues relating to a Wind Energy Conversion System (WECS) shall be addressed in the conditional use and are listed below. These issues include, but are not limited to:

- Land Use
- Property Value
- Infrastructure
- Setbacks
- Development Agreement
- Financial Surety Agreement
- Mitigation
- Decommissioning
- Public Health and Safety
- Wildlife Habitat
- Weather Detection
- Endangered Species
- Water Quality
- Protected Species
- Noise
- Avian Mortality
- Visual impact
- Bat Mortality
- Shadow Flicker
- Aviation Lighting
- Reception Interference

B. Purpose. It is the purpose of this section to:

1. Assure the protection of health, safety, welfare, and property values for all Labette County citizens and landowners.
2. Assure that any development and production of commercial wind-generated electricity in Labette County is safe and effective.
3. Facilitate economic opportunities for citizens of Labette County.
4. Support Kansas' Voluntary Renewable Energy Standard.
5. Provide information on which decision makers will consider the project.
6. Provide information so individuals may gain an understanding of the wind energy conversion system.
7. Provide a basis for public discussion and informed comment on the wind energy conversation system.

C. Applicability. This **ordinance** governs the siting of wind energy conversion systems (WECS) and substations that generate electricity to be sold to wholesale or retail markets.

D. Prohibition. No WECS or substation governed by this ordinance shall be constructed, erected, installed, or located within Labette County unless prior siting approval (Conditional Use Permit, Site Development, Professional Engineer, and Building Permit issuance) has been obtained for each individual WECS and substation pursuant to this ordinance.

E. Special Use Requirements . In addition to the standards and criteria established herein, no Conditional Use Permit shall be granted for the use(s) listed below unless evidence is presented to establish that the standards and criteria set forth herein have been met.

Zoning Regulations of Labette County, Kansas

F. **Definitions.** The following words and terms when used in the interpretation and administration of this section shall have the meaning set forth herein except where otherwise specifically indicated:

PRIVATE WIND ENERGY CONVERSION SYSTEM FACILITY (WECS) A WECS facility that consists of one or more small- scale wind turbines or other such devices and their related or supporting facilities that produce electric power from wind that is to be used primarily by the individual or entity that owns the property on which the facility is located.

COMMERCIAL WIND ENERGY CONVERSION SYSTEM FACILITY (WECS) A WECS facility that consists of one or more large-scale wind turbines or other such devices and their related or supporting facilities that produce electric power from wind which is transferred to an off-site power distribution center. The terms WECS, WECS facility, WECS Project, Wind Energy Conversion System, and Commercial Wind Energy Facility are synonymous and may be interchanged within these regulations.

APPLICANT Shall mean the entity who submits to the County an application for the siting of any WECS or substation.

COUNTY Shall mean Labette County, Kansas.

CUP Shall mean a Labette County, Kansas Conditional Use Permit. (*See definition of ZONING PERMIT.*)

FINANCIAL ASSURANCE Shall mean reasonable assurance from a credit-worthy party; examples of which include a surety bond, trust instrument, cash escrow, or irrevocable letter of credit.

OPERATOR Shall mean the entity responsible for the day-to-day operation and maintenance of the WECS and substations, including any third-party subcontractors.

OWNER Shall mean the entity or entities with an equity interest in the WECS, including their respective successors and assignees. Owner does not mean (1) the property owner from whom the land is leased for locating the WECS, unless the property owner has an equity interest in the WECS, or (2) any person holding a security interest in the WECS solely to secure an extension of credit, or a person foreclosing on such security interest provided that after foreclosure, such person seeks to sell the WECS at the earliest practicable date.

PARTICIPATING LANDOWNER A landowner whose property (or portion thereof) is currently leased or proposed to be leased for the production, siting, or development of an WECS and all landowners who have waived their rights to the setbacks provided in this section.

PARTICIPATING PROPERTY A property where a WECS is located or proposed to be located pursuant to an agreement with the applicant/owner/operator.

NON-PARTICIPATING PROPERTY Any property within the WECS project other than participating property.

NON-PARTICIPATING LANDOWNER A landowner that owns property that is not participating in the WECS project.

PVA Property Value Agreement

Zoning Regulations of Labette County, Kansas

PROFESSIONAL ENGINEER Shall mean an independent professional engineer licensed in the State of Kansas in their field of expertise. **PRINCIPAL STRUCTURE** Shall mean, for each property, the structure that one or more persons occupy the majority of the time on that property for either business or personal reasons.

Primary structure includes structures such as residences, commercial buildings, hospitals, schools and day care facilities. Primary structure excludes such structures as hunting sheds, storage sheds, pool houses, unattached garages, and barns.

SUBSTATION shall mean the apparatus that connects the electrical collection system of the WECS and increases the voltage for connection with the utility's transmission lines.

WAIVER The waiver document shall be notarized, recorded, run with the parcel(s) of record and terminate at the termination of the wind energy project as part of the decommissioning plan. For purposes of a Municipal Waiver a signed and recorded resolution will suffice to meet the waiver requirements.

MET TOWER A free standing meteorological tower that supports measuring instruments to record weather and wind speed events.

WIND ENERGY CONVERSION SYSTEMS (WECS) Shall mean all necessary devices that together convert wind energy into electricity, including the WECS foundation, WECS tower, nacelle, rotor blades, generator, electrical components, transformer, and electrical cabling from the WECS towers to the substation.

WECS PROJECT Shall mean the collection of WECS(s), substations and distribution lines specified in the siting approval application pursuant to this ordinance.

WECS TOWER Shall mean the vertical support structure including the nacelle and rotor blades.

WECS TOWER HEIGHT Shall mean the distance from the top surface of the WECS foundation to the tip of the rotor blade at its highest point.

G. Conditional Use Permit Application Requirements A WECS applicant shall meet with Labette County representatives in a pre-application meeting and submit to Labette County descriptions, site plans, studies, reports, certifications, and approvals demonstrating compliance with the Ordinance.

1. A pre-application meeting shall be held with representatives from the Labette County Planning Board, Labette County Public Works, Labette County Emergency Manager, Labette County Soil and Water Conservation District, impacted fire departments, and all other applicable departments and agencies as determined by the Labette County Zoning Administrator.

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2. In addition to a CUP Application the WECS applicant shall submit to the Labette County Zoning Administrator a "WECS Project Summary," including, to the extent available:
- a. A general description of the project, including its approximate name plate generating capacity, the potential equipment manufacturer(s), type(s) of WECS, number of WECS and name plate generating capacity of each WECS, the maximum height of the WECS tower(s), the maximum length of the rotor blades and the maximum diameter of the WECS rotors.
 - b. A description of the general location of the project.
 - c. A description of the applicant, owner, and operator, including their respective business structures.
 - d. A general business plan outlining all major WECS related events that will take place over the useful life of the WECS project.
 - e. The names, addresses, and phone numbers of the applicants, owners, operators, and all property owners included in the application.
 - f. A site plan for the installation of the WECS showing the planned location of each MET tower, WECS tower, guy lines, and anchor bases (if any), primary structure(s), property lines including identification of adjoining properties, setback lines, public access roads and turnout locations, substations, electrical cabling from the WECS tower to the substations, ancillary equipment, third party transmission lines, and layout of all structures within the geographical boundaries of the setback established in this Ordinance.
 - g. An ecological review that includes environmental impact statements from qualified professionals such as an ornithologist or wildlife biologist and including Kansas Department of Wildlife and Parks (KDWP) and the U.S. Fish and Wildlife Service. Evidence from KDWP should advise any impacts to threatened or endangered species as designated by the Kansas Non-game and Endangered Species Conservation Act of 1975 and amendments thereto. Evidence regarding avian, bat and wildlife (e.g. deer) migration, routine, and habitat should be included. The applicant must take reasonable action to mitigate adverse impacts on birds, bats, and wildlife.
 - h. All required studies, reports, certifications, and approvals demonstrating compliance with the provisions of this ordinance (including but not limited to: natural resource areas; bird and bat migration paths; shadow flicker; noise levels; and vibration levels.
 - i. A visual simulation including scale elevations of the proposed WECS and perspective drawings or photographic representations showing the WECS spatially accurate to the landscape and surrounding land uses.
 - j. Provide evidence of a secured or pending power purchase agreement (PPA) with a public utility.

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- k. **Property Value Agreement.** The Zoning Regulations of Labette County, Kansas stipulate that a purpose of the regulations is to protect property values. (See Article 1-101 I.) The County desires to alleviate concerns about the preservation of property values of property located in the '**Designated Area**' of a WECS. Therefore, the County requires that a WECS applicant and/or owner will provide a PVA to all non-participating landowners, who are the owner of record of property located in the '**Designated Area**' of a WECS at the time the completed CUP application is accepted by the Zoning Administrator. Acceptance of the PVA would be at the discretion of each qualified non-participating land owner. The County would suggest that the '**Designated Area**' include non-participating property located within the footprint of the WECS and extend two (2) miles from the perimeter of the WECS. The PVA shall be negotiated with the County Commissioners. At a minimum, the PVA should include but is not limited to the following:
- (1) Designated area
 - (2) Eligibility
 - (3) Qualified professional appraiser
 - (4) Appraisal value to be determined as if WECS did not exist
 - (5) Appraisal value process
 - (6) Determination of asking price
 - (7) Acceptable methods of sale
 - (8) Terms for listing property
 - (9) Number of days on market
 - (10) Offers to purchase
 - (11) Guarantor's consent to purchase
 - (12) Sale without guarantor's consent
 - (13) Termination of guarantor's obligations
 - (14) Assignment or transfer
- l. The applicant shall notify the Labette County Zoning Administrator of any changes to this information that occur while the CUP application is pending.
3. For CUP applications involving multiple WECS towers, only one application is required. Although processed as one CUP, each tower within a WECS CU shall be charged the established CUP permitting fee.
 4. The construction of additional towers within the approved WECS CUP or the repowering of existing towers will require a new CUP application.
 5. Hours of operation during WECS construction, decommissioning, and repowering will be from sunrise to sunset.
 6. The WECS CUP will expire one year from the date issued provided there has been no construction at the WECS project site. Should the WECS CUP expire, the applicant will be required to submit a new CUP application.
- H. At the expense of the applicant, owner, or operator the County reserves the right to hire qualified legal council for review and consultation regarding all documents and contracts pertaining to the WECS CUP.

I. Design and Installation

1. Design Safety Certification
 - a. WECS shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI). Applicants shall submit certificates of design compliance that equipment manufacturers have obtained from Underwriters Laboratories (UL), Det Norske Veritas (DNV), Germanischer Lloyd Wind Energie (GL), or an equivalent third-party.
 - b. Following the granting of a siting approval and a CUP under this Ordinance, a professional structural engineer shall certify, as part of the Building Permit application that the foundation and tower design of the WECS is within accepted professional standards, given local soil and climate conditions.
2. **Controls and Brakes** All WECS shall be equipped with a redundant braking system. This includes both aerodynamic over speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a failsafe mode. Stall regulation shall not be considered a sufficient braking system for over speed protection.
3. **Electrical Components** All electrical components of the WECS shall conform to applicable local, state, and national codes, and relevant national and international standards e.g., ANSI and International Electrical Commission.
4. All new electrical cable lines associated with the WECS facility shall be installed a minimum of 48 inches underground. Transmission lines associated with distribution and interconnection of energy from the facility may be located above ground.
5. **WECS Tower Height** No WECS tower shall be greater than **four hundred, thirty (430) feet** in height. **Rotor blade** height shall be a minimum of **thirty (30) feet** above the base of the WECS tower. (*See definition of WECS TOWER HEIGHT.*)
6. **WECS Tower Color** Tower, nacelle and rotor blades shall be painted a uniform, non-reflective neutral color such as white or gray. No logos or advertisements shall be allowed on these structures. Each turbine tower shall be marked with a visible identification number located no higher than 15 feet above ground level.
7. **WECS Tower Consistency** The WECS should consist of turbines of similar design and size, including tower height. All turbines should rotate in the same direction. Turbines should be consistent in color and direction with nearby WECS facilities.
8. **WECS Tower Obstruction Marking and Lighting Requirements** All WECS towers shall be fitted with Aircraft Detection Lighting Systems (ADLS) in compliance with Kansas Senate Bill #49. ADLS must be in compliance with Federal Aviation Administration (FAA) standards. The WECS project shall comply with but not exceed all acceptable FAA standards.
9. The WECS project shall be equipped with the Identiflight Aerial Detection System, or equivalent technology, to prevent unnecessary bird fatalities.
10. WECS project shall be equipped with Natural Power's EchoSense, NGR Systems, Bat Deterrent System, or equivalent technology to prevent unnecessary bat fatalities.
11. The WECS project shall be equipped with passive fire protection which should include lightning protection systems, monitoring systems of components/equipment and compartmentalizing the nacelle area.
12. The WECS project shall be equipped with FIRETRACE, Stat-X Aerosol Fire Suppression, or equivalent fire suppression technology to provide instant fire alarm and fire suppression.

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13. **Warnings**

- a. A reasonably visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.
- b. MET Tower: Fencing or visibility markers shall be placed at the anchor points of guy wires. Visibility markers shall be placed intermittently on the guy wires to the top of the MET tower. Depending on height, FAA standards may require MET tower aviation lighting. Red obstruction lights are preferred over white strobe lights. MET towers must be in compliance with FAA standards.

14. **Climb Prevention:** All MET towers must be un-climbable by design or protected by anti-climbing devices including, but not limited to:

- a. Fences with locking portals at least six (6) feet in height, or
- b. Anti-climbing devices twelve (12) feet vertically from the base of the WECS tower.

15. **Setbacks.** All WECS towers shall provide the following minimum Setbacks:

- a. All WECS towers shall be set back a distance of not less than six (6) times the height of the WECS tower from all property lines. A participating landowner may waive this setback requirement, but in no case shall a WECS tower be located closer to a primary structure than one and one half (1.5) times the height of the WECS tower.
- b. All WECS and MET towers shall be set back a distance of not less than two (2) times the height of the WECS or MET tower from all public roads, railroad right of ways, public utilities, including, but not limited to, fiber optic lines, communication towers, above and below ground communication lines, above and below ground electric lines, oil, gas, and water pipelines.
- c. All WECS and MET towers shall be set back a distance of not less than three (3) miles from a municipality. A municipality may waive this setback requirement through the issuance of a formal statement from the municipality approving such a waiver. The applicant shall then submit a copy of the statement as part of their application, and a site plan specifically identifying: the location of the three (3) mile base setback; the locations of all WECS towers proposed to be within the this (3) mile area; and the distance each proposed WECS tower within this three (3) mile area will be from the municipal boundaries.
- d. All WECS and MET towers shall be set back a distance of not less than three (3) miles from incorporated cities, villages, airports, and recreation areas. Incorporated cities include Altamont, Bartlett, Chetopa, Edna, Labette, Mound Valley, Oswego and Parsons. Villages include Angola, Dennis, Montana, Strauss and Valeda. Airports include Tri-City Airport. Recreation areas include, but are not limited to The Big Hill Lake Project Boundary which includes Big Hill Equestrian Trail and Cherryvale, Mound Valley, and Timber Hill Park Areas. The three-mile setback distance also includes, but are not limited to, Idle Hour Lake, Kansas Department of Wildlife and Parks (KDWP) hunting areas. KDWP hunting areas include Big Hill Lake Wildlife Area, Harmon Wildlife Area, and the Albertini Tract, Biller Tract, and Perkins Tract located in the Cherokee Lowlands Wildlife Area. The three-mile setback will not apply to the Grand Osage Wildlife Area and land located within the Great Plains Industrial Park.

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- e. WECS and Met towers shall be set back at least one and one-half (1.5) miles from any identified or occupied eagle's nest. Should an eagle's nest be identified or constructed within one and one-half (1.5) miles of a WECS tower post construction, the WECS tower or towers will be curtailed from operation during the nesting season from January 15 to May 15. The one and one-half (1.5) mile setback will not apply to the Grand Osage Wildlife Area and land located within the Great Plains Industrial Park.
- f. The applicant does not need to obtain a variance from the County upon waiver by either the County or property owner of any of the above setback requirements. Any waiver of any of the above setbacks shall run with the land and be recorded as part of the chain of title in the deed of the subject property.
- g. **Compliance with Additional Regulations.** Nothing in this ordinance is intended to preempt other applicable state or federal laws and regulations.

J. Public Roads Maintenance, Repair and Replacement Agreement. The applicant, owner or operator proposing to use any County, township, municipality or village road(s), for the purpose of transporting WECS or substation parts and/or equipment for construction, operation, or maintenance of the WECS(s) or substation(s) shall:

- 1. **Road Agreement:** A mandatory road agreement that includes all effected jurisdictions (County, state, township, municipality, or village) must be agreed upon by all parties and recorded with the County. A signed agreement must be recorded prior to the issuance of the CUP. The agreement shall include, but not be limited to:
 - a. Identify all such public roads used for transportation routes for construction, operation, or maintenance of the WECS.
 - b. The applicant shall apply for an oversized/overweight permit from the Labette County Public Works Department for transporting the components for the WECS project that are over the legal limit for weight, width, and length. A proposed route shall be submitted for the oversized/overweight permit for the transportation route. The County is authorized to collect fees for overweight/oversized load permits.
 - c. Obtain applicable weight and size permits from all relevant government agencies.
- 2. To the extent an applicant, owner, or operator must obtain a weight or size permit from the County, state, township, or municipality or village, the applicant, owner, or operator shall:
 - a. At the expense of the applicant, the County will hire a professional engineer for pre-construction and post-construction inspection and documentation of public roads, bridges, culverts, box culverts, road drainage ditches and low water crossings.
 - b. At the expense of the applicant the County will hire a certified inspector to monitor County public road conditions during construction. The certified inspector will notify the County Public Works Department of construction related road conditions, including but not limited to hazards, signage, repairs, dust control or Road Agreement violations that need to have corrective action.
 - c. Provide a plan for dust control on public roads during the construction and decommissioning of the WECS project to the reasonable satisfaction of the County Public Works Department and the County Commissioners.
 - d. Provide a maintenance plan for public roads and maintain the public roads during construction and decommissioning of the WECS project to the reasonable satisfaction of the County Public Works Department and the County Commissioners.

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- e. Where an access road crosses a stream or drainage way, it shall be designed and constructed so runoff from the upper portions of the watershed can readily flow into the lower portion of the watershed.
 - f. Any proposed public roads that will be used for construction purposes shall be identified and approved **in writing** by the County Public Works Department and the County Commissioners prior to the granting of the CUP. Traffic for construction purposes shall be limited to these roads. All overweight and/or oversized loads to be transported on public roads may require a permit from the respective highway authority. Any road damage caused by the transport of equipment, construction, maintenance, or decommissioning of the WECS, must be completely repaired to the reasonable satisfaction of the County Public Works Department and the County Commissioners. The County is authorized to collect fees for overweight and/or oversized load permits. Financial assurance will be provided in an amount to be determined by the County Commissioners to ensure that future repairs are completed to the satisfaction of the County. Applicant shall submit a draft form of said financial assurance with the application for WECS CUP.
 - g. Enter into a public road use agreement with the County and all effected jurisdictions. Provisions include, but are not limited to:
 - (1) Project layout map
 - (2) Transportation impact analysis
 - (3) Pre-construction plans
 - (4) Construction plans
 - (5) Post -construction repairs
 - (6) Project traffic map
 - (7) Signage
 - (8) Insurance
 - (9) **Financial Security in forms and amounts acceptable to the County** The road use agreement shall require applicant to be responsible for the reasonable cost of improving public roads, bridges, culverts, box culverts, road drainage ditches, and low water crossings used to construct the WECS and the reasonable cost of repairing roads used by the facility owner during construction of the WECS so that those roads are in a condition that is safe for the driving public after the completion of the WECS construction. Roadways improved in preparation for and during the construction of the WECS shall be repaired and restored to the improved condition at the reasonable cost of the developer if the roadways have degraded or were damaged as a result of construction-related activities.
3. All repairs and improvements to County public roads and roadway appurtenances shall be subject to the prior approval of the County before being made and shall also be subject to inspection and acceptance by the County after such repairs and improvements are completed. The County's road use agreement, and any further agreements contemplated therein, regarding the maintenance and repair of County public roads and highways, must be approved by the County prior to the approval of any applications related to the construction of the proposed WECS Project.
4. Prior to construction and again upon completion of construction, all public roads, bridges, culverts, box culverts, road drainage ditches and low water crossings to be used must be brought up to a load limit of 85,000 pounds or the current State legal load limit.

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5. Secure financial assurance, in a reasonable amount agreed to by the County Public Works Department, Labette County Commissioners and all relevant parties, for the purpose of repairing or replacing any and all damage, including, but not limited to public roads, bridges, culverts, box culverts, road drainage ditches and low water crossings caused by constructing, operating, or maintaining the WECS.
6. WECS repowering and decommissioning may require new mandatory road agreements that include all affected jurisdictions.

K. Operation

1. Maintenance

- a. The owner or operator of the WECS must submit, on an annual basis, a summary of the operation and maintenance reports to the Labette County Zoning Administrator. In addition to the above annual summary, the owner or operator must furnish such operation and maintenance reports as the County reasonably requests.
- b. Any physical modification to the WECS that alters the mechanical load, mechanical load path, or major electrical components shall require recertification under Section 7 of this ordinance. Like-kind replacements shall not require recertification. Prior to making any physical modification (other than like-kind replacements) the owner or operator shall confer with a third-party certifying entity identified in Section 7 to determine whether the physical modification requires recertification.

2. Interference. The applicant, owner or operator will be required to mitigate interference with weather surveillance radar during the life of the WECS. This includes, but is not limited to NEXRAD, WSR-88D (Weather Surveillance Radar-1988 Doppler) and future radar development as used by the National Weather Service and private weather services. Mitigation could include WECS curtailment during extreme weather conditions including, but not limited to severe thunderstorm or tornado watch and warnings issued for Labette County by the National Weather Service.

- a. Interference shall include but is not limited to noise, shadow flicker, viewshed, and communications including emergency service providers (e.g.: 911 service, police, fire), cell phones, internet, tv, radio and weather alerts.
- b. Prior to the construction of any wind turbines, the owner or operator shall conduct a study to establish the baseline status of all RF/EMF transmissions in the area of the turbines, with copies of the study to be supplied to the County.
- c. The applicant shall provide the applicable microwave transmission providers and local emergency service providers (e.g.: 911 operators) copies of the project summary and site plan, as set forth in Section 6 of this ordinance. The applicant shall provide evidence that any potential interference has been resolved to the satisfaction of the providers.
- d. If, after construction of the WECS, the County receives a written complaint related to the above mentioned interference, the County shall have the right to draw upon the Enforcement Fund to investigate and mitigate the complaint.

3. Shadow Flicker. No shadow flicker shall occur beyond the property line of any participating property or shall not occur on any non-participating property.

4. Coordination with Local Fire Departments and Emergency Responders

- a. The applicant, owner, or operator shall submit to the local emergency responders a copy of the site plan. Emergency responders include local law enforcement, fire protection district, emergency medical service providers, and Labette County emergency management.
- b. The applicant, owner, or operator shall cooperate with all local emergency responders to develop an emergency response plan. The plan should include contact information (names, titles, e-mail addresses, cell phone numbers) for the applicant, owner, or operator and at least three (3) WECS representatives each of whom are on call 24 hours a day, seven (7) days a week, 365 days per year. Any change in the contact information shall be promptly communicated to the Labette County Zoning Administrator.
- c. The applicant, owner, or operator shall at its expense, provide annual training for, and the necessary equipment to the operator and local emergency response authorities and their personnel so they can properly respond to a potential emergency at the WECS in compliance with the emergency response plan.
- d. Nothing in this section shall alleviate the need to comply with all other applicable fire, emergency and safety laws and regulations.

5. Materials Handling, Storage, and Disposal

- a. All solid wastes related to the construction, operation, and maintenance of the WECS shall be removed from the site promptly and disposed of in accordance with all federal, state, and county laws.
- b. All hazardous materials related to the construction, operation, and maintenance of the WECS shall be handled, stored, transported, and disposed of in accordance with all federal, state, and county laws.

L. Sound Limits

1. Audible Sound Limits

- a. No WECS shall be located so as to cause an exceedance of the pre-construction/operation background sound levels by more than 5 dBA. The background sound levels shall be the L90A sound descriptor measured during a pre-construction noise study during the quietest time of the evening or night. All data recording shall be a series of contiguous ten (10) minute measurements. Measurements shall cover a minimum of 30 minutes. The ten (10) minute period with the lowest L90A levels shall be used for this test. L90A results are valid only when L IOA results are no more than 15 dBA above L90A for the same time period. Noise sensitive sites are to be selected based on Predicted worst-case sound emissions (in LEQA and LEQC) which are to be provided by developer.
- b. Test sites are to be located along the property line(s) of the receiving non-participating property(s).
- c. A 5dB penalty is applied for tones or when the sound emissions fluctuate in amplitude or frequency over time in reasonable synchronicity with the rotor blade revolution.

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2. Low Frequency Sound Limit

- a. The sound levels from the wind turbine at the receiving non-participating property shall not exceed the lower of either:
 - (1) LEQA- L90A greater than 20 dB outside or inside any occupied structure, or
 - (2) A maximum not-to-exceed sound level of 45 dB.
- b. These limits shall be assessed using the same nighttime and wind/weather conditions required in Section 9.a.1.
- c. Turbine operating sound emissions (dBA and dB) shall represent worst case sound emissions for the stable nighttime conditions with low winds at ground level and winds sufficient for full operating capacity at the hub.

3. Requirements

- a. All instruments must meet ANSI or IEC Type 1 Precision sound level meter performance specifications.
- b. Procedures must meet ANSI S12.9, Part 3, ANSI S12.100 and other applicable ANSI standards.
- c. Measurements must be made when ground level winds are 2m/s (4.5 mph) or less. Leaf rustle, insect, bird, and other sounds not properly considered as part of the steady background sound shall be excluded. Wind shear in the evening and night often result in low ground level wind speed and nominal operating speeds at wind turbine hub heights.
- d. IEC 61400 procedures are not suitable for enforcement of these requirements. ANSI standards shall be followed for testing and modeling procedures.

M. Enforcement Fund

1. The applicant shall provide proof that the necessary amount and form of financial security has been received by the County in the form of an escrow account that names Labette County as the Beneficiary.
2. The applicant shall also provide identification of and procedures for Labette County to access the financial security.
3. The financial security Enforcement Fund shall maintain a reasonable amount agreed to by the County and all relevant parties.
4. Labette County shall have access to the Enforcement Fund secured by the escrow account in a bank of the County's choosing if:
 - a. The County accrues costs due to the acquisition of equipment and/or training necessary to verify that a WECS Tower is operating within the standards of this ordinance, or
 - b. The County, or any of its offices and officials, accrues costs in the investigation, prosecution, and/or enforcement of a violation of these standards.
5. Whenever this security is accessed by County, or its offices and officials, the owner/operator must recapitalize this security within three (3) months of the date it was accessed. Failure to recapitalize the security shall be considered a cessation of the operation.
6. The applicant and/or WECS owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record pursuant to the Secured Transit Article of the Uniform Commercial Code. 810 ILSS 9/101 *et seq.*

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7. The escrow agent shall release the Enforcement Funds when the WECS owner or operator has demonstrated and Labette County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County to implement the decommissioning plan.
8. Any interest accrued on the escrow account that is over and above \$10,000 shall go to the WECS owner.
9. The County shall be listed as a debtor but shall not be responsible for any claims against the WECS owner and/or operator.
10. Upon establishment of the Enforcement Fund, Labette County shall acquire the necessary equipment and training to be able to verify whether a WECS tower is in violation of these operational standards. The costs accrued by the County in acquiring this equipment and training shall be recovered from the Enforcement Fund.
 - a. No Conditional Use shall be issued for a WECS tower approved by a CUP until such time as the County has established that designated County personnel have been trained and equipped to verify that the WECS towers are operating within the standards of this ordinance.
 - b. The County may also draw upon the Enforcement Fund to recover the costs to replace damaged or outdated equipment, and for the continued training of officers.

N. Enforcement Procedures

1. Complaints alleging that a WECS tower is operating in violation of the standards of this ordinance shall be forwarded to the designated County authority.
2. The County shall have access to the site of any WECS to investigate any reported violation(s) of the operational standards of this Section.
3. Upon report of an alleged violation, the designated County authority shall investigate the complaint. If upon investigation, the tower is considered to be in apparent violation, a report containing the findings of the investigation shall be forwarded to the Labette County Zoning Administrator for the scheduling of a Code Violation Hearing.
 - a. The use of third-party consultants may be called upon in the determination of whether a particular tower is in violation. Any costs accrued through the use of said third-party consultant shall be recovered from the Enforcement Fund.
 - b. The designated County authority will log the hours spent, fuel used, etc., which will then be used to determine the costs to investigate the complaint. Any costs accrued by the County in the investigation, prosecution, and enforcement of the operational standards of this Section shall be recovered from the Enforcement Fund.
4. **Code Hearing**
 - a. Upon receipt of the report from the designated County authority, the Labette County Zoning Administrator shall schedule a Code Violation Hearing regarding the apparent violation(s). The applicant, owner or operator shall be liable for the Code Violation Hearing fee.
 - b. Notice of the Code Violation Hearing shall be sent to the WECS applicant, owner, or operator and the appropriate participating landowner.

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- c. If the Code Violation Hearing Officer finds the WECS tower to be in violation of the operational standards of this ordinance:
 - (1) The applicant, owner or operator of the WECS shall have thirty (30) days to bring the WECS tower into compliance to the satisfaction of the County.
 - (2) A fine per violation per incident shall be assessed upon the applicant, owner, operator by the Code Violation Hearing Officer. The appropriate participating landowner will be notified of the violation.
 - (3) The applicant, owner or operator shall be liable for the Hearing Officer Fee.
- d. If the tower has not been brought into compliance within thirty (30) days of being found in violation, then the tower must be shut down until such time as the tower can be brought into compliance. A shut down tower is still subject to the requirements of the Decommissioning portion of this ordinance.
- e. If the WECS tower continues to operate after the thirty (30) day time period without having been brought into compliance, the thirty first (31st) day shall constitute the beginning of an additional separate violation, and shall constitute a default under this ordinance.
- f. If a WECS tower has been shut down as a result of a finding of violation, and is subsequently restarted without first having been brought into compliance, this shall constitute the beginning of an additional separate violation, and shall constitute a default under this ordinance.

O. Public Participation. Nothing in the ordinance is meant to deter or diminish opportunities for public participation, such as public hearings and open meetings on a case-by-case basis.

P. Liability Insurance. The owner or operator of the WECS shall maintain a current general liability policy covering bodily injury and property damage with limits of at least \$2-million per occurrence and \$5-million in the aggregate.

Q. Decommissioning and Site Reclamation Plan Requirement. At the time of the CUP application, the County and the applicant, owner, and/or operator must formulate a decommissioning and site reclamation plan to ensure that the WECS project is properly decommissioned. The decommissioning and site reclamation plan shall be binding upon all successors of title to the land. A signed decommissioning and site reclamation plan must be submitted to the Labette County Zoning Administrator prior to the granting of the CUP.

The applicant, owner or operator shall ensure that the WECS facilities are properly decommissioned within 12 months of the end of the project life or the facility abandonment. The applicant, owner or operator's obligations shall include removal of all equipment and physical materials (buildings, towers, transformers, above and below ground electric lines, concrete etc.), and the restoration of the area as near as practicable to the same condition prior to construction.

- 1. A decommissioning and site reclamation plan shall be prepared by a professional engineer and shall include:
 - a. Provisions describing the triggering events for decommissioning the WECS project.
 - b. A description of the methodology and cost to remove all above ground and below ground WECS facilities of the approved CUP. Reverse construction shall be the method used for removing the WECS towers.

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- c. Provisions for the removal of all above ground and below ground WECS facilities of the approved CUP.
 - d. Methodology and cost to restore all areas used for construction, operation, and access to a condition equivalent to the land prior to the WECS construction;
 - e. A work schedule and a permit list necessary to accomplish the required work;
 - f. Methodology to identify and manage any hazardous or special materials;
 - g. Proof that the necessary amount and form of financial security has been received by the County in the form of an escrow account that names Labette County as the Beneficiary The amount of security shall be equal to the positive difference between the total cost of all decommissioning and restoration work and the net salvage value of all removed WECS equipment or materials, plus a twenty-percent contingency. To determine that amount, the WECS owner and the Labette County Commissioners shall:
 - (1) Obtain bid specifications provided by a professional engineer;
 - (2) Request estimates from construction/demolition companies capable of completing the decommissioning of the WECS project; and a professional engineer of the County's choosing, the Labette County Zoning Administrator will review all estimates and make a recommendation to the Labette County Commissioners for an acceptable estimate. Labette County reserves the right to pursue other estimates;
 - (3) Certification of the selected estimate by a professional engineer. All costs to secure the estimates will be funded by the WECS owner.
 - h. A provision that the terms of the decommissioning plan shall be binding upon the WECS owner or operator and any of their successors, assigns, or heirs;
 - i. Confirmation by affidavit that the obligation to decommission the WECS facilities is included in the lease agreement for every parcel included in the CU application. A list of all landowners should be kept current and affidavits shall be secured from future WECS owners and landowners stating their financial understanding;
 - j. A provision that allows the County to have legal right to transfer applicable WECS material to salvage firms;
 - k. Identification of and procedures for the County to access the financial assurances; and
 - l. A provision that the County shall have access to the site, pursuant to reasonable notice to affect or complete decommissioning. A portion of the escrow account will be required to be held for one year past the decommissioning to settle any potential disputes.
2. Provisions triggering the decommissioning of any portion of the WECS project due to abandonment:
- a. Inactive construction for twelve (12) consecutive months or if there is a delay in obtaining a purchase power agreement for twelve (12) consecutive months, unless a signed document is provided by the utility company claiming responsibility for the delay.

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- b. If no electricity is generated by an individual turbine or the entire project for twelve (12) consecutive months after electricity is initially generated, unless proof is provided that new parts have been ordered and will be received within six (6) months. The Labette County Zoning Administrator or his/her designee shall have access to records in order to determine the electric generation of every turbine.
 - c. If the applicant, owner or operator of the WECS dissolves or chooses to walk away from the project.
 - d. The applicant, owner or operator of the WECS allows the WECS to enter a state of disrepair, is in threat of collapsing or any other health or safety issue.
 3. Provisions for the removal of structures, debris, and cabling; both above and below the soil surface:
 - a. Items required to be removed include, but are not limited to: turbines; transformers; foundation pads; electrical collection systems and transporters; underground cables; fencing; access roads and culverts. Concrete foundations supporting the WECS Towers are to be removed following 3(b) below. Should a landowner want access roads or culverts to their property to remain, they must sign an agreement with the WECS owner and/or operator and provide a copy to the County Public Works Department for approval.
 - b. The concrete foundation of each WECS tower shall be removed to a depth 48 inches below the lowest adjacent soil grade.
 4. Provisions for the restoration of soil and vegetation
 - a. All affected areas shall be inspected, thoroughly cleaned, and all construction related debris shall be removed.
 - b. Items required to be restored include but are not limited to: windbreaks; waterways; site grading; drainage tile systems; and, topsoil to former productive levels.
 - (1) In work areas involving decommission from expansion of turbine crane pads, widening access roads, or any other work areas, the topsoil must be first removed, identified, and stored separate from other excavated material for later replacement as applicable.
 - (2) The below-surface excavation area shall be filled with clean sub-grade material of similar quality to that in the immediate surrounding area.
 - (3) All sub-grade material will be compacted to a density similar to surrounding grade material.
 - (4) All unexcavated areas compacted by equipment used in decommissioning shall be de-compacted in a manner that adequately restores the topsoil and sub-grade material to the proper density consistent and comparable with the surrounding area.
 - (5) Where possible, the topsoil shall be replaced to its original depth and surface contours.
 - (6) Any topsoil deficiency and trench settling shall be mitigated with imported topsoil that is consistent with the quality of the effective site.
 - c. Disturbed areas shall be reseeded to promote re-vegetation of the area to a condition reasonably similar to the original condition. A reasonable amount of wear and tear is acceptable.

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- d. Restoration measurements shall include: leveling, terracing, mulching, and other necessary steps to prevent soil erosion; to ensure establishment of suitable grasses and forbs; and to control noxious weeds and pests.
- e. Items required to be repaired after decommissioning include but are not limited to: roads, bridges, culverts, box culverts, road drainage ditches and low water crossings.
- f. A professional engineer shall be present to ensure drainage tiles, waterways, culverts, etc. are repaired as work progresses.
- g. A soil erosion control plan shall be approved by the County Public Works Department and the Labette County Soil and Water Conservation District.
- h. All stormwater management, floodplain, and other surface water codes and ordinances shall be followed.

5. Estimating the Costs of Decommissioning

- a. Costs shall include but not be limited to engineering fees, legal fees, accounting fees, insurance costs, decommissioning and site restoration.
- b. When factoring the WECS salvage value into decommissioning costs, the authorized salvage value may be deducted from decommissioning costs if the following standards are met:
 - (1) The net salvage value shall be based on the average salvage price of the past five (5) consecutive years, this includes any devaluation costs.
 - (2) The maximum allowable credit for the salvage value of any WECS shall be no more than the estimated decommissioning costs of removal of the above ground portions of that individual WECS or up to seventy percent (70%) of the total estimated decommissioning costs, whichever is greater.
- c. Adjustments to the financial assurance amount that reflect changes in the decommissioning costs and salvage values shall be resubmitted every five (5) years and shall be adjusted for inflation and other factors. The escrow account shall be adjusted accordingly within six (6) months of receiving the updated information as determined by a professional engineer. Failure to provide financial assurance as outlined herein shall be considered a cessation of operation.
- d. When determining salvage values — demolition costs, transportation costs, and road permits shall be a consideration.
- e. f salvage value items are removed prior to decommissioning, then the escrow account must be credited.

6. Financial Assurance

- a. The County shall have access to the decommissioning fund secured by the escrow account in a bank of the County's choosing if:
 - (1) The WECS operator fails to address a health and safety issue in a timely manner; or
 - (2) The WECS operator fails to decommission the abandoned turbine(s) or the entire WECS project in accordance with the decommissioning and site reclamation plan.

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- b. The applicant and/or WECS owner shall grant perfected security in the escrow account by use of a control agreement establishing the County as an owner of record pursuant to the Secured Transit Article of the Kansas Uniform Commercial Code. The escrow agent shall release the decommissioning funds when the WECS owner or operator has demonstrated and the County concurs that decommissioning has been satisfactorily completed, or upon written approval of the County to implement the decommissioning plan. Ten percent of the fund shall be retained one (1) year past the decommissioning date to settle any outstanding concerns.
- c. Any interest accrued on the escrow account that is over and above the total value as determined by a professional engineer shall go to the WECS owner.
- d. The applicant shall identify procedures for the County to assess the financial assurances, particularly if it is determined that there is a health and/or safety issue with the WECS and the principal company fails to adequately respond as determined by the County Commissioners.
- e. The County shall not be responsible for any claims against the WECS applicant, owner or operator.
- f. The applicant shall agree that the sale, assignment in fact or at law, or other transfer of the applicant's financial interest in the WECS shall in no way effect or change the applicant's obligation to continue to comply with the terms, covenants, and obligations of this agreement and agrees to assume all reclamation liability and responsibility.
- g. The County and its authorized representatives have the right of entry onto the WECS premises for the purpose of inspecting the methods of reclamation or for performing actual reclamation if necessary.

7. Remedies

- a. The applicant's, owner's, or operator's failure to materially comply with any of the above provisions shall constitute a default under this ordinance.
- b. Prior to implementation of the existing County procedures for the resolution of such default(s), the appropriate County body shall first provide written notice to the owner and operator, setting forth the alleged default(s). Such written notice shall provide the owner and operator a reasonable time period, not to exceed ninety (90) days, for good faith negotiations to resolve the alleged default(s).
- c. If the County determines at its discretion, that the parties cannot resolve the alleged default(s) within the good faith negotiation period, the existing county ordinance provisions addressing the resolution of such default(s) shall govern.

R. Future Operators. Future operators, successors, assignees, or heirs shall agree in writing to accept and to conform to all provisions of the CUP. Prior notice to the County of the intent to sell or transfer ownership shall be done in ninety (90) days. Such agreement shall be filed with and accepted by the County before the transfer to a new operator, successor, assignees, or heirs shall be effective.

Section 101 Solar Energy Conversion Systems (SECS) – (RESERVED)

Section 102 Battery Energy Storage Systems (BESS) – (RESERVED)

Section 103 Private (Non-Utility) Renewable Energy Transmission Lines – (RESERVED)

APPENDIX 1 — Definitions

The following definitions shall be used in the interpretation and construction of these regulations:

AGRICULTURE The use of a tract of land where the principal activity is to produce income from the growing of crops, horticulture, nurseries, truck farm or the raising of fish, poultry and cattle or other livestock, including feedlots. Such definition includes the structures which are necessary for carrying on farming operations including greenhouses and, as accessory uses, the dwelling of the owner or operator of the premises including modular and manufactured and mobile homes uses as the principal farm dwelling. The retail and wholesale sale of items produced as part of the farming operation and other agriculture type products is permitted including the operation of commercial greenhouses and hydroponic farming. Micro Farms are included as an agricultural use.-including farms with specialty or organic commodities (both crops and livestock), or those marketing to local, regional, farm-identity preserved, specialty, or direct markets. Privately owned natural wildlife habitats and reserves are also considered an agricultural use. Private hunting areas are considered an incidental agricultural use. Publicly owned natural wildlife habitats and reserves are not considered agricultural use. **So long as such land, related structures and accessory dwelling(s) are used for such bona fide agricultural purposes, these regulations do not require a zoning permit or occupancy certificates, nor do they establish any other rule or regulation contrary to the provisions for floodplain regulations of K.S.A. 12-758.** This definition includes farm homesites and single family rural dwellings engaged in production of income from a farming activity as a home occupation. Surrounding nonagricultural landowners should be aware that Kansas is a "right-to-farm" state under K.S.A. 2-3201, et seq. which limits nuisance suits and injunctions if an agricultural activity is being conducted in conformity with federal, state and local laws.

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

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

APPEAL See Article 7 Section 106 for description.

BATTERY CHARGING STATION An electrical component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles, which meet or exceed any standards, codes and regulations set forth.

BATTERY ELECTRIC VEHICLE (BEV) Any vehicle that operates exclusively on electrical energy from an off-board source that is stored in the vehicle's batteries and produces zero tailpipe emissions or pollution when stationary or operating.

BATTERY ENERGY STORAGE SYSTEM (BESS). An energy storage system that can store and deploy generated energy, typically by a group of batteries that charge (i.e., collect energy) and store electrical energy from the grid or energy generation facility and then discharge that energy at a later time to provide electricity or other grid services when needed.

BATTERY EXCHANGE STATION A fully automated facility that will enable an Electric Vehicle with a swappable battery to enter a drive lane and exchange the depleted battery with a fully charged battery through a fully automated process, which meet or exceed any State standards, codes, and regulations.

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

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

CELLULAR TOWER A telecommunication structure with an attached antenna(s) which creates a cell site for a wireless transmission service that permits customers to use mobile telephones to connect either to the public switched network or to other mobile cellular phones. Such definition shall also include structures which provide "personal communication services" (PCS) that are similar to cellular, but allow for both data and voice transmission.

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

COMMERCIAL ENERGY GENERATING SYSTEMS Energy production of electricity for community and utility commercial large scale systems using different types of technology. Commercial energy systems includes renewable sources such as solar, geothermal, wind, or biomass technologies and fossil carbon based or radioactive sources.

CONDITIONAL USE The use of a structure or use that is not permitted outright within any zoning district, but when specifically authorized and listed in these regulations as a conditional use such use may be considered by the Planning Board. Conditions may be attached to the approval of such uses by the Board-so that they may be more compatible to the particular location within a district. Designated conditional uses are processed in the same manner as zoning amendments, except that a particular listed conditional use is applied for within a district. Their location is not depicted on the Official Zoning District Map and conditions recommended by the Planning Board are attached to their approval by the Governing Body. (See Article 8 Section-101 for CONDITIONAL USES.)

CREW CAMPS A grouping of factory built housing structures and/or RV campers which are used for transient or semi-permanent residential occupancy. Such a group may include single or double wide modular or portable housing structures, manufactured homes, or various types of RV campers and any combination thereof. Zoning for such a grouping shall limit the number of such dwelling accommodations and a period of time for the zoning to remain effective. Such time period may be considered for extension upon reapplication of the zoning case specifically for the latter extension period.

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

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

DWELLING A building, or portion thereof, which is designed or used for residential occupancy including a modular home, an earth-sheltered dwelling, a residential-design manufactured home or a manufactured/mobile home.

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

DWELLING, SINGLE FAMILY A residential building containing one dwelling unit only.

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

EASEMENT A public dedication or private grant by the property owner of the specific use of a strip of land by others. Limitations apply on what type of principal or accessory buildings or structures can be located on a public easement.

ELECTRIC VEHICLE (EV) Any vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-board source, that is stored on-board for motive purpose. "Electric Vehicle" includes:

- (1) a BEV;
- (2) a plug-in hybrid electric vehicle;
- (3) a neighborhood electric vehicle; and
- (4) a medium-speed electric vehicle.

ELECTRIC VEHICLE CHARGING STATION A public or private parking space served by battery charging station equipment intended to transfer electric energy to a battery or other energy storage device in an electric vehicle.

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

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

HEIGHT, MAXIMUM A horizontal plane above and parallel to the average finished grade of the entire zoning lot at the height shown in the district regulations. **Maximum height restrictions apply to conditional uses in the A-1 and A-2 zoning districts.** No part of any structure shall project through such plane **except**:

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located;
2. Flagpoles, water towers and tanks, steeples, bell towers, carillons, monuments, cupolas, electric transmission line towers; and
3. Communication structures as an accessory use which do not exceed **150 feet** in height. Also an exception to the maximum height in all districts are antennas for licensed amateur radio and citizens band operators. Communication structures include (1) antennas and (2) broadcasting and microwave transmitting and relay towers for television, radio and cellular telephone systems and other similar forms of electronic communication. In districts where allowed as a principal structure, applicants may apply to the Planning Board for a conditional use to exceed the height limitations for such communication structures, antennas and towers. The Planning Board may adopt criteria in the form of a policy statement to assist in the review of such conditional use applications. (See Article 3 Section 103A for LOT SIZE and BULK REGULATIONS EXEMPTION)

LANDSCAPING The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees designed and arranged to produce an aesthetically pleasing effect. Landscaping may be used for buffering and screening of undesirable views.

LOT See LOT, ZONING.

LOT AREA The area of a horizontal plane bounded by the front, side and rear lot lines.

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

LOT COVERAGE That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures or any part thereof, excluding projecting roof eaves and recreational activity areas.

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

LOT, INTERIOR A lot other than a corner lot.

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

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

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

LOT LINE, SIDE A lot line which is neither a front lot line nor a rear lot line.

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

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

LOT SIZE REQUIREMENTS Restrictions on the dimensions of lots including (1) minimum lot area, width and depth; and (2) maximum density. Lot area, width and depth establish the minimum size of the zoning lot on which a structure or use or two or more structures or uses, may be constructed or established.

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

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

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

OCCUPANCY CERTIFICATE A certificate by which the Zoning Administrator certifies that upon completion of an applicant's proposed structure and/or use that it complies with these regulations and, therefore, may be occupied and/or used. (See Article 6 Section 101B for OCCUPANCY CERTIFICATES.)

PERMITTED USE A use of a structure or land which is permitted outright within a zoning district because of its suitability to the purpose of the other uses so designated. **A zoning permit is not required by these regulations for a permitted use.**

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

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

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

PRIVATE (NON-UTILITY) RENEWABLE ENERGY TRANSMISSION LINES Transmission power lines for long-distance, high-voltage electricity transportation, generated from renewable sources which are privately owned.

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

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

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

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

SETBACK, BUILDING A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the front street right of way. The setback distance shall be measured from the existing right of way line or the proposed right of way line, whichever is the greater.

SETBACK AREA Open space on a lot which is unoccupied and unobstructed from its lowest level to the sky, except for permitted obstructions as approved by the Zoning Administrator.

SETBACK AREA, FRONT An area extending along a full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the required front setback area. On a corner lot, each setback area that abuts a front lot line shall be considered a front setback area.

SETBACK AREA, REAR An area extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear setback area.

SETBACK AREA, SIDE An area extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of a required minimum side setback area, but excluding any area encompassed within a front or rear setback area. Dimensions of minimum side setback areas refer to the required width of each side setback area rather than to the total width of both side setback areas, unless otherwise specified.

SEXUALLY ORIENTED BUSINESS An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center as defined by K.S.A. 12-770, as amended.

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

1. Is a structure or any part thereof or a portable display, or is attached to, painted on, or in any other manner represented on a building or other structure or on the ground.
2. Is used to announce, direct attention to, or advertise.

SOLAR ENERGY CONVERSION SYSTEMS (SECS) A facility that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST), or other conversion technology, for the primary purpose of wholesale sales of generated electricity. This includes all appurtenant facilities including, but not limited to, roads, substations, operation and maintenance buildings. These facilities are commonly referred to as 'solar farms', which is connected to transmission, collector, or feeder lines, and is intended for use in a larger electrical network exclusive of individual use. These regulations apply to community and utility commercial large scale systems.

STORAGE, OUTDOOR The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature or of new or used goods and materials on display for sale except when such display is permitted.

STRUCTURE Anything constructed or erected which requires location on the ground or attachment to something having a location on the ground, but not including hard surfaced walks, mailboxes, utility poles, fire hydrants, street light fixtures or street signs. Fences, driveways and parking spaces are considered to be structures.

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

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

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

VARIANCE See Article 7 Section 107 for description.

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

WIND ENERGY CONVERSION SYSTEMS (WECS) (See Article 10 Supplemental Use Regulations Definition.)

ZONING ADMINISTRATOR The person appointed and authorized by the Governing Body to administer and enforce the requirements of these regulations. (See Article 6 Section 100A for Office of the Zoning Administrator.)

ZONING PERMIT A certificate by which the Zoning Administrator certifies to an applicant that their proposed structure and/or use are in conformance with these regulations. **This includes requirements stated in the conditions of a zoning amendment or conditional use case. The zoning permit including the conditions of a conditional use case shall be considered a Conditional Use Permit.** (See Article 6 Section 101A for ZONING PERMITS.)

APPENDIX 2 — Resolution Incorporating and Adopting Zoning Regulations

(Published in the Parsons Sun on July 12, 2024.)

COUNTY COMMISSION RESOLUTION 2024-24-L

A RESOLUTION APPROVING AND INCORPORATING BY REFERENCE
THE *ZONING REGULATIONS OF LABETTE COUNTY, KANSAS*
AND THE *OFFICIAL ZONING DISTRICT MAP*,
FOR THE UNINCORPORATED AREAS OF LABETTE COUNTY, KANSAS,
PREPARED AND PUBLISHED AS A MODEL CODE

**BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LABETTE COUNTY,
KANSAS:**

Section 1. Approval

The *Zoning Regulations of Labette County, Kansas*, dated July 8, 2024, are hereby approved by the Board of County Commissioners of Labette County, Kansas. These *Zoning Regulations* are hereby incorporated by reference as fully as if set out within this Resolution in its entirety.

The *Zoning Regulations of Labette County, Kansas*, dated July 8, 2024, are hereby approved as an Amendment to the *Labette County Zoning Code* adopted by the Board of County Commissioners by Resolution No. 2011-42-L on September 19, 2011. These *Zoning Regulations* are a supplement to the *Labette County Zoning Code* and apply to the Great Plains Industrial Park (GPIP) solely as an overlay district, and utilize underlying zoning districts established for GPIP by the *Labette County Zoning Code*.

The *Zoning Regulations* govern the use of land and the location of buildings within the unincorporated areas of Labette County, Kansas. They have been prepared and published as a model code in book form by the Labette County Planning Board in accordance with state statutes K.S.A. 12-741 *et seq.*, as amended, 12-3301, and 12-3303 through 12-3305. They establish zoning district boundaries and classifications of zoning districts; adopt by reference an official map of zoning districts; define certain terms used in the *Zoning Regulations*; define zoning regulation exemptions; provide for conditional uses; prescribe the duties of the Planning Board and the Board of Zoning Appeals; provide for the appointment and prescribe the duties of a Zoning Administrator; provide for fees to be charged for amendments, appeals and permits; establish a means for amending the *Zoning Regulations*, Map and Resolution; and provide for penalties for violation of *Zoning Regulations* provisions and a means of enforcement.

Section 2. Official Zoning District Map

The *Official Zoning District Map of Labette County, Kansas*, dated July 8, 2024 is hereby approved by the Board of County Commissioners of Labette County, Kansas, and is hereby incorporated by reference as fully as if set out within this Resolution in its entirety.

The *Official Zoning District Map of Labette County, Kansas* delineates the boundaries of zoning districts and their classifications. It must be marked "Official copy of Zoning District Map incorporated into *Zoning Regulations* by adoption of Resolution 2024-24-L by the Labette County Board of County Commissioners on the 8 day of July, 2024".

Section 3. Public Hearing

The advertised public hearing required by K.S.A. 12-756(b) was duly held on May 16, 2024 by the Labette County Planning Board, and continued on June 24, 2024. The Planning Board heard all comments and remarks relating to the proposed *Zoning Regulations of Labette County, Kansas* and the *Official Zoning District Map of Labette County, Kansas*, and gave consideration to all statements. The Zoning Regulations and Map in model code form approved by this Resolution are a true and correct copy of the Zoning Regulations and Map adopted during the hearing by the Planning Board.

Section 4. Jurisdiction

From the effective date of this Resolution, the *Zoning Regulations of Labette County, Kansas* and the *Official Zoning District Map of Labette County, Kansas*, both dated July 8, 2024 and incorporated in this Resolution by reference, govern certain uses of the land within the unincorporated areas of Labette County, Kansas.

Section 5. Previous Agreements

Any development agreement between a developer and Labette County which was signed before the effective date of this Resolution will be honored according to the terms of the Agreement, and will not be subject to the terms prescribed by the *Zoning Regulations of Labette County, Kansas* except as allowed by the terms of the Agreement.

Section 6. Official Copies

At least three copies of the *Zoning Regulations of Labette County, Kansas* in book form, marked "Official Copy as incorporated by Resolution 2024-24-L", and with a copy of the published version of this Resolution attached, must be filed with the County Clerk. The *Zoning Regulations of Labette County, Kansas* and the *Official Zoning District Map* must be made available to the public for inspection during all reasonable business hours.

Section 7. Invalidity of a Part

Any provisions of this Resolution which are declared to be unconstitutional or invalid by a competent court must not affect the validity and authority of any other sections of this Resolution.

Section 8. Repeal of Conflicting Resolutions

Resolutions _____ are hereby repealed, and any other resolutions or parts of resolutions in conflict with this Resolution are also hereby repealed.

Section 9. Effective Date

This Resolution becomes effective upon its passage by the Board of County Commissioners, and its publication once in the official county newspaper.

PASSED BY THE BOARD OF COUNTY COMMISSIONERS ON
this 8 day of July, 2024.

/s/ Terry Weidert
Terry Weidert, Chairperson

/s/ _____
Cole Proehl, Member

/s/ Vince Schibi
Vince Schibi, Member

ATTEST:
/s/ Gena Landis
Gena Landis, County Clerk

APPROVED AS TO FORM:
/s/ Brian Johnson
Brian Johnson, County Counselor



SUPPLEMENTAL DOCUMENTS — Floodplain Management Regulations

Labette County adopted floodplain management regulations by **Resolution 2008-29L**. The regulations are included as a supplemental document only for reference in the administration of these zoning regulations. See Labette County website or a copy available from the County Clerk.