

ZONING REGULATIONS
of
LABETTE COUNTY, KANSAS

Official Copy
as Incorporated by Resolution No. _____

Model Code

prepared by the

LABETTE COUNTY PLANNING BOARD

Technical Assistance by

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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 AND JURISDICTION

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 conserve productive farm and ranch land and other agricultural uses;**
- B. To permit limited nonagricultural uses and low-density dwellings which would not be incompatible to the rural area and require minimum public services;
- 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 regulate and restrict the location, use and appearance of **nonagricultural** buildings, structures and land within each district and to zone for residential, commercial, industrial and other purposes;
- H. To regulate and restrict the height, number of stories and size of **nonagricultural** buildings and structures including their distance from any street or highway; the percentage of each lot that may be occupied by buildings and other structures; and size of yards, courts and other open spaces;
- I. To protect property values and conserve energy and natural resources;
- J. To provide for adequate light and air and acceptable noise levels;
- K. To avoid the undue concentration of population and vehicular traffic and to prevent overcrowding the use of land and public facilities;
- L. To facilitate the adequate provision of transportation, water supply, sewage disposal, schools, parks and other public improvements;
- M. 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;
- N. To establish and provide procedures for the Board of Zoning Appeals to consider appeals and variances; and
- O. 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

Except when exempted, these regulations shall apply to all buildings, structures and land in the unincorporated area of Labette County except the extraterritorial zoning and subdivision jurisdiction around the City of Parsons. This 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 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 the following land use development activities within the Zoning Jurisdiction of Labette County: (See Section 1-103 above.) Exemptions for Agricultural Uses and other use activities are stated in these regulations. (See Section 2-102 for AGRICULTURE). Zoning permits are required as stated in these regulations.

- A. New commercial and industrial development;
- B. Conditional uses listed in each zoning district;
- C. Agricultural and other uses when in a **floodplain** as mandated by the Floodplain Management Regulations of the State of Kansas;
- D. Small Scale Renewable Energy Systems (See Section 6-103 for exemptions);
- E. Accessory Structures and Uses and Temporary Uses (See Article 6 for exemptions.); and
- F. Nonconforming Lots, Structures and Uses (See Article 8 for exemptions and Section 8-107B for Rights Conditioned ('grandfathered in')).

ARTICLE 2 INTERPRETATION, CONSTRUCTION AND DEFINITIONS

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 abrogate any easement, deed restriction, covenant or other private agreement of legal relationship; provided, that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such private agreements, the requirements of these regulations shall govern. The County does not have a responsibility to enforce such private agreements.
- D. **Unlawful Uses and Structures.** No use of land or structure which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful use or structure is in conflict with the requirements of these regulations, said use or structure remains unlawful hereunder. **Uses and structures established after the adoption of these regulations not compliant with the adopted regulations are considered a violation.** (See Section 1-104 for Regulatory Applicability.)
- E. **Not a Licensing Regulation.** Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any structure or facility or to carry on any trade, industry, occupation or activity.
- F. **Effect on Existing Permits.** For all purposes except single family developments platted and recorded after January 1, 1992, nothing in these regulations shall be deemed to require any change in plans, construction or designed use of any land or structure in the event that: (See Section 2-100G.)
1. A zoning permit for such use of land or structure was lawfully issued prior to the effective date of these regulations or the effective date of any amendment thereof; and
 2. Such permit had not by its own terms expired prior to such effective date; and
 3. Such permit were issued on the basis of an application showing complete plans for proposed construction and/or use; and
 4. There has been a substantial change of position, substantial expenditure, substantial work performed or incurrence of substantial obligations by the permit holder in reliance on such permit other than purchase of land or preparation of design plans; and
 5. Such issuance of a permit and change of position, expenditures, work or incurrence of obligations were made prior to the effective date of an amendment of these regulations which amendments would have made illegal the issuance of such permit; and
 6. Construction pursuant to such permit is completed prior to the expiration of such permit; and

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7. When the use of land or a structure is completed under a permit to which this Section 2-100F applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the zoning permit was issued.

G. Vesting of Development Rights. For the purpose of single family residential developments according to K.S.A. 12-764, as amended, development rights in such land use shall vest upon recording of a final plat of such land after January 1, 1992. If construction of a principal structure is not commenced on such land within **ten years** of recording a final plat the development rights in such land shall expire and, thus, all revisions to zoning regulations becoming effective during the period vested shall thereafter apply to such platted land. For all purposes other than residential developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use and construction has begun and substantial amounts of work have been completed. If substantial amounts of the work have not been completed within ten years of the issuance of such permits, the development rights shall expire.

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 singular number includes the plural and the plural the singular.
 2. The present tense includes the past and future tenses and the future the present.
 3. The word "shall" is mandatory while the word "may" is permissive.
 4. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
 5. The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 6. The word "County" means Labette County, Kansas.
 7. The words "Governing Body" mean the Board of Commissioners of Labette County, Kansas.
 8. The word "Clerk" means the Clerk of Labette County.
 9. The words "Planning Board" mean the Labette County Planning Board.
 10. The words "Land Use Plan" mean the adopted and approved *Land Use Plan 2024-2044 for Labette County, Kansas*.
 11. The word "Board" means the Board of Zoning Appeals and the Labette County Planning Board depending on the subject context.
 12. The words "zoning jurisdiction" mean the area as defined in Section 1-103 for which the jurisdiction of these regulations is applicable for zoning purposes.
 13. Unless otherwise specified, all distances shall be measured horizontally.
- B. Any word or phrase which is defined in this Article or elsewhere in these regulations shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.
- C. Words or terms not herein defined shall have their ordinary meaning in relation to the context as defined in a dictionary or other source.

Section 102 Definitions

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

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

1. Regulations for accessory dwellings shall **only apply** in the **RR-1 Single Family Rural Residential Subdivision District**.
2. A maximum of **one accessory dwelling** may be allowed on the same zoning lot as a single family dwelling unit; this includes permanent or portable, tiny homes, recreational vehicles (RV's), and residential-design manufactured homes which to a reasonable extent meet the characteristics of item 2 in this list.
3. The appearance of an accessory dwelling shall be compatible with the principal dwelling and the character of the neighborhood.
4. The lot on which the accessory dwelling is to be located must meet the minimum lot area as required for the lot size in the relevant zoning district; (See also maximum lot coverage.)
5. Provisions for off-street parking space shall be approved by the Zoning Administrator.
6. Separate or shared utility connections may be utilized subject to meeting all requirements of the County Sanitation Code.
7. Temporary, prefabricated structures may be used as accessory dwellings for limited periods of time; and
8. An accessory dwelling shall remain accessory to and under the same ownership as the principal single family dwelling unit and not be subdivided or sold as a condominium. A suitable deed restriction stating this restriction must be filed with the Labette County Register of Deeds prior to issuance of any occupancy certificate for the accessory dwelling.

ACCESSORY STRUCTURE OR USE As defined in Article 6.

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

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

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AGRICULTURE The use of a tract of land under one ownership 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 not in a designated floodplain that are necessary for carrying on farming operations including greenhouses and, as accessory uses, the dwelling of the owner or operator of the premises including modular and manufactured and mobile homes 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 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. This definition shall not include lands used for recreational purposes such as hunting preserves (See Definition), To assist the Zoning Administrator in determining if a proposed building, structure or use meets the definition of agriculture, any applicant seeking agricultural exempt status may be asked to complete a certificate of compliance. Any person aggrieved by a decision of the Zoning Administrator in interpreting the definition of agriculture may appeal to the Board of Zoning Appeals for a determination. Surrounding nonagricultural landowners should be aware that Kansas is a "right-to-farm" state under K.S.A. 2-3201, et seq. which limits nuisance suits and injunctions if an agricultural activity is being conducted in conformity with federal, state and local laws. (See Section 3-100E4 for Exemptions to agricultural purposes and Section 4-101-4 &11 for Agriculture as permitted use.)

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

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

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

ALTERATION See STRUCTURAL ALTERATION.

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

APPEAL See Section 10-106 for description.

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AUTOMOBILE SERVICE STATION A structure and surrounding land used for the storage and sale of petroleum fuel, including self-service, primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs, but not including tire recapping, body repairs or major overhaul. Such use does not include open sales lots nor provide rental equipment, unless specifically permitted by the district regulations.

AWNING A roof-like cover that is temporary in nature which projects from the wall of a building and which may overhang a public area for pedestrian use.

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

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.

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

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

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

BUILDING Any covered structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, horticultural products or 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 yards and setbacks.

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

CABIN A small, one story residential structure intended for temporary or semi-permanent (not more than 90 days) use by one household which includes sleeping quarters, cooking space and lawful sanitary facilities. Such cabins would usually not exceed 400 square feet in size and be located, when permitted, in conjunction with a campground. **Cabins in Agricultural zoning districts are exempt from this definition.**

CAMPING EQUIPMENT The personal property used as suitable for camping such as tents, camping cabins, recreational vehicles (RV) or types of portable shelters intended, designed ,or used for temporary human occupancy. Boxes of items for a camp kitchen for cooking and cleaning purposes is sometimes included.

CAMPGROUND Any parcel of ground which provides space for transient or semi-permanent (not more than 90 days) occupancy and is used or intended to be used for the parking of one or more RV campers, cabins, tents and for wide, factory built portable housing structures. Cabin structures shall be limited to 10% of the total campground spaces. There may be facilities for the convenience and safety of campers such as offices, recreation or event center, bathrooms with showers, clothes washing and drying places, boat ramps, tornado shelters, and other similar facilities. The term campground does not include sales lots on which unoccupied campers or such housing structures, whether new or used, are parked for the purpose of storage, inspection, or sale. **This definition is not intended to prohibit the use of land to allow for the placement of RV campers during harvest seasons or camping for up to six RV's. For campgrounds greater than six RV's a zoning permit is required.** Such definition shall also not prohibit the placement of RV campers on oil and gas well sites during drilling operations. (See CABIN.)

CANOPY Any structure, movable or stationary, open on three sides, which is attached to and projects from a wall of a building for the purpose of sheltering a drive-up facility, platform, stoop, entranceway or sidewalk from the elements including a motor vehicle; or an independent roof-like structure supported by posts with no sidewalls for the purpose of sheltering a gasoline service area, drive-in facility or motor vehicles. In any event, the sheltering of motor vehicles is for temporary parking and unloading only and not a permanent parking or storage space. (See Section 3-103D2 for Permitted Obstructions.)

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

CARPORT A structure for shelter and permanent parking space for motor vehicles attached to a building or independent thereof which is enclosed on at least two sides. Such carports are not permitted obstructions.

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

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.

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CEMETERY Land used or intended to be used for burial of the dead, whether human or animal, including a mausoleum or columbarium. A funeral home or mortuary may be included as an accessory use to a cemetery. Family burial plots on private land are not defined as cemeteries and are exempt from these regulations.

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

1. Group Boarding Home: A non-secure facility providing 24-hour residential care for not less than five or more nor more than 10 children unrelated to the caregivers between the ages of infancy to 16 years of age. Emergency shelter and maternity care may be provided.
2. Child Care Center: A facility in which care and educational activities for 13 or more children two weeks to 16 years of age are provided for more than three, but less than 24 hours per day, including before and after school care for school age children.
3. Preschool: A facility such as a "nursery school" providing learning experiences for children of less than kindergarten age, but who are 30 months or older, where sessions do not exceed three hours per day.
4. Day Care Home: A home or facility in which care is provided for a maximum of 10 children under 16 years of age.
5. Group Day Care Home: Similar to day care homes except that care is provided to a maximum of 12 children under 16 years of age.
6. Family Day Care Home: A home in which care is provided for less than 24 hours per day for a maximum of six children who are less than 16 years of age, but of whom not more than three children are less than 18 months.

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

CONDITIONAL USE The use of a structure or use that is not permitted outright within any zoning district, but when specifically authorized and listed in these regulations as a conditional use such use may be 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 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 Section 11-101 for CONDITIONAL USES.)

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

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thereon. The Zoning Administrator must be satisfied that such a provision is included in the declaration before a zoning permit or occupancy certificate will be approved.

CREW CAMPS A grouping of factory built housing structures and/or RV campers which are used for transient or semi-permanent (To be determined with a zoning amendment or conditional use case.) 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. A crew camp of limited size and single ownership operation may be located as an accessory use in conjunction with industrial uses in designated industrial districts.

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

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

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

DOG KENNEL Any place where a total of **seven or more dogs** are kept, maintained, boarded, bred for a fee or offered for sale. A "dog" is defined as any member of any canine species over six months of age. This definition **does not** include dogs which are kept or maintained as pets.

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

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

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

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

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

EARTH-SHELTERED DWELLING A single family dwelling constructed so that 50% or more of the exterior surface area of the building, excluding garages and other accessory structures, is covered with earth. Such a dwelling is a complete structure that does not serve just as a foundation or substructure for above-grade construction. A partially completed building shall not

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be considered earth-sheltered. Bulk regulations shall be measured from the structural part of the dwelling as distinguished from the earth covering.

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

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.

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

FAMILY Either (1) an individual or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; or (2) a group of not more than five persons who need not be related by blood, marriage or adoption, living together as a single, non-profit housekeeping unit in a dwelling unit; plus in either case, domestic servants. A family may include any number of gratuitous guests or minor children not related by blood, marriage or adoption. No more than four boarders or roomers are permitted as part of a housekeeping unit. (See BOARDING or ROOMING HOUSE.)

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

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

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

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

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

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

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

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

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.

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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 commercial, industrial and conditional uses in all zoning districts. Agricultural uses are exempt.** No part of any structure shall project through such plane **except:**

1. Chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water tanks and similar roof structures needed to operate and maintain the building on which they are located and signs where permitted by Article 7;
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 **60 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 Section 3-103E for LOT SIZE and BULK REGULATIONS EXEMPTION)

HUNTING PRESERVE Parcels of fenced or enclosed land **licensed by the State** to offer recreational hunting for a fee. Such land may also be known as a game park and hunted in a controlled way for sport. Periodically, additional animals, may be brought to the land.

HOME OCCUPATION As defined in Article 6.

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

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

LOT See LOT, ZONING.

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

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

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

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.)

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

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

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

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

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

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

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 yard setback line.

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

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MANUFACTURED HOME A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall also include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, et seq., as amended, shall be anchored to the ground or secured to a permanent-type foundation. All manufactured homes must meet the standards of the National Home Construction and Safety Standards of 1976, otherwise referred to as the "HUD Code". Additions may be made to such home for patios, porches, carports, garages, storage structures and living space provided such additions are designed and constructed by a manufactured home factory or meet any applicable building codes and/or standards. (See MOBILE HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

MANUFACTURED AND MOBILE HOME SUBDIVISION A subdivision which is platted for development as individually owned lots for manufactured or mobile or modular homes to be placed on permanent-type, enclosed perimeter foundations. Whereas such homes can be used for rental purposes, lots cannot be leased for periodic placement of such homes on them. (See definition for all such types of homes.)

MEDICAL, DENTAL OR HEALTH CLINIC Any building designed for use by two or more full-time professional persons engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to doctors of medicine, dentists, chiropractors, osteopaths, podiatrists and naturopaths, and in which no patients are lodged overnight, but which may include an apothecary.

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

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MOBILE HOME A factory-built structure or structures equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear and designed to be used as a dwelling unit with or without a permanent-type, enclosed perimeter foundation. The transportation system is designed so that the home may be moved from time to time at the convenience of the owner. The term shall also include two or more separately towed units which are designed to be bolted or otherwise fastened together to form a complete living unit. Such homes are built on a chassis consisting of drawbar and coupling mechanism, frame (e.g., steel I-beams), running gear assembly and lights. Removal of any or all of these component parts does not change the definition. All such homes shall be either skirted according to the manufacturer's design and construction standards or placed on a permanent-type, enclosed perimeter foundation and, according to standards of the State of Kansas under K.S.A. 75-1226, et seq., as amended, shall be anchored to the ground or secured to a permanent-type foundation. Additions may be made to such home for patios, porches, carports, garages, storage structures and living space; provided, such additions meet any applicable building codes and/or standards. (See MANUFACTURED HOME and RESIDENTIAL-DESIGN MANUFACTURED HOME.)

MODULAR HOME A single family dwelling structure located on a permanent foundation and connected to public utilities, consisting of pre-selected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom built on the site of its permanent location; and also in contradistinction to a manufactured home, either width, double-width or multi-width, located on its permanent foundation. In general, such modular homes shall have exterior building materials and somewhat similar appearance to custom built single family dwellings.

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

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

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

PERMITTED USE A use of a structure or land which is permitted outright within a zoning district because of its suitability to the purpose of the other uses so designated. When a use may appear to be classified under more than one permitted use as well as a conditional use in any district, the most specific or restrictive description or narrowly defined meaning is applicable.

PORTABLE STORAGE UNIT A container specifically designed for storage or a converted former metal shipping container which is used for general storage purposes and painted a neutral color. Such a unit requires locations on the ground, but is not permanently attached to the ground or to anything on the ground. Access is granted by doors on one or both ends. No other signage is permitted on the unit other than the business identification signage.

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

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

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

RECREATIONAL VEHICLE (RV) A vehicle or a unit that may be independently motorized or may be mounted on or drawn by another vehicle, which is primarily designed and used for travel, camping, recreation, temporary living or occasional use. Recreational vehicles include motor homes, mini-motor homes, converted buses, converted camper vans, pickup and truck campers, camping trailers, fifth-wheel trailers, boats and boat trailers, jet skis 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.

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

1. Small recycling collection center: A center for collection containers or reverse vending machines not exceeding 100 square feet in ground area which may be approved by the Zoning Administrator as an accessory use in all business and industrial districts and on church and public property. Such a center may be located in the required front yard in business and industrial districts and on public property if proper vehicular safety and parking standards can be maintained.
2. Large recycling collection center: A center for collection containers larger than 100 square feet in ground area, on-site trailers, bulk-feed reverse vending machines, vehicles on-site during operating hours only and the like. As an accessory use, such a center may be approved by the Planning Board as a conditional use in all business and industrial districts and on church and public property.
3. Recycling processing center: A principal use in industrial districts only for handling the collection and processing of large volumes of bulky materials, some of which may originate at other recycling centers. Mechanical equipment may be used such as forklifts, balers, smashers and other related equipment. Outdoor storage may be permitted including composting operations.

RESIDENTIAL BUILDING A building all or part of which contains one dwelling unit with or without an accessory dwelling and including single family dwellings, earth-sheltered housing, lodging houses and modular homes, but not including manufactured or mobile homes.

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RESIDENTIAL-DESIGN MANUFACTURED HOME A structure manufactured to the standards embodied in the federal Manufactured Home Construction and Safety Standards generally known as the HUD Code established in 1976 pursuant to 42 U.S.C. Sec. 5403. Such units shall provide all of the accommodations necessary to be a dwelling unit and shall be connected to all water supply and sewage disposal systems in conformance with applicable County regulations. Such a structure shall be on a permanent-type, enclosed perimeter foundation which has minimum dimensions of 22 body feet in width, a pitched roof, siding and roofing materials which are customarily used on site-built homes (See K.S.A. 12-742.)

RESTAURANT A public eating house, including but not limited to the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, fast food restaurants and soda fountains, but not a drive-in establishment unless specifically permitted by the district regulations. Drive-up type windows, however, are permitted.

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

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.

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.
3. See also Section 7-102.

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SOLAR FACILITY, SMALL SCALE A private solar facility intended to primarily supply electrical power for use on the subject property using roof-top application or limited ground mounted array of panels. A small scale facility is any system designed and interconnected following State statutes for parallel generation or net metering. (See K.S.A. 66-1,184 and 66-1263.) Such facilities are used to reduce onsite residential or agricultural use consumption of utility power and may be used for commercial and industrial purposes.

STORAGE, OUTDOOR The storage of goods and materials outside of any building or structure when specifically permitted by these regulations, but not including storage of a temporary or emergency nature or of new or used goods and materials on display for sale except when such display is permitted. (See Section 6-100D2 for outdoor storage applicability in zoning districts.)

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

1. Attachment of a new front where structural support are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement of non-structural members.
(See Section 3-100C for Structural Alteration.)

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.)

TINY HOUSE A house with 200 up to and including 500 square feet of gross floor area, with a foundation, qualifies for a certificate of occupancy, and may be permitted as an accessory dwelling unit.

1. For the purposes of these regulations, a Tiny House On Wheels (THOW) is considered to be a type of house trailer or recreational vehicle, and is regulated as such.

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 Section 10-107 for description.

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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 SYSTEM, SMALL SCALE (WECS) A private WECS facility intended to primarily supply electrical power for use on the subject property. Such facilities are used to reduce onsite residential or agricultural use consumption of utility power and may be used for small scale commercial and industrial purposes.

YARD 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.

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

YARD, REAR A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the required rear yard.

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

ZONING ADMINISTRATOR The person appointed and authorized by the Governing Body to administer and enforce the requirements of these regulations. (See Section 9-100A 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. Such a certificate may be combined with the issuance of a building permit as required by applicable building codes and/or standards; provided, that all information required for approval of a zoning permit is also contained thereon. This includes requirements stated in the conditions of a zoning amendment or conditional use case. (See Section 9-101A for ZONING PERMITS.)

ARTICLE 3. GENERAL PROVISIONS

Section 100 Activities Governed by These Regulations

These General Provisions provide uniform regulations for the administration of the zoning districts herein and the zoning regulations. **Applicability is limited to commercial and industrial uses in all zoning districts, conditional uses and the RR-1 Single Family Rural Residential Subdivision District.**

- A. New Structures.** Structures built hereafter shall comply with all of the provisions of these regulations. Any structure hereafter moved from one site to another site shall be considered to be a structure built hereafter. Any structure rebuilt or restored after damage, by any means, shall be considered to be a structure built hereafter, unless Article 8 of these regulations permits such structures to be rebuilt or restored. **(See Section 3-100E4 for Agricultural Exemption.)**
- B. New Uses of Old Structures.** If a use of any structure is hereafter changed to another, then the new use must comply with the use regulations of these regulations, unless permitted by provisions in Article 8. The mere establishment of the new use does not require an existing structure to conform to the lot size requirements or the bulk regulations. **(See Section 3-100E4 for Agricultural Exemption.)**
- C. Structural Alterations.** If any structure is hereafter structurally altered as defined in Section 2-102 **(See Section 3-100E4 for Agricultural Exemption.):**
1. The entire structure as altered shall comply with the use regulations of these regulations.
 2. Any alterations, enlargements or additions to the structure shall comply with the bulk regulations of these regulations, except as permitted by Section 8-102 for nonconforming structures.
 3. The off-street parking facilities shall not be reduced below or if already less than, shall not be further reduced below the requirements as determined by the Zoning Administrator.
- D. Uses of Open Land.** If any use of open land is hereafter established or if any use of open land is hereafter changed to another use, such new use shall comply with all the provisions of these regulations, unless permitted by Section 8-103.
- E. 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 Section 3-103E 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** as defined in Section 2-102 in all zoning districts, including accessory buildings and structures thereon.
 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.

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. References to a "residential district" shall mean a district in which residential uses are the main permitted use. References to a "business or commercial district" shall mean a district in which commercial uses are the main permitted use. References to an "industrial district" shall mean a district in which industrial uses are the main permitted use.

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 Section 9-100A11 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.

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 3-101C1 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.

When exempted by these regulations the following requirements of Sections 102 through 105 are not required.

Section 102 General Requirements for All Zoning Districts

- A. Permitted Uses.** No structure shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy except for a use that is permitted within the zoning district in which the structure or land is located or provided for otherwise in these regulations.
- B. Conditional Uses .** No use of a structure or land that is designated as a conditional use in any zoning district shall hereafter be established, and no existing conditional use shall hereafter be changed to another conditional use in such district unless a conditional use is approved in the same manner as for an amendment to a zoning district. The latter procedure is set forth in Section 11-101 with the additional requirement that all conditions further imposed upon the conditional use be made a part of the effectuating resolution.
- C. Lot Sizes**
1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied, arranged or designed for use of occupancy on a zoning lot, unless otherwise provided for in these regulations, which in its district is:
 - a. Smaller area than the minimum area or minimum lot area per dwelling unit required;
 - b. Narrower than the minimum lot width required; or
 - c. Shallower than the minimum lot depth required.
 2. Where independent dwelling units are to be sold as condominiums, minimum lot size requirements shall not apply to each individual ownership, but shall be applied collectively to the common open space surrounding the structure(s) such that the total open space is an aggregate of the minimum lot area required for each dwelling unit; however, the minimum lot width and depth for the district shall be applied to the entire zoning lot.
- D. Bulk Regulations.** In these regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards.
1. No structure, or part thereof, shall hereafter be built, moved or structurally altered and no structure or land shall hereafter be used, occupied or designed for use or occupancy:
 - a. That would exceed the maximum lot coverage percentage or the maximum structure height specified for the zoning district in which the structure is located, unless exempted by the definition of maximum height, or
 - b. That would provide any minimum setback of a front, side or rear yard that is less than that specified for the zoning district in which such structure or use of land is located or maintained, except as front yard setbacks may be applied in Sections 3-103C and front and side yard setbacks for nonconforming structures and uses in Article 8.
 2. Where independent dwelling units are to be sold as condominiums, bulk regulations shall not apply to each individual ownership, but shall be applied to the entire zoning lot.
- E. Use Limitations.** No permitted, or conditional use hereafter established, altered, extended, enlarged or moved shall be operated or designed so as to conflict with the use limitations for the zoning district in which such use is, or will be located.

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

Section 103 Miscellaneous Requirements

A. Number of Structures and Uses on a Zoning Lot

1. Whenever a zoning lot is used for a single family detached or attached dwelling, duplex dwelling or any type of manufactured or mobile home, only one principal structure and use may be located on the lot, but only when the structure and use conform to all requirements of the district in which the lot is located.
2. Whenever a zoning lot is used for other than a residential unit as described in Section 3-103A1 above, more than one principal structure and use may be located on the lot in common ownership, but only when the structures and uses conform to all requirements of the district in which the lot is located.
3. Whenever any structures are developed as condominiums, more than one principal structure may be located on the lot; provided, the definition of a condominium in Section 2-102 is met as well as the requirements of Sections 3-102C2 and D2.

B. Platted Building Setback Lines. If a recorded subdivision plat imposes a building setback line or a front yard for a lot which is different from the minimum setback or yard required by the applicable section of these regulations, then, notwithstanding any other provision of these regulations, the minimum building setback or front yard shall be the same as that shown on such subdivision plat; provided, that it has been recorded and not otherwise been officially vacated.

C. Yard Requirements for Open Land. If a zoning lot is, or will be, occupied by a permitted use without structures, then the minimum front, side and rear yards that would otherwise be required for the zoning lot shall be provided and maintained, unless some other provision of these regulations requires or permits a different minimum front, side or rear yard. Such yards shall not be required on zoning lots used for open public recreation areas.

D. Permitted Obstructions in Required Yards

1. Permitted obstructions shall be determined on a case by case basis by the Zoning Administrator.

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2. Attached garages, carports, patio covers, porches, decks and wing walls are not permitted obstructions.

E. Lot Size Requirements and Bulk Regulations for Public Utility Facilities. Notwithstanding any other provision of these regulations, none of the following utility or communication facilities shall be required to comply fully with the lot size requirements and bulk regulations of the zoning district in which they are located, except as may be determined wherever a conditional use is approved in certain districts and by subsection three of the definition for HEIGHT, MAXIMUM in Section 2-102: (See Section 3-100E1 for EXEMPTIONS.)

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

F. Protection of Utility Lines. No building or addition thereto shall be erected over or across any public water, sewer or other utility line, nor upon any platted or recorded easement, unless permission is granted in writing by the County and the public utility whose lines are involved, if any. (See Section 9-101A3 for ZONING PERMITS.)

G. 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.

H. Dedication of Rights of way and Easements. As a condition related to a rezoning amendment or 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 zoning amendment or 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 zoning amendment or conditional use null and void. No extension of the time period may be granted without reapplication.

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

J. Moving Structures. No structure shall be moved into the jurisdiction, nor from one location to another location within the jurisdiction unless such structure shall, when relocated, be made to conform fully with these regulations and other applicable policies or codes of the County. No

zoning permit shall be issued, unless in the opinion of the Zoning Administrator the height, age, architectural style and texture of the materials pertaining to the outward appearance of such structure reasonably conform to other buildings in the block or surrounding area to which it is to be moved and in the block or area opposite, to such an extent that its relocation shall not be detrimental to the appearance or have no substantial adverse effect on property values to the adjacent properties. Modifications in the appearance of such a structure as proposed by the applicant may be considered in making such a decision and conditions may be attached to the issuance of the permit by the Administrator to achieve conformance.

Section 104 Screening Requirements

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

A. Location. Unless otherwise exempted or waived by Section 3-104B, screening **may be required** in the following circumstances:

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

B. Exemptions and Waivers

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

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3. Section 3-104B2 above shall not prevent the Planning Board from requiring temporary screening on all or a portion of a side or rear yard wherein a nonresidential use is proposed for development adjacent to an existing residential use and, thereby, a potential nuisance or hazard may be created for the homeowner.

C. Standards, Plan and Maintenance

1. Screening may consist of fencing and/or landscaping provided that such screening will serve to adequately reduce:
 - a. The visual effect on the environment caused by adjacent nonresidential or higher density residential uses;
 - b. Noise;
 - c. Air pollution;
 - d. Lighting and glare;
 - e. Blowing trash; and
 - f. Potential nuisances and hazardous conditions.
2. The type of fencing should be compatible with the kind and intensity of the land use and the architectural style of the development and adjacent properties.
3. The selection of landscape materials shall consider the "mature" growth and habit of such plants so that vegetation will not overhang or obstruct the public right of way in such a manner as to conflict with vehicular and pedestrian access.
4. Whenever such screening is required, a screening plan for the area shall accompany the application for a zoning permit. Such plan shall be transmitted to the Planning Board for their review and approval or be specifically delegated to the Zoning Administrator.
5. The screening plan shall be in such detail as to provide enough information to determine if the plan meets the above criteria. Such plan shall contain the location, type and height of any fence and the location, mature size and the type of all plant materials along with their common and botanical names. The sizing, grading and condition shall be specified according to the American Association of Nurserymen Standards.
6. All plant materials shall be healthy and/or fencing in place prior to issuance of an occupancy certificate. A temporary certificate may be issued as provided for in Section 9-101B2 without the landscaping installation; provided, written assurances are given which are satisfactory to the Zoning Administrator that the planting will take place when the proper season arrives.
7. Maintenance
 - a. It shall be the responsibility of the property owner to maintain in good condition all of the required screening and landscaping improvements on their property. When it is determined by the Zoning Administrator that improvements required by Section 3-104 are not being maintained, it is his duty to give notice in writing to the property owner. Such notice shall specify in what manner the improvements are in need of maintenance and a date for compliance. The owner shall have not less than **90 days** to comply with the notice; provided, however, that any person aggrieved by any such order and disagreeing with any of the requirements of the notice, may file an appeal under Section 10-106 within the 30-day filing period with the Board of Zoning Appeals.
 - b. If the owner of the land has failed, refused or neglected to make the necessary maintenance repairs within the time of the notice or time designated by the Board, then the Zoning Administrator shall cause such maintenance to be done to the property. The

cost of maintenance shall be certified by the Administrator to the Clerk, who shall cause the costs to be assessed against the property on which the maintenance repairs were made.

Section 105 Site Plan Approval

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 commercial and industrial principal land uses and 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. **The Zoning Administrator may waive the requirement for a site plan** after consideration for impacts affecting surrounding land uses and requirements of County policies and departments.
- B. **Enforcement and Appeal.** No zoning permit 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 Section 10-103.)
- 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.

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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.

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. To ensure compatibility and harmony with adjacent uses, structures and streetscape elements, the following criteria shall be considered for approval:
 - a. architectural treatment of structures such as colors, materials and scale.
4. 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.
5. Site plan provides for the safe movement within the site of pedestrians, pedalcyclists, and mobility devices for people with mobility disabilities. Consideration shall be given for connections with existing or future sidewalks and/or pathways when applicable.
6. There is a sufficient mixture of grass, trees and 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 and shrubs. Landscape treatment will be appropriate with surrounding existing land use.
7. All outdoor trash disposal areas are screened and outdoor storage areas screened when required.

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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 similar to the provisions of Section 3-104 C.

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 Permitted Uses in All Districts

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

Section 101 A-1 Agricultural District

This district is established to: **(1) conserve productive farm and ranch land and other agricultural uses;** (2) permit limited nonagricultural uses and low-density dwellings which would not be incompatible to the rural area and require minimum public services; and (3) encourage the compact development of the urban areas. (See Section 2-102 for definition of AGRICULTURE.)

A. Permitted Uses

1. Single family detached dwellings, earth-sheltered dwellings, modulars, residential design manufactured homes and multiple-wide manufactured homes meeting the standards of the National Manufactured Home Construction and Safety Standards Act of 1976, i.e., the HUD Code.
2. Accessory dwellings. (See Section 2-102 for definition.)
3. Adult care homes. (See Section 2-102 for definition.)
4. Agricultural use activities such as garden centers, implement and seed dealers and wholesale selling of produce.
5. Airports, heliports and aircraft landing fields privately owned established and operated following federal and state regulations.
6. Animal clinics or hospitals with outside runs.
7. Bed and breakfast homes and inns.
8. Boarding and rooming houses.
9. Churches, chapels, temples and synagogues.
10. Education Facilities privately operated including primary, intermediate, and secondary schools with accessory structures and uses.
11. Farm Homesite and Single Family residential based agricultural business activities including such business types as garden centers, seed dealers, support services, nurseries, micro Ag producers, direct to market and internet based sales of agricultural produced products, farmers markets and other agriculture uses as defined by these regulations. (See Section 2-102 for AGRICULTURE and Section 6-102 for HOME OCCUPATIONS.)
12. Farmer-owned Co-ops.
13. Golf courses, including accessory clubhouses, but not commercial driving ranges or miniature golf courses.
14. Wedding Venues.

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B. Conditional Uses

1. Campgrounds, subject to the following regulations and accompanied by a plot plan:
 - a. Campgrounds shall be utilized only for the accommodations of camping trailers, tents, cabins, and other similar camping equipment, and under no circumstances shall a campground be utilized for the occupancy of manufactured or mobile homes.
 - b. The tract to be used for a campground shall not be less than two acres in area and be located on a well-drained site, properly graded to insure rapid drainage and freedom from stagnant pools of water.
 - c. Campgrounds shall have a maximum density of 20 camping spaces per gross acre, a minimum area of 1,250 square feet for each space, and maintain a setback of no less than 25 feet from any public street or highway right of way or property line.
 - d. If deemed necessary to screen adjoining property and provide privacy to the campground, a solid or semi-solid fence or wall at least six feet high, but not more than eight feet high, may be required. In lieu of a fence or wall, a landscape buffer may be provided not less than 20 feet in width and planted with coniferous and other plant materials. The fence, wall or landscape buffer shall be properly maintained by the operator.
 - e. The campgrounds shall have an accessible, adequate, safe and potable water supply and, if a public water supply is reasonably available to the campgrounds, it shall be used. Also, it must have an adequate method for on-site sewage disposal as provided for in these regulations; however, if a public sewer system is reasonably available, it shall be used. (See Section 3-103G for SEWER and WATER FACILITIES.)
 - f. The campground and any service buildings and refuse disposal systems must be maintained in a clean, sanitary condition and kept free of any condition that will harm the health of the occupants or the public or constitute a nuisance.
 - g. See Section 2-102 definition of CAMPGROUND for **exemption of RV campers on agricultural lands.**
2. Cemeteries including crematories and mausoleums.
3. Commercial development of natural resources and extraction of raw materials such as rock, gravel or sand; provided, that fencing may be required where deemed necessary and that it is the intent of these regulations to require an orderly continuing use of all land permitted to be excavated for its resources. At the time an application is made for a conditional use; the applicant shall submit a general plan for restoration of the area to be excavated or to be used in any way as part of the operations. A conditional use amendment shall be required for all new or expanded operations or reopening of previously abandoned operations. Information to be submitted with the application includes the following: (**See Supplemental Use Regulations for Quarry Operations - RESERVED.**)
 - a. A plan showing the boundary of the entire tract, vehicular access routes and surfacing, prevailing wind directions, existing and proposed street rights of way, easements, water bodies, mining area and proposed fencing.
 - b. A general plan of operation, including blasting hours, removal plan and hours of operation.
 - c. A plan showing the finished topography of the restored areas including grade and slopes.
 - d. A general timing for restoring the various excavation pits and overburden for a continuing use.

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- e. A general description of the methods and materials proposed to provide for a continuing use.
 - f. Amount and type of planting to be done on the restored area or other approved restoration uses or methods.
4. Public buildings erected or land used by any agency of a city, township, county or state government.
 5. Commercial storage and/or sale of anhydrous ammonia, propane or butane in bulk and the wholesale storage of gasoline and other manufactured petroleum products above ground level.
 6. Communication structures, antennas and aerials. (See Section 2-102 for height, maximum.)
 7. Crew Camps. (See Section 2-102 for definition.)
 8. Exhibiting or keeping exotic animals and/or birds either enclosed in a structure or outside. (See Section 2-102 for definition of EXOTIC BIRDS or ANIMALS.)
 9. Commercial Grain elevators and storage bins, including the sale of related items such as seed, feed, fertilizer and pesticide.
 10. Hunting preserves **licensed by the State**, publicly or privately owned, for which special conditions may be attached that meet the standards and rules of the State and local authorities to protect the public health, safety, morals, comfort, convenience, and general welfare. Such preserves may already be land for wildlife areas or domesticated animals and/or fowl periodically introduced into the area for shooting game.
 11. Kennels for breeding and boarding dogs when licensed under the *Kansas Pet Animal Act*. See <https://agriculture.ks.gov/docs/default-source/rc-ah-afi-documents/kansas-pet-animal-act-for-website.pdf?sfvrsn=6>
 12. Natural wildlife habitats and reserves, publicly owned. (See Section 2-102 for definition of AGRICULTURE.)
 13. Power plants for commercial production and sale of energy.
 14. Privately owned seasonal or temporary or permanent parks and recreational areas such as youth camps, adult and family retreat areas, gun clubs, archery ranges, rodeos, musical festivals, paintball game areas or resorts which may include arrangements for related residential dwelling sites.
 15. Race tracks, motorized or animal types.
 16. Salvage yards, subject to the following conditions:
 - a. Located on a tract of land at least **300 feet** from a residential district or uses.
 - b. The operation shall be conducted wholly within an enclosed, noncombustible building or within an area screened where necessary by a fence or wall at least eight feet high, but not more than 10 feet high. Such fence or wall shall be of uniform texture and color and shall be properly maintained by the owner.
 - c. No salvage materials shall be loaded, unloaded or otherwise placed temporarily or permanently outside the enclosed building, fence, wall or within the public right of way.
 - d. No salvage materials shall be piled higher than the top of the required fence or wall.
 - e. Burning of salvage materials shall be subject to applicable county, state and federal laws.

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17. Sanitary landfills, incineration plants, large recycling collection and processing centers, refuse transfer stations and hazardous waste facilities, publicly and privately owned.
18. **Solar Energy Conversion Systems (SECS):** For community and utility commercial large scale systems. (See Supplemental Use Regulations for SECS - RESERVED.)
19. Utility substations, pumping stations and water towers, publicly and privately owned. (See Section 3-103E for LOT SIZE and BULK REGULATIONS.)
20. **Wind Energy Conversion Systems (WECS):** For community and utility commercial large scale systems. (See Supplemental Use Regulations for WECS - RESERVED.)
21. **Battery Energy Storage Systems (BESS):** (See Supplemental Use Regulations for BESS - RESERVED.)
22. **Other Commercial Renewable Energy Systems**
23. Other uses not specifically listed as permitted or conditional use, but which are in keeping with the intent of Section 4-101 and compatible with the uses permitted in Section 4-101A.

C. Lot Size Requirements

1. Minimum lot area:
 - a. Residential uses: Lot size shall meet requirements of the Labette County Sanitation Code as amended.
 - b. Other uses: **40,000 square feet.**
2. Minimum lot width: **200 feet.**
3. Minimum lot depth: **200 feet.**
4. The minimum lot size requirements shall be increased as necessary to meet the standards for the County Sanitation Code if a wastewater lagoon is required.

D. Bulk Regulations

1. Maximum structure height: **60 feet. Small Scale Wind Energy Conversion Systems** are allowed up to and including **150 feet.** (See Section 2-102 for definition and Section 6-103 for PROVISIONS.)
2. Yard setback requirements:
 - a. Minimum front yard: **35 feet** on all sides abutting a street.
 - b. Minimum side yards:
 - (1) Residential: **25 feet.**
 - (2) Other uses: **15 feet.**
 - c. Minimum rear yards: **30 feet.**
3. Maximum lot coverage: A building, structure or use may occupy all that portion of a zoning lot not otherwise used for off-street parking, loading or yard requirements.

E. Use Limitations

1. Outdoor storage shall be permitted as defined by Section 2-102 for goods and materials as accessory uses related to the operation of the principal use as well as the display of new and used goods when the latter is approved as part of a conditional use.
2. See Section 6-103D for a watchman or custodian residing on the premises.
3. See Article 13 Section 105 for Supplementary Use Regulations.

Section 102 A-2 Agricultural Transition District

This district is established to retain certain rural characteristics, but to also serve as a transition area from incorporated municipalities and villages to the A-1 Agricultural District. Compatible non-agricultural uses normally located in a rural area are accommodated. An increasing amount of urbanization, including low-density dwellings, is anticipated. More public services would be anticipated than in the A-1 Agricultural District.

A. Permitted Uses

1. Any permitted uses allowed in the A-1 Agricultural 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); and
 - d. Other Commercial Renewable Energy Systems.
2. Other uses not specifically listed as a permitted or conditional use, but which are in keeping with the intent of Section 4-102 and compatible with the uses permitted in Section 4-102A.

C. Lot Size Requirements

1. Minimum lot area:
 - a. Residential uses: Lot size shall meet requirements of the Labette County Sanitation Code as amended.
 - b. Other uses: **22,500 square feet.**
2. Minimum lot width: **150 feet.**
3. Minimum lot depth: **150 feet.**
4. The minimum lot size requirements shall be increased as necessary to meet the standards for the County Sanitation Code if a wastewater lagoon is required.

D. Bulk Regulations

1. Maximum structure height: **60 feet**, exclusive of grain elevators. **Small Scale Wind Energy Conversion Systems** are allowed up to and including **150 feet**. (See Section 2-102 for definition and Section 6-103 for PROVISIONS.)
2. Yard setback requirements:
 - a. Minimum front yard: **30 feet** on all sides abutting a street.
 - b. Minimum side yards:
 - (1) Residential: **15 feet.**
 - (2) Other uses: **15 feet.**
 - c. Minimum rear yards: **20 feet.**
3. Maximum lot coverage: A building, structure or use may occupy all that portion of a zoning lot not otherwise used for off-street parking, loading or yard requirements.

E. Use Limitations

1. Outdoor storage shall be permitted as defined by Section 2-102 for goods and materials as accessory uses related to the operation of the principal use as well as the display of new and used goods when the latter is approved as part of a conditional use.
2. See Section 6-103D for a watchman or custodian residing on the premises.
3. See Article 13 Section 105 for Supplementary Use Regulations.

Section 103 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

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

B. Conditional Uses

1. Other uses not specifically listed as a permitted use, but which are in keeping with the intent of Section 4-103 and compatible with the uses permitted in Section 4-103A.

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 yards and ten feet for side and rear yards.

Section 104 RR-1 Single Family Rural Residential Subdivision District

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

A. Permitted Uses

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

B. Conditional Uses

1. Child care centers and preschools.
2. Duplex or Multifamily housing.
3. Education Facilities including primary, intermediate, and secondary schools with accessory structures and uses.
4. Manufactured Home Park or Subdivision.
5. Public buildings erected or land used by any agency of a city, township, county or state government.
6. Other uses not specifically listed as a permitted, or other conditional use, but which are in keeping with the intent of Section 4-104 and compatible with the uses permitted in Section 4-104A.

C. Lot Size Requirements

1. For residential and other uses, lot area, width and depth shall be reviewed with the Applicant to determine adequate area and dimensions to facilitate the proposed development and meet purposes of these regulations.
2. Lot size requirements shall be increased as necessary to meet the standards for the County Sanitation Code especially if a wastewater lagoon is required.

D. Bulk Regulations

1. Maximum structure height: **35 feet. Small Scale Wind Energy Conversion Systems** are allowed up to and including **150 feet**. (See Section 2-102 for definition and Section 6-103 for PROVISIONS.)
2. For residential and other uses, yard setback requirements and lot coverage shall be reviewed with the Applicant to determine adequate area and dimensions to facilitate the proposed development and meet purposes of these regulations.

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E. Use Limitations

1. Animal husbandry, including the maintenance of horses, cows, swine, goats, cats, dogs, rabbits, chinchillas, guinea pigs, pigeons, poultry and the like shall be subject to all applicable County policies and state health and sanitation requirements.
2. For residential and other uses, use limitations for outdoor storage shall be reviewed with the Applicant to determine appropriate limitations to facilitate the proposed development and meet purposes of these regulations.
3. See Article 13 Section 105 for Supplementary Use Regulations.

Section 105 C-1 General Commercial District

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

A. Permitted Uses

1. Animal clinics and hospitals.
2. Antique, gift and souvenir shops.
3. Automobile and truck service stations with minor repair work.
4. Bait shops including hunting and fishing supplies and equipment.
5. Business and professional offices.
6. Commercial auction yards and barns.
7. Commercial recreational activities.
8. Contractor and construction offices and shops including electrical, plumbing, woodworking, heating and air conditioning, and like services. (See Section 2-102 for STORAGE, OUTDOOR.)
9. Convenience food stores.
10. Farmers co-ops.
11. Garages, repair.
12. Garden stores, greenhouses and nurseries.
13. Hotels and motels.
14. Mini-storage facilities.
15. Pottery and statuary sales.
16. Restaurants.
17. Welding and blacksmith shops.

B. Conditional Uses

1. Public buildings erected or land used by any agency of a city, township, county or state government.
2. Butane and propane bulk storage and distribution.
3. Campgrounds, subject to Section 4-101 B1 regulations and accompanied by a plot plan.
4. Car washes.
5. Communication structures, antennas and aerials. (See Section 2-102 for HEIGHT, MAXIMUM.)
6. Crew Camps. (See Section 2-102 for definition.)
7. Fraternal and service clubs and clubs and taverns.
8. Sales lots for motor vehicles, recreational vehicles, manufactured or mobile homes and boats.
9. Utility substations, pumping stations and water towers.

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10. Other uses not specifically listed as a permitted or other conditional use, but which are in keeping with the intent of Section 4-105 and compatible with the uses permitted in Section 4-105A.

C. Lot Size Requirements

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

D. Bulk Regulations

1. Maximum structure height: **35 feet. Small Scale Wind Energy Conversion Systems** are allowed up to and including **150 feet**. (See Section 2-102 for definition and Section 6-103 for PROVISIONS)
2. Yard requirements:
 - a. Minimum front yard: **35 feet** on all sides abutting a street.
 - b. Minimum side yard: **10 feet**, but if adjacent to a residential district, **20 feet**.
 - c. Minimum rear yard: **20 feet**, but if adjacent to a residential district, **30 feet**.
3. Maximum lot coverage: **60%**

E. Use Limitations

1. Outdoor storage as defined in Section 2-102 of goods and equipment must be related to the principal use of the permitted and conditional uses.
2. No new building shall be used for residential purposes, except that a watchman or custodian may reside on the premises in a residential building or a manufactured or mobile home or RV camper. (See Section 6-103D.)
3. See Article 13 for Supplementary Use Regulations when applicable.

Section 106 I-1 Light Industrial District

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

A Permitted Uses

1. Agricultural and oil equipment and machinery sales, services and storage.
2. Agricultural feed, seed, grain and fertilizer mixing, sales and storage.
3. Automobile, truck and boat sales, services and refinishing.
4. Automobile and truck service stations and rental equipment.
5. Building material sales including lumberyards and sawmills and the sale of sand or rock, but not the operation of concrete and asphalt plants.
6. Ceramic or pottery manufacturing.
7. Contractor and construction offices and shops and related equipment and material storage yards.
8. Dog kennels, including outside runs.
9. Food processing, distribution and storage.
10. Machine and sheet metal shops.
11. Manufacturing of housing, recreation vehicles and boats including sales, repair and storage.
12. Manufacturing of plastic products.
13. Monument engraving and sales.
14. Sexually oriented businesses as defined in K.S.A. 12-770 (A) (2) through (15) for which the premises is located at least **1,500 feet** from any: (1) land being used for a public or private school, college, church or park; or (2) building being used for a residence. If such uses are established after such a business is properly approved to operate, the premises shall remain eligible for approving such a business. (See Section 2-102 for definition of PREMISES.)
15. Utility substations, pumping stations and water towers.
16. Warehouses operations and the storage of equipment, vehicles and materials indoors and outdoors, except salvage equipment, vehicles or materials. (See Section 2-102 for definition of MINI-STORAGE FACILITY.)
17. Welding or blacksmith shops.

B. Conditional Uses

1. Public buildings erected or land used by any agency of a city, township, county or state government.
2. Asphalt and concrete mixing plants.
3. Campgrounds, subject to Section 4-101 B1 regulations and accompanied by a plot plan.
4. Communication structures, antennas and aerials. (See Section 2-102 for HEIGHT, MAXIMUM.)
5. Crew camps. (See Section 2-102 for definition.)
6. Hazardous waste facilities.

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7. Retail and service business uses not specifically listed as a permitted or other conditional use, but which would provide a particular direct benefit to the industrial uses and/or serve as a convenience to the employees thereof.
8. Salvage yards. (See Section 4-101B16 for Conditions.)
9. Sexually oriented businesses as defined in K.S.A. 12-770 (A) (2) through (15) for which the premises is located at least **1,500 feet** from any: (1) land being used for a public or private school, college, church or park; or (2) building being used for a residence. If such uses are established after such a business is properly approved to operate, the premises shall remain eligible for approving such a business. (See Section 2-102 for definition of PREMISES.)
10. Storage in quantity and not used as part of a normal manufacturing process of such items as anhydrous ammonia, oil, gas, explosives and other products which may be considered as highly explosive, combustible or of a volatile nature.
11. Other uses not specifically listed as a permitted, or other conditional use, but which are in keeping with the intent of Section 4-106 and compatible with the uses permitted in Section 4-106A.

C. Lot Size Requirements

1. Minimum lot area: **20,000 square feet** or not less than sufficient lot size to meet the minimum standards of the County Sanitation Code.
2. Minimum lot width: **90 feet**.
3. Minimum lot depth: **100 feet**.

D. Bulk Regulations

1. Maximum structure height: **100 feet**, exclusive of grain elevators. **Small Scale Wind Energy Conversion Systems** are allowed up to and including **150 feet**. (See Section 2-102 for definition and Section 6-103 for PROVISIONS)
2. Yard requirements:
 - a. Minimum front yard: **35 feet** on all sides abutting a street.
 - b. Minimum side yard: **10 feet**, but if adjacent to a residential district, 20 feet.
 - c. Minimum rear yard: **20 feet**, but if adjacent to a residential district, 30 feet.
3. Maximum lot coverage: **50%**.

E Use Limitations

1. Outdoor storage as defined in Section 2-102 of goods and equipment must be related to the principal use of the permitted and conditional uses.
2. No new building shall be used for residential purposes, except that a watchman or custodian may reside on the premises in a residential building or a manufactured or mobile home. (See Section 6-103D.)
3. See Article 13 for Supplementary Use Regulations when applicable.

Section 107 FRD Floodwater Retarding Dam Impact Overlay District

This district is to insure that the public safety, health and welfare is protected. It is designed to permit the gainful use of certain lands which are considered to be in the path of potential floodwaters caused by a breach of a floodwater retarding or retention structure(s) or erosion control structure(s) that would be less than 240 surface acres required to be permitted by the State of Kansas and to minimize the impact of such a breach on buildings or other valuable property. This would permit minimum structural damage or property loss and public safety with minimum obligation upon governmental authorities for flood or disaster assistance.

This district shall apply to all lands within the County zoning jurisdiction identified on the Floodwater Retarding Dam Maps as delineated by approved Professional Engineering Breach Impact Studies which may be adopted from time to time as amendments to this district as provided for by notices and hearings in Article 11. No development shall be permitted in any delineated "FRD" breach impact area except authorized herein. The boundaries of the breach impact areas for the district shall be determined by the Engineering Breach Impact Study. The Zoning Administrator shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, an appeal for a determination may be made by application to the Board of Zoning Appeals. (See Section 10-106).

This district is subject to inundation which, in the event of a FRD breach, could result in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

1. Such flood losses are caused by:
 - a. The breach of a floodwater retarding or retention structure or erosion control structure.
 - b. The cumulative effect of obstructions in FRD breach impact areas causing increases in flood heights and velocities.
 - c. The occupancy of FRD breach impact areas by uses vulnerable to floods or hazardous to others, and which are inadequately elevated or otherwise protected from flood damages.
2. This district uses a reasonable method of analyzing FRD breach impact flood hazards which consists of a series of interrelated steps, as follows:
 - a. The use of engineering calculations and breach impact studies which indicate the area and potential depth of inundation for each FRD.
 - b. Delineation of breach impact area encroachment boundaries within which no obstruction is permitted which would cause any increase in flood height.
 - c. Complete the dam breach analysis and map as per the requirements of the Kansas Department of Agriculture, Division of Water Resources Regulations, K.A.R. 5-40-24. In the district, no building or land shall be used and no building or structure shall be erected, altered or enlarged which is arranged or designed for other than one of the permitted uses in the underlying district, to which this district is an overlay; provided, that such uses and structures shall meet the minimum requirements of Section 4-108A and B of these regulations. Within this district, all uses not meeting the standards of this district and those standards of underlying zoning districts shall be prohibited.

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A. Permitted Uses. Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodwater Retarding Dam Breach Impact Overlay District to the extent that they are not prohibited by any other provision of this district and provided they do not require structures or storage of materials or equipment. Subject to the requirements of these provisions and the Kansas Department of Agriculture, Division of Water Resources Regulations, K.A.R. 5-40-20, the following uses are permitted; provided that they are allowed by the underlying district:

1. Agricultural uses including farms, animal husbandry, pastures and forestry.
2. Residential accessory uses without buildings such as lawns, gardens, parking, play and yard areas.
3. Nonresidential uses such as loading areas, landing strips and periodic parking spaces distinguished from the storage of vehicles.
4. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

B. Conditional Uses. Notwithstanding the requirements of the underlying districts, the following shall supplement the requirements of the underlying district for all conditional uses of which this district is an overlay. These provisions shall supersede those of the underlying district where there is a conflict between them.

Because of flooding due to the potential breach of a floodwater retarding or retention structure or erosion control structures, no person, firm or corporation shall initiate any development without first obtaining a conditional use for each such building or structure in accordance with these detailed requirements. The application for such a conditional use shall be prepared in writing upon forms furnished for that purpose and shall be filed with the Zoning Administrator. The application shall be accompanied by background information as required by the Administrator, which shall include as a minimum:

1. Identification and description of the development to be undertaken.
2. Applications for such developments found to be within the boundaries of an existing delineated breach impact area or a planned watershed district floodwater retention structure shall be referred to the relevant watershed district board for review and comments.
3. Upon receipt of comments from the watershed district board, the Planning Board shall consider the subject conditional use application at its next available regularly scheduled meeting.
4. The Planning Board shall require, as a condition of approval, the Applicant to prepare plans which demonstrate the proposed development will not increase the current hazard classification of an existing watershed structure or be within the breach impact area of a future planned watershed structure as proposed by a watershed district at the time of application.

C. Use Limitations. In addition to the Application for a conditional use authorized by these regulations, the Labette County Conservation District, **Watershed District #96** and any other legally organized watershed district encompassing land located within the jurisdiction of these regulations is permitted to make application to establish a "FRD" map as an amendment to this district.

Section 108 P-O Protective Overlay District

This district may be applied as an overlay district in combination with any underlying zoning district except within the Great Plains Industrial Park. By limiting specific uses or requiring more restrictive development standards to individual projects or specific properties, this district is intended to:

1. Ensure compatibility among incompatible or potentially incompatible land uses;
2. Ease the transition from one zoning district to another;
3. Address sites or land uses with special requirements; and
4. Guide development of unusual situations or unique circumstances.

A. Use and Development Standards. This district can be used to modify and restrict the use and development standards of an underlying zoning district. All requirements of this district are in addition to and supplement all other applicable standards and requirements of these regulations. Restrictions and conditions imposed by this district shall be limited to the following:

1. Prohibiting otherwise permitted or conditional uses and accessory uses; or making an otherwise permitted use a conditional use;
2. Decreasing the number or average density of dwelling units that may be constructed on the site;
3. Increasing minimum lot size or lot width;
4. Increasing minimum setback requirements in any yard;
5. Restrictions on access to abutting properties and streets, including specific design features; and
6. Any other development standards required or authorized by these regulations.

Development standards include, but are not limited to, lot sizes, bulk requirements, use limitations, off-street parking and loading provisions, accessory structures and uses, sign standards, miscellaneous requirements of Section 3-103 and screening and landscape requirements of Section 3-104.

B. Method of Adoption. Modifications and restrictions imposed through this district are considered part of this zoning text and accompanying map. All property included in the district shall be identified on the Official Zoning District Maps by adding the letters "P-O" and a number to the base zoning district symbol. The number shall be assigned when the application is filed and numbers shall run consecutively beginning with number 1. The effectuating resolution for zoning or rezoning property to the P-O district shall specifically state the modifications or restrictions imposed pursuant to Section 4-108A. Such modifications and restrictions imposed shall be considered part of the text of these regulations and a violation of them shall be a violation of these regulations. The modifications and restrictions shall continue in full force and effect until revised in accordance with the same amendment procedures as for the approval of the original P-O District.

C. Effect of P-O District Designation. When the P-O District zoning designation is applied in combination with an underlying zoning district, it shall always be considered to result in a more restrictive designation than if the district did not have the P-O classification. In the event that the P-O designation was not originally requested as part of the rezoning application, but is added instead during the public hearing process, renotification and readvertisement of the requested zoning amendment shall not be required.

Section 109 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. OFF-STREET PARKING AND LOADING

Section 100 Off-Street Parking

For **commercial and industrial uses** in any zoning district, all structures built and all uses established hereafter shall provide accessory off-street parking. **Agricultural uses and structures are exempt from accessory off-street parking regulations.** When an existing **non-agricultural** structure or use is **expanded**, accessory off-street parking shall be provided for the area or capacity of such expansion. For **Conditional Uses** in any zoning district, accessory off-street parking requirements shall be reviewed as a condition of the application. Plans showing the layout and design of off-street parking spaces and loading areas must be submitted and approved by the Zoning Administrator before a zoning permit and/or occupancy certificate is issued for such spaces and area.

A. General Provisions

1. Provisions for accessory off-street parking include, but are not limited to, access and circulation, location, design layout of stalls and aisles, surfacing, screening, lighting, number of off-street parking spaces, drainage, and setbacks.
2. **Handicapped parking:** Parking spaces according to the number of spaces and their designated signage shall be provided for persons with a disability in conformance to the standards of the federal Americans with Disabilities Act of 1990, 42 U.S.C.A. Section 12101, et seq. (“ADA”), as incorporated into state statutes, which prohibits discrimination against qualified individuals with disabilities on the basis of their disability.

B. Off-street Loading and Unloading

1. Loading and unloading spaces for commercial and industrial uses shall be provided off-street and on the same premises with every building, structure or part thereof, hereafter erected, established, or enlarged and occupied which requires the receipt or distribution of materials or merchandise by motor vehicle. The loading and unloading space shall be so located as to avoid undue interference with public use of roads, streets, alleys and walkways. Such vehicular access shall be maintained in good condition. When off-street parking space is used to fulfill loading and unloading needs, the latter shall be scheduled so as not to interfere with meeting parking needs.

ARTICLE 6. ACCESSORY STRUCTURES AND USES, TEMPORARY USES AND HOME OCCUPATIONS

Section 100 Accessory Uses Authorization

Accessory structures and uses are permitted in any zoning district in connection with any principal use which is permitted. **Agricultural structures not in a designated floodplain and uses are exempt from Article 6 regulations. Applicability is limited to commercial and industrial uses in all zoning districts, conditional uses and the RR-1 Single Family Rural Residential Subdivision District.**

A Definitions. An accessory structure or use:

1. Serves a principal building or use;
2. Is subordinate in purpose to the principal building or use served; however, this does not preclude recreational areas for tennis, swimming, racquetball, basketball and similar activities;
3. Contributes to the comfort, recreation, convenience or necessity of occupants, business or industry in the principal building or use served; and
4. Is located on the same zoning lot as the principal building or use served.

B. Permitted Accessory Structures or Uses. Any **nonagricultural** structure or use that complies with the terms of Section 6-100A above may be allowed as an accessory structure or use.

C. Bulk Regulations

1. Accessory structures and uses shall maintain the same side and front yard setback as is required for the principal structure, unless they are a permitted obstruction.
2. Accessory buildings shall be set back 10 feet from the rear lot line, except that garages with entrances facing alleys shall be set back at least 20 feet. (See Sections 9-101A3 for ZONING PERMITS ON EASEMENTS.)
3. No part of any accessory building shall be located closer than 10 feet to any principal structure, unless it is attached to and forms a part of the principal structure.
4. Accessory structures and uses shall otherwise comply with the bulk regulations applicable in the district in which they are located.

D. Use Limitations

1. All accessory structures and uses shall comply with the use regulations applicable in the zoning district in which they are located.
2. Outdoor storage uses shall maintain the same yard setback requirements applicable in the zoning district in which they are located.

Section 101 Temporary Uses Permitted

The following uses of land are permitted in each zoning district unless restricted to particular zoning districts and are subject to the regulations and time limits which follow and to the other applicable regulations of the district in which the use is permitted. **Temporary zoning permits** shall be acquired from the Zoning Administrator **EXCEPT for agricultural uses and activities classified as Home Occupations:**

- A. Fireworks may be sold from an outside stand during the months of **June and July** as approved by State law and when all other applicable County regulations for safety have been met and such stand removed at all other times of the year.
- B. Temporary permits may be approved by the **Governing Body** or their designated representative for an equipment and material yard including an **asphalt or concrete mixing plant** for stated periods of time with conditions attached as deemed necessary to accommodate working space for highway or road projects.
- C. Temporary zoning permits may be required by the Zoning Administrator and conditions attached to promote the public health, safety and general welfare.

Section 102 Home Occupations Authorization

Home occupations that are incidental to the principal use of a residential building or manufactured/mobile home **shall be permitted** provided the residential appearance of the building or home is maintained and no undue traffic or parking problems are created. **No zoning permit is required.**

- A. **Definition.** A business, profession, occupation, or trade conducted for gain or support entirely within a residential building or manufactured/or mobile home, or within a permitted structure that is accessory to such a building or home. **This definition includes Farm Homesite and Single Family residential based agricultural business activities** including such business types as garden centers, seed dealers, support services, nurseries, micro Ag producers, direct to market and internet based sales of agricultural produced products, farmers markets and other agriculture uses as defined by these regulations. This definition exempts gunsmithing and the sale of firearms and/or ammunition as a home occupation within these regulations. While no zoning permit is required, such uses are regulated by permits from the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.
- B. **Applicability.** Home occupations are permitted subject to County floodplain management regulations.

Section 103 Provisions for Specific Accessory Structures and Uses (Renewable Energy Systems)

Renewable energy sources and their application for energy production are a developing and growing industry with ongoing technological advances. Zoning permits or registration shall be acquired from the Zoning Administrator when noted in the provisions below. When no zoning permit is required, it is a **violation** of these regulations if the provisions are not followed.

- A. **Small Scale Solar Facility.** Provisions for review include:
 - 1. Roof-mounted photovoltaic panels located on front or side building roofs visible from the public right of way shall not extend above the peak of the roof plane where it is mounted and no portion of any such photovoltaic panel shall extend more than 24 inches as measured perpendicularly to the roof at the point where it is mounted.

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2. Roof-mounted photovoltaic panels located on the rear or interior side building roofs shall not extend above the peak of the roof plane where it is mounted and no portion of any such photovoltaic panel shall extend more than four feet as measured perpendicularly to the roof at the point where it is mounted.
3. Ground-mounted photovoltaic panels shall not exceed **12 feet** in total height and shall be located to meet all bulk regulation setbacks from the property lines. Ground-mounted photovoltaic panels shall not be located in the front yard.
4. All utility service lines serving ground-mounted photovoltaic panels shall be located underground.
5. All components servicing photovoltaic panels shall be concealed including mechanical piping, electrical conduits, and the like.

No zoning permit is required except registration with the Zoning Administrator is required if any excess electrical capacity is to be stored onsite in **battery form**. All pertinent **federal, state and local laws** pertaining to solar power shall be followed such as construction codes of the International Code Council and National Fire Protection Association.

B. Small Scale Wind Energy Conversion System. A Private WECS is allowed in any zoning district. Provisions for review include:

1. The **total height** of a turbine from ground level to the highest tip of the rotator blades shall not exceed **150 feet**.
2. **Minimum setback** for turbines from all lot lines shall be **twice** the total height of the turbine from ground level to the highest tip of the rotator blades.
3. No more than **two** turbines may be located on a parcel for on-site use. Electric may be net metered but may not be generated for the purpose of sale on the grid.
4. Parcels must be a minimum of **3 acres or larger**.
5. Applications will identify the type and manufacturer of the WECS, (type of base or foundation used for the turbine and specs of that foundation and tower).

No zoning permit is required. All pertinent federal, state and local laws pertaining to wind power shall be followed.

C. Electric Vehicle Charging Station. Provisions for review include:

1. Level 1 (slow charging) or Level 2 (medium charging) electric vehicle charging stations **are permitted** as an accessory use to any principal use, in any zoning district. **No zoning permit is required.**
2. Level 3 or greater (rapid charging) electric vehicle charging stations.
 - a. Private. In any zoning district, a Level 3 or greater charging station which does not provide services to the public may be allowed as a **conditional use** when accessory to a principal use. **A zoning permit is required.**
 - b. Public. In the commercial or industrial zoning districts only, a Level 3 or greater charging station which provides services to the public may be a **permitted or accessory use** when reviewed as part of a **zoning amendment**.
3. Battery exchange stations are prohibited in the RR-1 zoning district, but may be allowed as a **conditional use** in the commercial or industrial districts. **A zoning permit is required.**

D. A manufactured or mobile home or RV camper may be as an accessory use for a **watchman or custodian** (including a family) in all business and industrial districts and on land used for non-agricultural and nonresidential purposes in agricultural districts.

ARTICLE 7. SIGNS

Section 100 Applicability

- A. **Applicability.** These sign regulations apply to the construction, installation, structural alteration, relocation, and maintenance of outdoor signs **limited to commercial, industrial and conditional uses in all zoning districts. Dangerous Signs are regulated in all zoning districts regardless of use.**

Section 101 Purpose and Substitution

- A. **Purpose.** The purpose of these sign regulations is to provide reasonable time, place and manner restrictions on the installation and maintenance of signs, in order to allow communication through signs while protecting public safety, preserving the community's appearance and property values, and upholding the right of free speech and expression.
1. **Safety.** These regulations are intended to safeguard the public when using streets and sidewalks near signs; allow governmental entities, railroads, and utilities to erect official signs to help protect public safety and welfare; allow signs that identify premises, in order to aid first responders in emergency situations; and reduce visual clutter to avoid distractions that are potentially harmful to traffic and pedestrian safety.
 - a. To support substantial governmental interests in protecting public safety and welfare, and without reference to the viewpoint of the individual speaker, any sign is prohibited which includes text or graphics that advertise unlawful activity; are defamation, hate speech, incitement to imminent lawless action, or true threats; are indecent, obscene, or immoral in nature and harmful to minors.
(See *K.S.A. 21-6401*.)
 2. **Economy & Community.** These regulations are intended to support clear and efficient wayfinding, as a factor contributing to both public safety and the local economy; allow reasonable advertising, as a factor contributing to the local economy; enhance community appearance, in order to preserve and promote property values; recognize local history, in order to strengthen a sense of community; and enhance community appearance, in order to augment quality of life, and support citizen satisfaction with the environment in which they live, work, learn and play.
 3. **Character & Design.** To support quality development in unincorporated areas of Labette County, these sign regulations are intended to exercise reasonable control over the character and design of signs, promoting the use of signs which are aesthetically pleasing, appropriately scaled, compatible with their surroundings, and legible under the circumstances in which they are seen.
- B. **Substitution.** Signs containing noncommercial speech are permissible anywhere that signs containing commercial speech are permissible.

Section 102 Definition of Sign

- A. **SIGN.** Any object, material, device, display, structure or part of a structure, which is within view of the general public from a public way, or visible from other properties, and which uses any means — including text, images, light or movement — to communicate information on, attract attention to, or promote the interests of a person, institution, organization, business, product, service, event or location. A sign may incorporate internal or external lighting or an electronic message center.
1. **FREESTANDING SIGN:** A sign which is unattached to and independent of any building or structure.
 2. **DANGEROUS SIGN:** A sign that creates a hazard to public health, safety, or welfare because of inadequate maintenance, dilapidation, or obsolescence.

Section 103 Definition of Sign Types

- A. **PERMANENT SIGNS** are constructed of materials durable enough to remain in good condition for more than 3 years outdoors. They are attached to a building, wall or similar structure, embedded in the ground, or attached to a structure which is embedded in the ground. Types of permanent signs include billboard signs, building signs, ground signs (including monument and pole or pylon signs), pole banners, and wall signs. A sign may carry or produce a **temporary message**, and still be categorized as a permanent sign.
- B. **TEMPORARY SIGNS** are typically constructed of non-durable materials, intended for temporary use outdoors, and are easily installed or removed without special tools or equipment. Types of temporary signs include attention getters (such as balloons and searchlights), banner signs, blade signs, inflated signs and person signs.
- C. **SHORT-TERM SIGNS** are constructed of materials durable enough to remain in good condition for up to 3 years outdoors. They are attached to posts embedded in the ground, or attached to a permanent structure, and are easily installed or removed without heavy equipment. Types of short-term signs include flag signs and yard signs.

Section 104 Specialty Signs

- A. **BILLBOARD SIGN:** Any sign, 72 square feet in size or larger, that directs attention to a business, commodity, service, or entertainment conducted, sold or offered **at a location other than the premises on which the sign is located.** Requirements for billboard signs:
1. A zoning permit is required for initial installation of the permanent billboard sign structure, but **the message itself is considered a temporary message on a permanent sign**, and may be changed without additional permits.
 2. **Location Requirements.**
 - a. A billboard sign must be located at least 300 feet away from any residential uses.
 - b. A billboard sign must be located at least 50 feet away from the right of way line of any state or federal highway.

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- c. A billboard sign must be located at least 100 feet away from the right of way lines of any street or road **intersection**.
 - d. A billboard sign must not be located within a stream or drainage channel.
3. Minimum separation between signs. 1000 feet.
- B. An **ELECTRONIC MESSAGE CENTER (EMC)** is a sign or component of a sign with an electronically controlled display showing a changeable lighted image. All electronic message center displays, including LED displays, plasma screens, digital screens, and holographic displays, must comply with the following requirements:
- 1. Minimum **message hold time**: 5 seconds.
 - a. **Flashing signs**, which exhibit noticeable changes in light intensity in a repeating pattern at intervals of less than **3 seconds**, are not allowed.
 - b. **Full motion or animation** is not allowed, including graphics displayed on an EMC in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes.
 - 2. **Transition Method** Only dissolve or fade transitions are allowed, where the first frame gradually disappears and the second frame gradually appears, with a minimum transition duration of **1 second**.
 - 3. **Brightness Levels** From dusk to dawn, the **brightness level** of the EMC must be no more than **0.3 foot-candles** above the **brightness level** of ambient lighting at the sign's site.
 - a. On written notice from the Zoning Administrator, a **sign owner is required to cooperate with brightness testing** by programming the EMC as requested.
 - b. **Method of Measurement** Brightness levels must be measured with an illuminance meter accurate to at least two decimals.

Take both ambient and EMC brightness measurements at the same location, as close as practical to **perpendicular** to the face of the EMC, and as close as practical to a **distance** (in feet) which is determined by multiplying the area of the EMC (in square feet) by 100, then calculating the square root of the result.

To determine **ambient brightness**, take a brightness measurement with the EMC off, with the illuminance meter aimed at the EMC screen. To determine the **EMC's brightness**, take a brightness measurement of the EMC screen, with the EMC displaying a solid screen — a solid white screen for a full color-capable EMC, or a solid color screen for a color EMC.
 - 4. **Auto-dimming**. EMCs constructed or installed after the adoption of these Zoning Regulations must be equipped to automatically sense ambient illumination, and adjust their brightness levels to comply with the required 0.3 foot-candle maximum difference.

- C. **Lighted Signs.** Signs may utilize either internal or external light sources to provide better nighttime visibility.
1. From dusk to dawn, **brightness levels** created by the sign lighting must be no more than **0.3 foot-candles above ambient** lighting, as measured in Section 7-104B-3b above.
 2. A lighted sign on any zoning lot which is within, adjacent to or across the street from any residential uses **must not be illuminated between 11:00 pm and 7:00 am.**
 3. From dusk to dawn, **brightness levels** created by sign lighting on any **residential property** must not exceed **0.5 foot-candles.**

Section 105 Exempt Signs

- A. The following signs must comply with the requirements of Section 7-107 of these regulations, but are otherwise exempt from regulation under this Article:
1. **Private Signs.** Signs located on private property and owned by the property owner or lessee.
 2. **Temporary, Short-term and Hand Portable Signs.**
 3. **Address numbers** and street names of the premises.
 4. **Time and temperature** displays.
 5. **Works of art** which in no way identify a product or service.
 6. **Flags and logos.**
 7. **Equipment Signs.** Signs which are integrated as a part of vending machines, ATMs, merchandise display racks, fuel pumps, or similar equipment.
 8. **Scoreboards** in athletic stadiums.
 9. **Traffic control devices** that comply with the most current edition of the Federal Highway Administration's *Manual on Uniform Traffic Control Devices*.
 10. **Official signs** erected by a taxing authority, governmental body, governmental agency, public school district, public utility or railroad.
 11. **Certain Digital Vehicle Signs.** LED or other digital or electronic signs which are mounted on and displayed from public buses, or road construction, road maintenance, or traffic control vehicles.
 12. **Certain Non-digital Vehicle Signs.**
 - a. Non-digital signs on vehicles that are **for sale or lease** and are parked legally in a parking space.
 - b. Non-digital signs painted on or adhered to a vehicle, **when the primary purpose of the vehicle is not the display of the sign.** For a vehicle's primary purpose to be determined as something other than sign display, the vehicle must be mobile, be actively used by a business, and must not be parked on a vacant lot. When the primary purpose of the vehicle is display of a sign, the sign is **not exempt.**

Section 106 Enforcement

- A. **Determination of Sign Type.** The Zoning Administrator makes the final determination when designating a sign's type and exemption status. Sign types not described in these Zoning Regulations may be conditionally approved by the Zoning Administrator.
1. **Appeal.** An aggrieved party may appeal the Zoning Administrator's determination of sign type or exemption status to the Board of Zoning Appeals. (See Article 10-106, Appeals.)
- B. A **NONCONFORMING SIGN** is an existing sign structure which existed prior to the adoption of these regulations and which does **not** comply with current requirements applicable to new signs in its zoning district. **These regulations do not regulate nonconforming signs except when they are determined to be a dangerous sign.**
- C. **Abandoned Signs.** For purposes of these Regulations, an abandoned sign is any sign remaining after demolition of the principal structure on the property; any sign which was erected for an occupant or business unrelated to the present occupant or business; or any sign or sign structure on a property which has been vacant and unoccupied for a period of 6 months. **These regulations do not regulate abandoned signs except when they are determined to be a dangerous sign.**
- D. **Dangerous Signs.** Any sign or sign structure which because of damage or deterioration has become **a hazard to the public, must be immediately restored or removed.**
1. **Restoration.** A damaged or unsafe sign or sign structure may be restored to its original condition without obtaining a zoning permit.
 - a. **Exception:** Nonconforming and abandoned signs.
 2. **Replacement.** If a damaged or dangerous sign or sign structure is replaced, it must conform to Zoning Regulations current at the time of replacement.

Section 107 Sign Requirements

A. Traffic Safety

1. Signs must be designed so they cannot be confused with any traffic control sign, signal or device. Signs must not interfere with, mislead or confuse traffic.
2. Do not locate signs where they **obscure the view** of any traffic control sign, signal or device.
3. Do not locate signs in any VISION TRIANGLE (See Section 2-102 for Definitions), with the following exceptions:
 - a. Official traffic signs.
 - b. Signs at least 8 feet clear above the ground, and with no more than 2 supports, each a maximum of 12 inches wide.

B. Other Codes and Regulations Apply

1. Signs must not block any access way or window required by any building, housing, or fire code, or by other applicable codes or standards.
2. All signs must conform to the structural design standards of any applicable building code or standard.
3. Wiring of all electrical signs must conform to any applicable electrical code.

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4. In accordance with Kansas statute K.S.A. 25-2711, for the time period from 45-days before through 2 days after an election, no county is permitted to regulate or prohibit the placement of or the number of **political signs** on private property, or on the unpaved right of way for county roads on private property. The size and setback distance of such signs may be regulated for safety reasons.
5. For information on State of Kansas sign regulation standards regarding outdoor advertising and billboards, see K.S.A. 68-2231 and **The Highway Beautification Highway Advertising Control Act of 1972** guidelines at <https://www.ksdot.gov/bureaus/burrow/beaut/default.asp>

Section 108 Zoning Permit Required for Permanent Sign

- A. A zoning permit must be obtained before constructing, installing, structurally altering, or relocating any permanent sign.
 1. **Exceptions.** A zoning permit is **not** required for:
 - a. Exempt signs listed in Article 7-105 of these Zoning Regulations.
 - b. Changes to the text or graphics of a permanent sign.
 - c. Routine maintenance of a permanent sign.
 2. Permanent signs must comply with the requirements of this Article, or no **zoning permit** will be issued.

Section 109 Submittal of Plans

- A. A minimum of **8 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.
- B. **Signage Plans Minimum Requirements:**
 1. Plans shall note the sign type, owner, sign standards including height and message area of each sign by type and type of lighting when applicable.
 2. Both plan view and elevation views to exhibit required information.
 3. Plans shall exhibit property lines and easements, the location of proposed signs on the zoning lot, adjacent structures including parking and buildings and location of electrical supply source when applicable.

ARTICLE 8. NONCONFORMING LOTS, STRUCTURES AND USES

Section 100 Purpose

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

- A. **Nonconforming Lot of Record.** A zoning lot which is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations and such lot now neither complies with the lot area requirements or the width for any permitted uses in the zoning district in which it is located.
- B. **Nonconforming Structure.** An existing building or structure which does not comply with the maximum lot coverage and height or the minimum yard requirements which are applicable to new structures in the zoning district in which it is located.
- C. **Nonconforming Use.** An existing use of a structure or land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
- D. **Nonconformity.** A nonconforming lot, use or structure that does not comply with currently applicable regulations, but that complied with zoning regulations in effect at the time it was legally established. (See Sections 8-100 A, B and C above and Section 8-104 for REGISTRATION OF NONCONFORMITIES AND EXEMPTIONS.)

Section 101 Nonconforming Lots of Record

- A. If the lot area, width and depth or all three of a zoning lot is less than the minimum required by these regulations for the district within which it is located, **any of the following specified lots or parcels of land** may be used as a building site for a single family detached dwelling or a manufactured/mobile home when such uses are permitted by the applicable district regulations and meet the provisions of the County Sanitation Code:
 - 1. Any lot shown on a plat which has been legally platted or replatted and recorded prior to the effective date of these regulations.
 - 2. Any parcel of land purchased prior to the effective date of these regulations by the present owner or by a person from whom the present owner acquired it through purchase, testamentary disposition or intestate succession and which was owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width would not have been prohibited by any prior zoning regulations.
 - 3. Any lot or parcel of land where the deficiency is due exclusively to the condemnation of a portion thereof for a public purpose or the sale thereof to any agency or political subdivision of a city, township, County, state or federal government.

Section 102 Nonconforming Structures

- A. **Authority to Continue.** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk requirements, may be continued, so long as it remains otherwise lawful.

Section 103 Nonconforming Uses

- A. **Authority to Continue.** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, with or without a structure which is accessory to such use of land, may be continued, so long as otherwise lawful.
- B. **Nonconforming Accessory Uses.** No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

Section 104 Registration of Nonconformities and Exemptions

(See Sections 8-100D for Nonconformities and 3-100E for Exemptions.)

- A. **Purpose.** Registration of nonconformities and exemptions, among other purposes, is **to provide a property owner with a record of their nonconformity or exemption** which may be in effect for many years. Such a record is very desirable since most nonconformities or exemptions are established in the past and the availability of personal witnesses and written documentation to confirm their status becomes more difficult due to the passage of time. This is particularly important since the person claiming the nonconformity or exemption has the burden to prove their claim by the preponderance of the evidence. Registration can be especially useful to property owners who may have a nonconformity or exemption created by changing their zoning status from the unincorporated area of the County to any city regulations.
- B. **Rights Conditioned.** **A lawfully established nonconformity including exemptions is a vested right** protected by due process which is sometimes referred to as being **'grandfathered-in'**. In order to establish such a right, it is essential that it be created or commenced prior to the enactment of the regulations which restricted its establishment. A nonconformity or exemption which violated the zoning regulations at its inception has no lawful right to continue. Once the validity of the nonconformity or exemption has been determined, it has the right to be sold, inherited, transferred or assigned unless restricted by a condition attached to a conditional use. Certain limitations, however, may be placed on the expansion, repair, maintenance and continuance of such nonconformities or exemption as may be determined by the provisions of Article 8 in these regulations.
- C. **Registration Process.** The Zoning Administrator shall establish a process for registration of nonconformities and exemptions and a system for making determinations thereof and keeping records of the same. While there shall be no deadline for registration, property owners anticipating the need for registration should do so at their earliest convenience.
- D. **Registration Determination.** The Zoning Administrator shall determine the qualifications of the lot, use or structure for registration as to its legal, nonconforming status. Such determination in writing shall be based on the evidence submitted by the property owner requesting the registration.

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E. **Appeal.** An aggrieved party may appeal the Zoning Administrator's determination whether to register or not register the nonconformity or exemption to the Board of Zoning Appeals. (See Section 10-106 pertaining to Appeals.)

ARTICLE 9. ADMINISTRATION AND ENFORCEMENT

Section 100 Office of the Zoning Administrator

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

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

1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.
2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations.
3. Maintain a set of administrative forms to assist applicants and to process the cases considered by the Planning Board, Board of Zoning Appeals and Governing Body.
4. Receive, file and forward to the Planning Board the applications and records for all amendments and conditional uses which are initially filed with the Zoning Administrator.
5. Receive, file and forward to the Board of Zoning Appeals the applications and records for all variances which are initially filed with the Zoning Administrator and forward all records of appeals to the Chairperson of the Board.
6. Grant minor **Zoning Adjustments** through administrative action to reduce lot size requirements or bulk regulations by no more than **ten percent** of the minimum or maximum amounts required within the applicable zoning district.
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 _____, 2024' 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 9-100B1 and at the cost to the County. Subsequent amendments to these regulations shall be appended to such copies.
3. That such clerical assistance be provided by the Clerk to the Governing Body as to facilitate and record the actions of the Governing Body in the exercise of their duties relating to these regulations.

Section 101 Zoning Permits and Occupancy Certificates

A. Zoning Permits

1. **Permitted uses in all districts shall not be required to obtain a zoning permit.** When not required, it is **incumbent upon the landowner** to follow the bulk regulations and use limitations of the applicable zoning district. **For other uses and structures**, 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.** For permits required on accessory uses, temporary uses, plans for parking and loading spaces and signs, see Articles 5, 6 and 7. Such permits shall not be issued by any other official, employee, department, board or agency of the County, except as provided for as a temporary permit in Section 6-101. Any zoning permit issued in conflict with the provisions of these regulations shall be null and void.
2. Except for a continuation of an existing use or occupancy, accessory structures or uses, or additions to existing structures or uses, permits must also meet the **requirements of County-codes and policies** and, thus, shall not be issued on land which is not shown on a recorded plat or replat, or a lot split or exempted from the platting requirements. If platting is not required, all of the public improvements necessary to carry out the requested permit nevertheless may be required, including dedications in lieu of platting such as for easements and additional rights of way.

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3. No principal or accessory building or structure or use, or portion thereof, shall be permitted to locate on or project over any platted or recorded public easement or over any known utility installation, unless (1) as a sign permitted by Article 7 or, (2) as an accessory structure or use which is movable, relocatable or poses no significant problem to the maintenance of existing public improvement installations or to such future installations. Ground level extensions such as concrete slabs or other permanent-type materials are not permitted in or on a public easement except as extensions of parking spaces, 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. (See Section 3-103F for PROTECTION OF UTILITY LINES.)
4. 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.)
5. **Application.** Every application for a zoning permit shall be accompanied by the following:
 - a. A drawing or copy of the recorded plat, in duplicate, of the piece or parcel of land, lot(s), block(s), parts or portions thereof, drawn to scale showing the actual dimensions of the zoning lot(s), including any easements thereon.
 - b. A drawing, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height and bulk of (1) all present and proposed structures, (2) drives, parking spaces and loading areas, (3) building setback lines in relation to lot lines, (4) waste disposal areas, (5) use to be made of such present and proposed structures on the land and (6) such other information as may be required for the proper enforcement of these regulations. One copy of such drawings shall be retained by the Zoning Administrator as a public record.
6. **Issuance.** A zoning permit shall be either issued or disapproved by the Zoning Administrator within 10 days **after** the receipt of 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.
7. **Period of Validity.** A zoning permit shall become null and void **180 days** after the date on which it is issued, unless within said period construction, reconstruction, moving or structural alteration of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such a permit is issued; then application must be made to the Zoning Administrator for an extension of time to continue the project. The 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, unless Section 2-100G applies pertaining to vesting of single family residential developments. (See Section 2-100F for EFFECT on EXISTING PERMITS.)

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

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 thereto constructed, reconstructed, moved or structurally altered or for the new or changed use of any structure or land shall be issued after the effective date of these regulations until such work has been completed and the premises inspected and certified by the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the permit was issued including the requirements for utilities, roads, streets and other public improvements 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**.

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

C. Agricultural Compliance Certificate. Completion of an agricultural compliance certificate may be requested by the Zoning Administrator when such information is needed to determine the agricultural exemption status such as described in Section 3-100E4. **No fees** shall apply to obtaining this certificate from the Zoning Administrator.

Section 102 Enforcement and Liability

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.

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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

(For PENALTIES and REMEDIES, See RESOLUTION INCORPORATING and ADOPTING ZONING REGULATIONS in APPENDIX.)

Section 104 Fees

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

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 Section 11-105.

ARTICLE 10. 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 Section 10-106.
- B. To hear and decide on **variances** from specific terms of these regulations subject to the procedure and standards set out in Section 10-107.

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 Section 10-103 and the filing fee, and (5) provide such additional information as may be prescribed by rule of the Board.
- C. **Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on petition with notice to the Zoning Administrator and on the basis of due cause shown.
- D. **Hearing and Notice.** A hearing on the application for such an appeal shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- E. **Decision.** The Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made and to that end shall have all the powers of the Zoning Administrator, and may issue or direct the issuance of a permit and/or occupancy certificate. No conditions 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 Section 10-107C and then only when the Board has made findings of fact based upon the standards set out in Section 10-107D that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. According to K.S.A. 12-759(e), any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.

- A. Application.** An application for a variance shall (1) be filed with the Zoning Administrator, (2) provide the legal description of the property involved with the variance, (3) be accompanied by an ownership list as required by Section 10-103 and the filing fee and (4) contain the following information as well as such additional information as may be prescribed by rule of the Board:
1. The particular requirements of these regulations which prevent the proposed use or construction;
 2. The characteristics of the subject property which prevent compliance with the requirements of these regulations;
 3. The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction;
 4. The particular hardship which would result if the particular requirements of these regulations were applied to the subject property and
 5. Submit a sketch drawn to scale showing the lot(s) included in the application, the structures existing thereon and the structures proposed that necessitate the request.
- B. Hearing and Notice.** A hearing on the application for such a variance shall be held and notice thereof given as specified under Sections 10-103 and 104 and which are consistent with the general procedures and records required by Section 10-101.
- C. Authorized.** Variances from the provisions of these regulations shall be granted by the Board only in accordance with the standards set out in Section 10-107D, and may be granted only in the following instances below and in no others. For minor variances, the Zoning Administrator may grant a variance as provided through a **Zoning Adjustment**. (See Section 9-100A6.)
1. To vary the applicable minimum lot area, lot width and lot depth requirements.
 2. To vary the applicable bulk regulations, including maximum height and minimum lot coverage and yard requirements.
 3. To vary the dimensional provisions for permitted obstructions in required yards.
 4. To vary the number of required off-street parking and the amount of off-street loading requirements of Article 5.
 5. To vary the applicable dimensional sign provisions of Article 7.

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D. Standards.

1. The Board may grant a variance upon specific written findings of fact based upon the particular evidence presented to it at the hearing that all the conditions required by K.S.A. 12-759(e) have been met which are listed below:
 - a. That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
 - b. That granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - c. That strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - d. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare; and
 - e. That granting the variance desired will not be opposed to the general spirit and intent of these regulations.
2. In determining whether the evidence supports the conclusions required by Section 10-107D1, the Board shall consider the extent to which the evidence demonstrates that:
 - a. The particular physical surroundings, shape or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced;
 - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
 - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located; and
 - d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase congestion on public roads or streets, increase the danger of fire, endanger the public safety or substantially diminish or impair property values within the neighborhood.

E. Conditions. In granting a variance, the Board may impose such conditions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 10-107D which would reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations, including methods for guaranteeing performance. 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 property issue permits.

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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 11. 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 11. Conditional use applications are not amendments, but are processed in the same manner. (See Section 11-101 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 11-100B 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 Section 11-103. 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 Section 11-100C. Such zoning amendment **shall not require written notice and shall not be subject to the protest petition** provision of Section 11-103.
 3. Whenever the Governing Body or the Planning Board initiates a rezoning from a less restrictive to a more restrictive zoning classification of 10 or more contiguous or noncontiguous lots, tracts or parcels of the same zoning classification having five or more owners of record of real property, such amendment shall require notice by publication and hearing in like manner as that required by Section 11-100C. In addition, written notice **shall be required to be mailed to only owners of record of real properties to be rezoned** and **only** such owners shall be eligible to initiate a protest petition under Section 11-103.

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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. 74-4318(a). No binding action can be taken in such a session and all voting must be conducted in an open meeting.

2. Any interested person or party may appear and be heard at the hearing 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.
6. The Board may make recommendations on proposed amendments to specific properties which affect only a portion of the land described in the hearing notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid, however, without republication and, where necessary, re-mailing of notices, unless the Board shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes authorized within the published zoning classifications. (For TABLE OF COMPARABILITY FOR ZONING DISTRICTS, see APPENDIX page A-1.)

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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 Sections 11-100G or 11-100H 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 permitted 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. If the zoning change request was approved, would the subject property need a screening plan for existing or potential uses?
- d. What fact-based information in support of or in opposition to the requested zoning change has staff received?
- e. For cases in the **A-2 Agricultural Transition District**, what, if any, recommendation has been received from a city planning commission or representatives of an incorporated city?
- 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.

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.

In granting a conditional use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met, unless otherwise reduced by a specific reference in these regulations. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public. Such additional conditions may include, but are not limited to, requirements affecting the lot size or yard dimensions; changing road or street width; the extent and location of entrance or exit drives; parking; controlling the size, location and number of signs; the period and time of operation; lot coverage and height of buildings; screening, fencing and/or landscaping to protect the surrounding property; establishing environmental standards for air and water pollution, noise, vibration, lighting and other such conditions; protection from flooding; and additional improvements such as road construction, utilities and storm drainage, if necessary, including platting and/or dedications. Such conditions may be placed upon the property which is the subject of the conditional use application or upon the applicant or both. Failure to comply with any of the conditions 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 11-100 of this Article including the provisions for filing protest petitions in Section 11-103; 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 Section 11-100D, excluding streets and public ways and specific statutorily excluded property as described below; then the effectuating resolution shall not be passed except by **at least a 3/4 vote** of all the members of the Governing Body.

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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 Section 11-100D2 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. **For amendments and conditional use case recommendations from a city planning commission or representatives of an incorporated city within an A-2 Agricultural Transition District**, whenever that recommendation differs from the Planning Board recommendation approval of such amendment or conditional use shall require at least a **3/4's vote** of all members of the Governing Body;

In considering its decision under each of the above set of circumstances, the Governing Body shall take into account the guidelines in Section 11-100H which are relevant to the proposed amendment or 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 in **January** 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 12. 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 _____, 2024.

/s/ _____
_____, Chairperson

ATTEST:

/s/ _____
_____, Secretary

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

/s/ _____
_____, Chairperson

/s/ _____
_____, Commissioner

/s/ _____
_____, Commissioner

Zoning Regulations of Labette County, Kansas

ATTEST:

(S E A L)

/s/ _____
_____, County Clerk

(Approved by Resolution No. _____ by the Board of Commissioners of Labette County, Kansas on _____, 2024, officially published in the Parsons Sun on _____, 2024, and effective on _____, 2024.)

ARTICLE 13. SUPPLEMENTAL USE REGULATIONS

Section 100 Wind Energy Conversions 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
- Water Quality
- Endangered Species
- Noise
- Protected Species
- Visual impact
- Avian Mortality
- Shadow Flicker
- Bat Mortality
- 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.

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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.

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

PROFESSIONAL ENGINEER Shall mean an independent professional engineer licensed in the State of Kansas in their field of expertise.

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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 and Floodplain Manager, the 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.
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.

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- 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 twelve (12) months 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. 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.
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 an airport or recreation area. The three-mile setback distance includes, but is not limited to the following recreation areas; The Big Hill Lake Project Boundary which includes Big Hill Equestrian Trail and Cherryvale, Mound Valley and Timberhill Park Areas. The three-mile setback distance also includes, but is not limited to Kansas Department of Wildlife & Parks (KDWP) hunting areas. KDWP hunting areas include Big Hill Lake Wildlife Area, Grand Osage Wildlife Area, Harmon Wildlife Area, and the Albertini Tract, Biller Tract and Perkins Tract located in the Cherokee Lowlands Wildlife Area. In addition, the Great Plains Industrial Park property via agreement with KDWP.
- e. WECS and MET towers must be set back at least one and one-half (1.5) miles from any identified or occupied eagle's nest.
- 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.

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- g. **Compliance with Additional Regulations.** Nothing in this ordinance is intended to preempt other applicable state or federal laws and regulations.
- i. **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. 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.
 - c. 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.
 - d. 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.
 - e. 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.

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- f. 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.
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.

J. 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

- 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.

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- 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.

K. 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.

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.

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- d. IEC 61400 procedures are not suitable for enforcement of these requirements. ANSI standards shall be followed for testing and modeling procedures.

L. 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.
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.

M. 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.
 - 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.

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N. 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.

O. 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.

P. 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.
 - 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.

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- 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.
 - 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. The top 48 inches of the concrete foundations supporting the WECS towers are to be removed. 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 48 inches from the top of the foundation.

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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.
 - 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. If 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.
- 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.

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- 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.

Q. 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)

Section 104 Quarries – (RESERVED)

Section 105 RR-1 Single Family Rural Residential Subdivision – (RESERVED)

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

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

TABLE OF COMPARABILITY FOR ZONING DISTRICTS

LESSER CHANGE (More Restrictive)

Zoning Districts – Lesser to Greater Change	
A-1	Agricultural District
A-2	Agricultural Transition District
RR-1	Single Family Suburban Residential District
C-1	General Commercial District
I-1	Light Industrial District

GREATER CHANGE (Less Restrictive)

Because of the uniqueness and special purpose for which the Village District, FRD Floodwater Retarding Dam Impact Overlay, P-O Protective Overlay, and Great Plains Industrial Park Overlay districts serve, they are excluded from the Table of Comparability.

Although the notification for a “Conditional Use” is processed in the same manner as a zoning district amendment, it is not an actual change in zoning districts and, therefore, the Table of Comparability does not apply and reapplication is necessary for consideration of a different “Use” even if in the same zone. Part of the property considered for a Conditional Use, however, may be withdrawn by the applicant or a lesser amount recommended for approval without renotification.

Resolution Incorporating and Adopting Zoning Regulations

(To be inserted following adoption and publication.)

Floodplain Management Regulations

Labette County adopted floodplain management regulations by Resolution _____. The regulations are included as a supplemental document only for reference in the administration of these zoning regulations. See _____ (insert website as link)