



**To:** Franklin County Board of County Commissioners  
**From:** Kenneth Cook – AICP, CFM  
**Department:** Planning & Building  
**Date:** August 10, 2022

### AGENDA ITEM NARRATIVE

Approval of amendments to the Franklin County Zoning Regulations Sections 2-1.01, 4-5.02, 5-5.02, 6-5.02, 7-5.02, 8-5.02 and 25-1.02 of the Franklin County Zoning Regulations. These changes are primarily for the purpose of addressing setback requirements for buildings and structures within unincorporated areas of Franklin County, Kansas.

### BACKGROUND

As part of a review for a group of variance requests submitted to the Board of Zoning Appeals in 2021, staff noted that fifty requests had been submitted since 2015. Of these requests, the vast majority were related to the required setbacks for properties located in the Agricultural and Residential Districts and nearly all variance requests were approved. During this discussion with the Board of Zoning Appeals staff provided information regarding the five criteria State Statutes (K.S.A. 12-759(e)(1)) and the Franklin County Zoning Regulations require be met in order to grant a variance, past court cases that dealt with the issuance of variances and other options that are allowed by State Statutes. Staff also noted that when a community finds itself granting similar variance requests on a regular basis, it can be considered an indicator that the community's Zoning Regulations might need to be updated. Following this discussion, the Board of Zoning Appeals recommended the Planning Commission consider possible amendments to the setback regulations including to have more consistency between the different districts and simplifying the number of setbacks required for different structures within the same district.

The Planning Commission held public hearings on proposed changes to the Setback regulations at their June 16 and July 21 meetings. The primary changes proposed from the currently adopted regulations include:

1. Updating the definition of Front Yard. This update provides that the front yard setback is measured from the ultimate right-of-way as identified in the Franklin County Comprehensive Plan. This will allow for a more consistent location of the front yard setback that will not generally change if the county acquires additional ROW.
2. Each Zoning District currently has different setback requirements and within each Zoning District each yard (front, side or rear) has 5-6 different setbacks dependent upon the type of structure. The size of the current setbacks also varies significantly (side yard setbacks for dwelling in: A-1 – 150'; A-2 – 80'; R-E – 75'; and R-3A – 25'). The proposed amendments remove changes in setbacks based upon type of structures and make the setbacks for the A-1, A-2 and R-E Districts the same with the following setbacks:

Front Yard – 50'

Side Yard – 25'

Rear yard – 25'

The R-3A District would maintain its existing Front Yard Setback of 35' with the Side and Rear Yard Setbacks changing to 25'. The R-1 District would also maintain its existing 25' Front Yard Setback and include changes that specify the normal minimum Side Yard

Setback of 10' with a provision that the setback can be reduced to 10% of the lot width, but not less than 3-feet.

3. An item would be added under the setback requirements for each district specifying that as part of the approval of a Special Use Permit, the Planning Commission shall determine if a larger setback is required.
4. Updating the wording provided in Article 25 – Permits, to include wording that the setbacks along roads will be measured from the ultimate right-of-way as identified in the Franklin County Comprehensive Plan.

The Planning Commission also discussed if the Front Yard Setbacks adjacent to a limited access highway, such as I-35, should be allowed to be reduced. The Planning Commission recommended that the normal Front Yard Setbacks still apply in this case.

#### **STAFF RECOMMENDATION**

Staff recommends the attached amendments to the County Zoning Regulations, modifying provisions regarding setbacks for buildings and structures.

#### **SPECIFIC ACTION REQUESTED**

An Affirmative motion in support of this item would read as follows: "I make a motion to approve the amendments to Sections 2-1.01, 4-5.02, 5-5.02, 6-5.02, 7-5.02, 8-5.02 and 25-1.02 of the Franklin County Zoning Regulations as presented, and which include amendments to setback requirements".

#### **ATTACHMENTS**

Excerpt of Planning Commission Minutes (June 16, 2022)

Excerpt of Draft Planning Commission Minutes (July 21, 2022)

Proposed Regulation Changes (with highlights)

Resolution



**Franklin**  
COUNTY KANSAS

] EST. 1855 [

**BOARD OF COUNTY COMMISSIONERS  
FRANKLIN COUNTY, KANSAS**

**RESOLUTION NO. 22-\_\_\_\_\_**

A RESOLUTION OF THE FRANKLIN COUNTY BOARD OF COUNTY COMMISSIONERS APPROVING AMENDMENTS TO ARTICLE 2, DEFINITIONS, SECTION 2-1.01 TO INCLUDE CLARIFYING THE DEFINITION OF YARD, FRONT; ARTICLE 4, AGRICULTURAL DISTRICT, SECTION 4-5.02, BUILDING SETBACKS; ARTICLE 5, TRANSITIONAL AGRICULTURE DISTRICT, SECTION 5-5.02, BUILDING SETBACKS; ARTICLE 6, RESIDENTIAL ESTATE DISTRICT, SECTION 6-5.02, BUILDING SETBACKS, ARTICLE 7, SINGLE FAMILY RESIDENTIAL THREE ACRE DISTRICT, SECTION 7-5.02, BUILDING SETBACKS, ARTICLE 8, SINGLE FAMILY RESIDENTIAL DISTRICT, SECTION 8-5.02, BUILDING SETBACKS AND ARTICLE 25, PERMITS, SECTION 25-1.02, CONFORMANCE WITH ZONING REGULATIONS TO THE FRANKLIN COUNTY ZONING REGULATIONS FOR THE UNINCORPORATED AREAS OF THE COUNTY AS PROVIDED BY K.S.A. 12-757

WHEREAS, Franklin County, Kansas is a county municipal government, organized pursuant to K.S.A. 19-101; and

WHEREAS, the Franklin County Board of County Commissioners did adopt Resolution # 23-91 creating the Franklin County Planning Commission as provided in K.S.A. 12-744; and

WHEREAS, the Franklin County Board of County Commissioners did adopt the Zoning Regulations of Franklin County Kansas on August 4<sup>th</sup>, 2002 as provided in K.S.A. 12-747; and

WHEREAS, the Franklin County Planning Commission did publish notice on May 24, 2022 that public hearing would be held to consider an amendment to the Zoning Regulations of Franklin County Kansas as required by K.S.A. 12-757; and

WHEREAS, the Planning Commission did on June 16, 2022 hold a public hearing for the consideration of adopting said amendments to the Zoning Regulations as prescribed by K.S.A. 12-741 et seq, as amended; and

WHEREAS, the Planning Commission continued the public hearing to allow staff to make updates to the proposed amendments and said continued public hearing was held on July 21, 2022; and

WHEREAS, the Franklin County Planning Commission did review in detail the amendments to Article 2, Definitions, Section 2-1.01 to include clarifying the definition of Yard, Front; Article 4, Agricultural District, Section 4-5.02, Building Setbacks; Article 5, Transitional Agriculture District, Section 5-5.02, Building Setbacks; Article 6, Residential Estate District, Section 6-5.02, Building Setbacks, Article 7, Single Family Residential Three Acre District, Section 7-5.02, Building Setbacks, Article 8, Single Family Residential District, Section 8-5.02, Building Setbacks And Article 25, Permits, Section 25-1.02, Conformance With Zoning Regulations; and

WHEREAS, the Franklin County Board of County Commissioners, after duly reviewing the recommendation of the Planning Commission and considering all written reports, public comments, Kansas Statutes regarding changes to Zoning Regulations and the applicable criteria from the factors set forth in the Golden Case, the County Commissioners, by majority of its membership, did find the following:

1. That the amendments to the County Zoning Regulations is in compliance with the Kansas Statutes; and
2. That the amendments to the County Zoning Regulations is consistent with the County Comprehensive Plan; and
3. That the amendments are consistent with the purpose and intent of the County Zoning Regulations; and
4. That the amendments are in the public interest and will further provide for the public health, safety and general welfare.

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of County Commissioners does hereby approve the adoption of an Amendment to the County Zoning Regulations as follows:

**Article 2 – Definitions:**

Section 2-1.01

YARD, FRONT: A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line (including the ultimate right-of-way identified in the Franklin County Comprehensive Plan) and the front building line.

**Article 4 – Agricultural District (A-1)**

4-5.02 Building setback requirements shall be as follows:

1. Front Yard: Fifty (50) feet on all sides abutting a street.
2. Side Yard: Twenty-five (25) feet.
3. Rear Yard: Twenty-five (25) feet.
4. Setbacks for uses subject to approval of a Special Use Permit: The Planning Commission shall determine if larger setbacks are required for uses allowed by approval of a Special Use Permit.

**Article 5 – Transitional Agriculture District (A-2)**

5-5.02 Building setback requirements shall be as follows:

1. Front Yard: Fifty (50) feet on all sides abutting a street.
2. Side Yard: Twenty-five (25) feet.
3. Rear Yard: Twenty-five (25) feet.
4. Setbacks for uses subject to approval of a Special Use Permit: The Planning Commission shall determine if larger setbacks are required for uses allowed by approval of a Special Use Permit.

**Article 6 – Residential Estate District (R-E)**

6-5.02 Building setback requirements shall be as follows:

1. Front Yard: Fifty (50) feet on all sides abutting a street.
2. Side Yard: Twenty-five (25) feet.
3. Rear Yard: Twenty-five (25) feet.
4. Setbacks for uses subject to approval of a Special Use Permit: The Planning Commission shall determine if larger setbacks are required for uses allowed by approval of a Special Use Permit.

**Article 7 – Single Family Residential Three-Acre District (R-3A)**

7-5.02 Building setback requirements shall be as follows:

1. Front Yard: Thirty-five (35) feet on all sides abutting a street.
2. Side Yard: Twenty-five (25) feet.
3. Rear Yard: Twenty-five (25) feet.
4. Setbacks for uses subject to approval of a Special Use Permit: The Planning Commission shall determine if larger setbacks are required for uses allowed by approval of a Special Use Permit.

**Article 8 – Single Family Residential District (R-1)**

8-5.02 Building setback requirements shall be as follows:

1. Front Yard: Twenty-five (25) feet on all sides abutting a street.
2. Side Yard: Ten (10) Feet
  - a. The side yard setback may be reduced to 10% of the width of the lot, but not less than 3 feet.
  - b. When a building or structure is located on a corner lot, the side yard adjacent to the street shall maintain the same setback as required for the front yard except that the buildable lot width shall not be reduced to less than 50% of the total lot width.
3. Rear Yard
  - a. There shall be a rear yard setback of 15 feet as measured from the rear lot line.
  - b. In the case of a through lot (double frontage), the front yard building setback shall apply regardless of which is used as the rear yard.
4. Setbacks for uses subject to approval of a Special Use Permit: The Planning Commission shall determine if larger setbacks are required for uses allowed by approval of a Special Use Permit.

**Article 25 – Permits**

25-1.02 Conformance with Zoning Regulations: No building permit shall be issued for any building or structure unless the same is in conformance with all provisions of these Zoning Regulations and, where applicable, the County Subdivision Regulations and Comprehensive Plan. All building or structure setbacks along roads shall be measured from the ultimate right-of-way identified in the Franklin County Comprehensive Plan.

PASSED AND ADOPTED by the Franklin County Board of County Commissioners this 10<sup>h</sup> day of August, 2022. This action shall become in full force and effect upon publication in the official county newspaper.

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Roy C. Dunn  
Chairman

Received and recorded this the 10<sup>h</sup> day of August, 2022.

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Janet Paddock  
County Clerk

