

**ZONING REGULATIONS  
of  
FRANKLIN COUNTY, KANSAS**

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## Article 1

# GENERAL PROVISIONS

### Sections:

- 1-1. Title and Scope
- 1-2. Authority
- 1-3. Purpose
- 1-4. Applicability
- 1-5. Administration

#### *Section 1-1. Title and Scope*

- 1-1.01 These regulations, including the Zoning District Map, shall be known and may be cited as the “Zoning Regulations of Franklin County, Kansas”, and shall hereinafter be referred to as “these Zoning Regulations”.

#### *Section 1-2. Authority*

- 1-2.01 These Zoning Regulations are adopted by the Board of County Commissioners of Franklin County pursuant to the provisions of K.S.A. 12-741 et seq. and K.S.A. 19-101 et seq.

#### *Section 1-3. Purpose*

- 1-3.01 These Zoning Regulations and districts as herein established have been made in accordance with an adopted comprehensive plan and a land use study to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity and general welfare of the citizens of Franklin County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population and for land for trade, industry and residence, by regulating and limiting or establishing the height and bulk of buildings and structures, the area of yards and other open spaces and the density of use. These Zoning Regulations have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land through the unincorporated territory of Franklin County, Kansas.

- 1-3.02 Intent: These regulations are intended to serve the following purposes:

- A. To promote the health, safety, morals, comfort and general welfare of the citizens of Franklin County, Kansas.
- B. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone while encouraging the redevelopment and revitalization of the cities within the County.

- C. To conserve productive agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the principal use of land for agricultural uses.
- D. To regulate and restrict the height, number of stories and size of buildings; the percentage of land area that may be occupied by buildings and other structures, size of yards, courts and other open spaces.
- E. To provide for adequate light and air and establish acceptable noise levels.
- F. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
- G. To provide adequate notice on subsequent changes to these regulations or zoning district boundaries and an opportunity for interested parties to be heard.
- H. To provide information regarding possible flood hazards and provide for minimum construction standards for protection from possible flooding.
- I. To facilitate the adequate provisions of transportation, water, sewage, schools, parks and other public improvements and services and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas, the Comprehensive Plan for Franklin County and any adopted area or corridor plan
- J. To inform the public regarding future development in Franklin County, Kansas, thereby providing a basis for wise decisions with respect to such development.

***Section 1-4. Applicability***

- 1-4.01** These Zoning Regulations shall apply to all unincorporated territory of Franklin County, Kansas except that area which lies inside the boundaries of the Urban Growth Areas established by Interlocal agreements entered into between Franklin County and any city in Franklin County.
- 1-4.02** These Zoning Regulations shall not prohibit the use of land for agricultural purposes, nor for the erection or maintenance of buildings so long as such land and buildings are used solely for agricultural purposes and not otherwise.

***Section 1-5. Administration***

- 1-5.01** Except as provided for herein, the Zoning Regulations shall be administered by the Planning Director, which office is hereby established by these Zoning Regulations.
- 1-5.02** Duties of the Planning Director: The Planning Director or his/her designee shall enforce these Zoning Regulations, and in addition thereto and in furtherance of said authority shall:

- A. Review applicable building permits, sign permits and occupancy certificates for compliance with these Zoning Regulations.
- B. Conduct inspections of buildings structures and uses of land to determine compliance with the provisions of these Zoning Regulations.
- C. Receive, file and forward to the Board of Zoning Appeals the records in all appeals and all applications for variances.
- D. Maintain permanent and current records of the zoning regulations, including but not limited to all zoning maps, amendments, special use permits, variances, appeals and application thereof and records of hearings thereon.
- E. Maintain for distribution to the public a supply of copies of the zoning map, the text of the zoning regulations and rules of the Board of Zoning Appeals. A fee for each copy shall be charged to defray the cost of printing.
- F. Provide such clerical, technical and consultative assistance as may be required by the Planning Commission, Board of County Commissioners, the Board of Zoning Appeals and other officials in the exercise of their duties relating to these Zoning Regulations.

## Article 2

### DEFINITIONS

#### Sections:

#### 2-1. Definitions

##### *Section 2-1. Definitions*

**2-1.01** Unless specifically defined below, words or phrases used in these Zoning Regulations shall be interpreted so as to give them the meaning they have in common usage and to give these Zoning Regulations their most reasonable application.

Words used in the present tense shall include both the past and future and words uses in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word “dwelling” shall include the word “residence”; the word “lot” shall include the word “plot”; the word “person” shall include individuals, firms, corporations, associations, governmental bodies and agencies and all other legal entities; the word “shall” is mandatory and not directory while the word “may” is permissive; and the phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.

**ABUTTING:** Adjoining or bordering.

**ACCESS:** A physical entrance to a lot or tract of real property or building from an abutting public street, road or highway.

**ACCESSORY STRUCTURE:** A building/structure detached from but located on the same lot or tract as the principal building/structure wherein the use of such building/structure is incidental and an accessory to that of the principal building/structure or use.

**ACCESSORY USE:** A use that is clearly incidental to and customarily found in connection with the principal building/structure or use; is located on the same lot or tract as the principal use and serves the principal use.

**ADULT CARE HOME:** A residential facility operated as a home occupation for not more than four adults wherein care and activities are provided on an hourly or daily basis or limited nursing care is provided on a 24-hour basis which may or may not be regulated and/or licensed by the Kansas Department of Health and Environment.

**AGRICULTURAL STRUCTURE:** A building/structure that is used exclusively for the storage, containment, raising, housing or processing and sale of agricultural products raised or produced on the premises including farm equipment, seed and fertilizer necessary for farming operations.

**AGRICULTURAL USE:** The use of land for the raising of hay and other crops, orchards, berries, groves, timber, poultry, goats, sheep, swine, cattle, fish and bees.

Uses shall include dairying operations, animal husbandry, pasturage, general farming, truck farming and activities directly related to such uses including the storage, processing and sale of such products. For purposes of these regulations, agricultural shall not include the following:

1. The operation or maintenance of commercial greenhouses, nurseries or hydroponic farms operated at retail.
2. Breeding, boarding or training of kennel operations.

**ALLEY:** A dedicated public right-of-way that provides a secondary means of access to and from streets and lots.

**ALTERATION:** Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height or the moving from one location or position to another shall be considered as an alteration.

**AMENDMENT:** A change or alteration to the Zoning Regulations in one of the following forms:

- 1) comprehensive revision or modification of the zoning text and/or maps;
- 2) a text change in the zone requirements; or
- 3) a change in the zoning map, i.e., the zoning designation of a particular parcel or parcels.

The third form is also known as a rezoning.

**ANIMAL, DOMESTIC:** An animal bred for and adopted to use as an animal of burden, as a family pet capable of living within a household or for use as a product of animal husbandry generally accepted by the school of agriculture at Kansas State University.

**ANIMAL, EXOTIC:**

- (a) Any non-native animal, bird, fowl, fish, amphibian or invertebrate which meets the definition of “exotic animal” set for in 9 C.F.R. 1.1, pursuant to 7 U.S.C. sec. 214 et seq. and subject to rules and regulations of the Kansas livestock commissioner, as an exotic animal, under authority of K.S.A. 47-1832 and amendments thereto.
- (b) The following animals and any other animals raised under a valid livestock permit issued by the State of Kansas shall be exempt from these Regulations:
  1. Llamas, Camels
  2. Fallow Deer, Sika Deer
  3. Pea Fowl, Water Fowl
  4. Elk, Reindeer and other animals belonging to the servidae species
  5. Emus, Ostrich Rhea

**ANIMAL, WILD:** Any non-domesticated animal, whether native or exotic.

**ANIMAL HOSPITAL OR CLINIC:** An Establishment where animals are admitted principally for examination, treatment, board or care, by a Doctor of

Veterinary Medicine. This includes kennels that are totally enclosed within the establishment.

**APARTMENT:** A room or a suite of rooms within an apartment complex arranged, intended or designed as a place of residence.

**APARTMENT COMPLEX:** A building or buildings containing apartments used as a place of residence for three (3) or more families.

**APPURTENANCE:** A subordinate or accessory building or structure or portion of a main building, the use of which is incidental and customary to that of the main building.

**APPLICANT:** The owner or duly designated representative concerning land for which a zoning amendment or other zoning action has been requested. Consent shall be required from the legal owner of the premises, if applicant is other than the owner. The word “applicant” shall also include the Board of County Commissioners and the Planning Commission if a zoning amendment is initiated by the County.

**AUTOMOBILE SALES:** The sale of new and used automobiles and other motor vehicles in operating condition; the storage of automobiles and other motor vehicles in operating condition: not including storage of trucks of more than five (5) tons in weight or buses and the repair and servicing of such vehicles; and not including body work, painting, or motor rebuilding, unless specifically permitted by the zoning district regulations.

**AUTOMOBILE SERVICE STATION:** A structure and surrounding land used for storage and sale of petroleum fuel 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 body repairs or major overhaul nor open sales.

**AUTOMOBILE WRECKING YARD:** A lot, plot or parcel of land where two or more motor vehicles, not in operating condition, are collected or stored for the purpose of processing parts for sale or use and shall include the term “SALVAGE YARD”.

**BASEMENT:** That portion of a building, which is partly or wholly below grade.

**BED AND BREAKFAST FACILITY:** A single-family dwelling where, for compensation and by pre-arrangement for definite periods, meals and/or lodging are provided for three (3) or more persons and where individual cooking facilities are not provided.

**BUILDING:** Any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property. When a structure is divided into separate parts by unpierced walls from the ground up, each part is deemed a separate building.

**BUILDING HEIGHT:** The total height of a building as measured from the average finished grade at the base of the building to the highest point of the building roof.

Chimneys, antennae and similar extension above the roof shall not be considered part of the building height.

**BUILDING, MAIN:** A building or structure in which is conducted the principal use of the lot or tract on which it is located.

**CAMPGROUND:** A public or private area providing rental facilities for overnight or short-term occupancy, including campgrounds, day or youth camps, fishing or hunting camps, picnic areas and recreation vehicle parks.

**CAMPING TRAILER:** Any vehicular portable dwelling unit designed especially for short term occupancy such as: travel trailers, tent trailer, truck or auto-mounted camping units, converted buses and trucks and all other similar units whether self-propelled, pulled or hauled and designed primarily for highway travel without the necessity of a special permit.

**CARPOR:** A structure for a shelter and permanent parking space for motor vehicles attached to a building or independent thereof, which is not normally enclosed on more than one (1) wall.

**COMPREHENSIVE PLAN:** The adopted Franklin County Comprehensive Plan for the unincorporated territory of Franklin County, Kansas, including subsequent amendments.

**COMMUNITY GROWTH AREAS/URBAN GROWTH AREAS:** That portion of the unincorporated territory of Franklin County, Kansas, which is located within the boundaries of the community growth areas established by Interlocal agreement between Franklin County and any of the cities within Franklin County as shown on the County Comprehensive Plan.

**CONVENIENCE MARKET:** A retail sales business providing basic goods and services to the motoring public and neighborhoods outside of the incorporated areas. Principal permitted uses include the sale of grocery items, fast food/delicatessen.

**COUNTY:** Franklin County, Kansas.

**DAY CARE CENTER:** A building, residence or portion thereof, used to care for eleven (11) children or more at any one time.

**DAY CARE HOME:** A building, residence or portion thereof, used for the care of not more than six (6) children at any one time for a fee, unless otherwise allowed by these Regulations.

**DENSITY:** The number of dwelling units that may be constructed per acre, lot or number of square feet for any zoning district.

**DISTILLERY:** A place or building where alcoholic liquors are produced by a process of evaporation separating alcoholic sprits from any fermented substance but not to include fermented and malt liquors such as wine and beer.

**DISTRICT:** See Zoning District.

**DOG KENNEL:** See “KENNEL”.

**DUPLEX:** A residential building designed for or occupied exclusively by two (2) families living independently of each other regardless of whether utility services are provided independently to each family.

**DWELLING:** A building, or portion thereof, which is designed or used for residential occupancy including a condominium, modular home, residential-design manufactured home or a manufactured/mobile home.

**DWELLING, SINGLE FAMILY:** A residential building designed for or occupied exclusively by one family.

**FAMILY:** One (1) or more persons related by blood, marriage or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.

**FEEDLOT, COMMERCIAL:** Any tract of land or structure, pen or corral wherein cattle, horses, sheep, goats, swine or any other livestock not raised on the tract of land and/or not owned by the owner of the land, structure, pen or corral are maintained in close quarters for the purpose of fattening such livestock for final shipment to market or slaughter.

**FENCE:** A structure of metal, masonry, composition or wood or any combination thereof resting on or partially buried in the ground and rising above ground level and used for confinement, screening, landscaping or partition purposes.

**FLOODPLAIN REGULATIONS:** The definition or words, terms or phrases used in the application and enforcement of the Floodplain Regulations are found in Article 16, Section 16-4 of these Regulations.

**FLOOR AREA:** The sum of the gross horizontal area of all floors of a building measured from the exterior faces of the exterior walls and used for computing off-street parking requirements. The floor area shall mean the gross area used or intended to be used by the owner or tenant for service to the public as customers, patrons or clients, including areas occupied by fixtures and equipment used for display. It shall not include areas used principally for maintenance of the building, restrooms or utility rooms.

**FOUNDATION, PERMANENT:** A site-built foundation with or without a basement which is constructed of concrete or masonry materials on a concrete footing that shall also conform with the provisions set forth in Appendix “E” of the International Residential Code for One and Two Family Dwellings, 2000 Edition.

**FRONT:** That part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.

**FRONTAGE:** That portion of a lot or tract of land having the narrowest dimension abutting a public street, road or highway right-of-way.



**GARAGE:** A roofed structure enclosed on at least three (3) sides, each enclosed side being constructed of solid material and designed primarily for storage of motor vehicles. A garage may be attached to or detached from the primary building.

**GOVERNING BODY:** The Board of County Commissioners of Franklin County, Kansas.

**GROUP BOARDING HOMES FOR MINORS:** A residential facility for five (5) or more persons under eighteen (18) years of age who, for various reasons, cannot reside in their natural home and where twenty-four (24) hour adult care, supervision and consultation shall exist and which is licensed by a regulatory agency of this state.

**GROUP HOME FOR ADULTS:** Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state.

**HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility, which meets the requirements as defined in K.S.A. 65-3402, as amended.

**HOME OCCUPATIONS:** A business, profession or trade conducted for gain or support, subject to the following limitations:

a. In all agricultural and residential districts:

- 1) Except for agriculture related materials, equipment or products, no commodities shall be displayed or sold on the premises except that which is produced on the premises.
- 2) No mechanical or electrical equipment shall be used other than that which is normally used for domestic, farm or household purposes.
- 3) Except for agriculture, no outdoor storage of materials or equipment used in the home occupation shall be permitted.
- 4) No alteration of the principal residential building shall be made which changes the character thereof as a residence.
- 5) The home occupation, except in agricultural districts, shall be conducted entirely within the principal residential structure.
- 6) Signs may be permitted advertising the product or service as provided by the district regulations in which the home occupation is located.
- 7) No person shall be engaged in such home occupation other than the person(s) residing on the property.
- 8) No manufacturing shall be conducted and no stock-in-trade shall be displayed for sale on the premises.

b. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations; provided, however, that each listed occupation is subject to the above requirements.

- 1) Dressmakers, seamstresses, tailors.
- 2) Music teachers, dance and drama instructors, provided that instruction shall be limited to five pupils at one time.
- 3) Artists, sculptors and authors or composers.

- 4) Offices for architects, engineers, lawyers, realtors, insurance agents, brokers and members of similar professions.
- 5) Ministers, rabbis and priests.
- 6) Offices for salesmen, sales representatives, manufacturer's representatives, when no retail or wholesale transactions are made on the premises.
- 7) Home crafts, including ceramics, quilt or rug making, lapidary work, cabinet, harness or saddle making, etc., provided that there are no employees, and the machinery or equipment used is similar to the equipment/machinery used in home hobbies.
- 8) Daycare homes or babysitters caring for six or less unrelated children.
- 9) Barber shops and beauty parlors.
- 10) Sale of seed, farm chemicals and fertilizers and similar products used for agriculture purposes.
- 11) Mail order and electronic commerce, provided there is no warehousing of materials or products offered for sale and all such products or materials sold are delivered or mailed directly from the manufacturer or supplier.

**JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, plastic, trash, rubber, debris, waste, iron, steel and other old or scrap ferrous or nonferrous material.

**JUNK YARD:** Premises or building that is maintained, operated or used for storing, keeping, buying or selling junk; and the term shall include salvage yards.

**KENNEL:** Any premises, lot, tract, area, enclosure, building or structure in or on which more than five (5) dogs of at least six (6) months of age are kept, harbored or maintained for any purpose. Dogs, as used in these regulations, are defined as a member of any canine species.

**LAND FILL:** The use of a tract of land for the disposal and burial of garbage, sewage, trash, refuse, junk, discarded material, construction material and other solid waste in accordance with applicable government regulations, standards and permits and in a manner that minimizes environmental hazards but not including a solid waste transfer station.

**LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary and other similar natural and artificial objects.

**LANDING STRIP (HELIPORT OR HELISTRIP):** Any premises, public or private, used or intended to be used for the landing and take-off of aircraft or helicopters, including the temporary storage.

**LOT:** An area of land with fixed boundaries as described and recorded in the office of the Register of Deeds of Franklin County, Kansas, under individual ownership used by one building and its accessory building(s) and not divided by any public highway or alley.

**LOT, CORNER:** A lot abutting upon two or more intersecting streets.

**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 mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE:** A lot having a frontage on two non-intersecting streets as distinguished from a corner lot.

**LOT LINE:** Any line bounding a lot or separating one lot from another lot.

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

**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.

**MANUFACTURED HOME OR HOUSE:** A factory assembled structure or structures designed to be used as a dwelling unit and equipped with the necessary service connections and made so as to be transportable as a unit or units on its own running gear or transported to and assembled at the site. The term includes “mobile” homes, “modular” homes, residential-designed manufactured homes and trailers homes or houses. Manufactured housing shall not include recreational vehicles, travel trailers or other vehicles not designed for permanent residential use.

**MOBILE HOME:** A manufactured structure designed to be used as a dwelling unit and constructed of one (1) or more sections which has a body width of eight feet (8’) or more and a body length of forty feet (40’) or more and when assembled or installed contains a minimum of nine hundred fifty (950) square feet of total living area. A mobile home shall be installed in accordance with the requirements of K.S.A. 58-4217, et. seq. and shall be connected to the required utilities including plumbing (water and sanitation), heating, air conditioning and electrical systems. For purposes of these Regulations, a mobile home shall be considered to be a single family residence provided the unit is affixed to a foundation system as specified by the manufacturer and further complies with the U.S. Department of Housing and Urban Development (HUD) Federal Manufactured Home Construction and Safety Standards established in 1976; Title 24 Code of Federal Regulations (CFR) part 3280 and all changes approved and adopted by HUD through 1994.

**MODULAR HOME:** A manufactured structure which is:

- a) transportable in one (1) or more sections;
- b) not constructed on a permanent chassis;
- c) designed as a single family dwelling unit to be placed on a permanent foundation and which shall be connected to the required utilities and which shall include the plumbing (water and sanitation), heating and air conditioning and electrical systems contained therein; and
- d) certified by the manufacturer as being constructed in accordance with a nationally recognized building code.

**NONCONFORMING LOT:** A lawfully existing lot which does not comply with the lot size requirements for any permitted use in the district in which it is located (See Article 20, Section 20-2 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.

**OPEN SPACE:** The unoccupied area of any lot, excluding required side, rear or front yards that is open and unobstructed to the sky except for the ordinary projection of cornices, eaves or porches.

**OUTDOOR STORAGE:** 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 storage of new or used goods and materials on display for sale when specifically permitted in the zone in which it is located.

**PARKING SPACE:** An area surfaced with all weather surfacing, for the purpose of storing parked automobiles. For the purpose of this Zoning Regulation, a parking space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet. In computing off-street parking, additional area shall be required for access drives to each parking space.

**PERIMETER ENCLOSURES:** A permanent enclosure constructed around the perimeter of a manufactured home (mobile home) which shall be constructed of concrete, masonry materials or treated wood construction on a concrete footing.

**PERMITTED USE:** Any use of a structure or land, which is specifically allowed within a zoning district, subject to the restrictions and standards applicable to that zoning district.

**PLANNING COMMISSION:** The Franklin County, Kansas Planning Commission.

**PLAN, CONCEPTUAL:** A plan that sets forth the basic concepts for development of a tract of land.

**PLANNING DIRECTOR:** Unless otherwise provided for in these Zoning Regulations, the County official assigned the responsibility of administering and enforcing the Franklin County Zoning Regulations. Whenever the terms “Zoning Official”, “Zoning Compliance Officer” or similar terms are used, such terms shall be interpreted and applied as referring to the Planning Director.

**PLAN, FINAL:** A plan showing the definite proposed location of buildings, facilities, landscaping and uses upon a tract of land. This plan may, or may not, be required by the Planning Commission, at its discretion.

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

**PROFESSIONAL OFFICE:** Any building used by one or more persons engaged in the practice of law, architecture, engineering, medicine, real estate, insurance or other similar business.

**PUBLIC NUISANCE:** For the purpose of these Zoning Regulations, a public nuisance shall include any condition which a) injures or endangers the comfort, repose, health, safety or general welfare of the public; b) offends decency; c) is offensive to the senses; d) unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any public or private street, road, highway, sidewalk, alley, stream, ditch, or drainage; e) in any way renders another person insecure in life or the use of property; or f) essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of another.

**QUARRY:** An open excavation for the removal of any mineral of commercial value.

**RECREATIONAL VEHICLE:** Vehicles built on or for use on a chassis and designed primarily as temporary living quarters for recreation, camping, vacation or travel use and which has its own motive power or is mounted on or drawn by another vehicle. A recreational vehicle for purposes of these Zoning Regulations shall not be considered as a single-family dwelling unit.

**RENEWABLE ENERGY SYSTEMS:** A Wind Energy Conversion System (WECS) or a Solar Energy Conversion System (SECS) as defined in this section.

**RESTAURANT:** A public eating or drinking establishment, including, but not limited to, the type of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains.

**REZONING:** See “AMENDMENT”.

**SALVAGE YARD:** An area of land, with or without buildings which is used for or occupied by a deposit, collection or storage of used or discarded materials such as wastepaper, rags or scrap material, used building materials, household furnishings and appliances, machinery, motor vehicles, aircraft, or parts thereof, including demolition materials and construction disposal, and shall include the term “junk yard”. In residential and agricultural districts this definition shall include the parking or storage of more than two (2) inoperable or unlicensed motor vehicles on the premises for a period of more than thirty (30) days unless such vehicles are stored inside a totally enclosed structure or are screened from public view.

**SANITARY LANDFILL:** The use of a tract of land for the disposal and burial of garbage, sewage, trash, refuse, junk, discarded material, construction material and other solid waste in accordance with applicable government regulations, standards and permits and in a manner that minimizes environmental hazards but not including a solid waste transfer station.

**SANITATION CODE:** The Franklin County Sanitary Code, as adopted by the Franklin County Board of County Commissioners and as amended from time to time.

**SCREENING:** A solid fence or wall at least eight (8) feet in height but not more than ten (10) feet, completely enclosing an area of land. Such fence or wall shall be constructed of new materials, be uniform in color and texture and shall be maintained in good condition. As a substitute for a solid fence or wall, the Planning Commission may approve dense evergreen vegetation for visual screening. Where evergreen vegetation is approved for screening, such vegetation shall be maintained in good condition and shall be capable of reaching a height and density to provide a visual screen from all adjoining property within one (1) year.

**SEXUALLY ORIENTED BUSINESS:** An “adult arcade”, an “adult bookstore” or “adult video store”, an “adult cabaret”, and “adult motel”, an “adult motion picture theater”, a “semi-nude model studio”, a “sexual device shop”, or a “sexual encounter center”; and shall include the following terms when associated with sexually oriented businesses:

- a) “*Adult Arcade*” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting “specified sexual activities” or specified “anatomical areas”.
- b) “*Adult Bookstore or Adult Video Store*” means a commercial establishment which, as one of its principal purposes, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides or other visual representations which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” or “sexual devices”.

A “principal purpose” means that the commercial establishment:

- (1) has a substantial portion of its displayed merchandise which consists of said items, or
- (2) has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
- (3) has a substantial portion of the retail value of its displayed merchandise which consists of said items, or

- (4) derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
  - (5) maintains a substantial section of its interior business space for the sale or rental of said items.
- c) “*Adult Cabaret*” means a nightclub, bar, juice bar, restaurant, bottle club or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features persons nude or semi-nude
- d) “*Adult Motel*” means a motel, hotel or similar commercial establishment which:
- (1) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, other photographic reproductions, or live performances which are characterized by the display of “specified sexual activities” or “specified anatomical areas”; and which advertises the availability of such material by means of a sign visible from the public right-of-way, or by means of any on or off-premises advertising, including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television; or
  - (2) offers a sleeping room for rent for a period of time that is less than 10 hours; or
  - (3) allows a tenants or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.
- e) “*Adult Motion Picture Theater*” means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of “specified sexual activities” or “specified anatomical areas” are regularly shown to more than five persons for any form of consideration.
- f) “*Characterized by*” means the essential character or quality of an item. As applied in these regulations, no business shall be classified as a sexually oriented business by virtue of showing, selling or renting materials rated NC-17 or R by the Motion Picture Association of America.
- g) “*Employ, Employee and Employment*” describes and pertains to any person who performs any service on the premises of a sexually

oriented business, on a full time, part time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

- h) *“Establish or Establishment”* shall mean and include any of the following:
  - (1) The opening or commencement of any sexually oriented business as a new business;
  - (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
  - (3) The addition of any sexually oriented business to any other existing sexually oriented business
- i) *“Influential Interest”* means any of the following: (1) the authority to act as “operator” of the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, etc.) or directorship in a legal entity which operates the sexually oriented business.
- j) *“Licensee”* shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an “employee”, it shall mean the person in whose name the sexually oriented business employee license has been issued.
- k) *“Nudity or a State of Nudity”* means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
- l) *“Operate or Cause to Operate”* shall mean to cause to function or to put or keep in a state of doing business. “Operator” means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may



be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner or licensee of the business.

- m) *“Person”* shall mean individual, proprietorship, partnership, corporation, association or other legal entity.
- n) *“Premises”* means the real property upon which the sexually oriented business is located and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the licensee, as described in the application for a business license.
- o) *“Regularly”* means and refers to the consistent and repeated doing of the act so described.
- p) *“Semi-Nude or State of Semi-Nudity”* means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard or similar wearing apparel provided the areola is not exposed in whole or in part.
- q) *“Semi-Nude Model Studio”* means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons.

This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:

- (1) by a college, junior college or university supported entirely or partly by taxation;
- (2) by a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college or university supported entirely or partly by taxation; or
- (3) in a structure which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewings and; where, in order

to participate in a class, a student must enroll at least three days in advance of the class.

- r) “*Sexual Device*” means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, butt plugs and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted disease or for preventing pregnancy.
- s) “*Sexual Device Shop*” means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.
- t) “*Sexual Encounter Center*” shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact between persons of the opposite sex when one or more of the persons is semi-nude.
- u) “*Specified Anatomical Areas*” means and includes:
  - (1) less than completely and opaquely covered: human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; and
  - (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- v) “*Specified Criminal Activity*” means:
  - (1) any of the following specified crimes for which less than five (5) years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
    - (a) any sex offense set forth in Chapter 21, Article 35, of the Kansas Statutes Annotated, or amendments thereto;
    - (b) incest (K.S.A. 21-3602 , or amendments thereto);

- (c) aggravated incest (K.S.A. 21-3603 or amendments thereto);
- (d) promoting obscenity (K.S.A. 21-4301);
- (e) promoting obscenity to minors (K.S.A. 21-4301a);
- (f) promotion to minors of obscenity harmful to minors (K.S.A. 21-4301c); and

(2) any offenses in other jurisdictions that had the predicate act(s) been committed in Kansas, would constitute any of the foregoing offenses.

w) “*Specified Sexual Activity*” means any of the following:

- (1) intercourse, oral copulation, masturbation or sodomy; or
- (2) excretory functions as a part of, or in connection with, any of the activities described in (a) above.

x) “*Substantial*” means at least thirty-five percent (35%) of the item(s) so modified.

y) “*Transfer of Ownership or Control*” of a sexually oriented business shall mean any of the following:

- (1) the sale, lease or sublease of the business;
- (2) the transfer of securities which constitute an influential interest in the business, whether by sale, exchange or similar means; or
- (3) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

z) “*Viewing Room*” shall mean the room, booth or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette or other video reproduction.

**SETBACK:** The required minimum distance between the building face and the related front, side and rear property line.

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

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

**SOLAR ENERGY CONVERSION SYSTEMS (COMMERCIAL):** An assembly that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CST) or other conversion technology and consisting of a solar collector, an energy storage facility and components for the distribution of transformed energy for the sale, resale or off-site use.

**SOLAR ENERGY CONVERSION SYSTEMS (PRIVATE):** An assembly that converts sunlight into electricity, whether by photovoltaics (PV), concentrating solar thermal devices (CSV) or other conversion technology and consisting of a solar collector, an energy storage facility and components for distribution of transformed energy for the use on-site and not for commercial power production.

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

**STABLE:** A commercial establishment for boarding, breeding, training or raising of horses not owned by the owners or the operators; or an establishment for the rental of horses or other equestrian activities.

**STORY:** That portion of a building, other than a basement, or cellar, included between the surface of any floor and the surface of the floor next above it or, if there is no floor above it, then the space between the floor and the ceiling next above it.

**STREET OR ROAD:** A right-of-way, dedicated to the public use, which provides principal vehicular and pedestrian access to adjacent properties.

**STRUCTURAL ALTERATION:** Any change in a structure other than normal repairs and maintenance which may prolong its useful life; or the useful life of its supporting members such as bearing walls or partitions, columns, beams, girders or foundations; or any complete rebuilding of the roof; or the exterior walls; or the

construction of any addition to or enlargement of a structure; or the removal of any portion of a structure. For the purpose of these Regulations, the following shall not be considered a structural alteration:

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

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including hard surfaced walks and terraces or public items such as utility poles, street light fixtures and street signs.

**SUBDIVISION REGULATIONS:** The Franklin County Subdivision Regulations, as adopted by the Franklin County Board of County Commissioners and as amended from time to time.

**TEMPORARY HARDSHIP MOBILE HOME:** The temporary placement and use of a mobile home or a manufactured home in addition to the primary residence for the use of family members due to medical or other hardships.

**TEMPORARY USE:** The limited or periodic use of a structure or tract of land including seasonal and promotional display and sale of goods, and contractor offices during construction and similar activities.

**TRAILER:** The term “trailer” shall include a separate vehicle not driven or propelled by its own power and drawn by some independent power. For purposes of these Regulations, the term “trailer” shall not include mobile, manufactured, or modular homes.

**TRAILER CAMP:** Any piece, parcel, tract or plot of ground which provides space for transient occupancy and is used or intended to be used for the parking of one (1) or more camping trailers.

**TRAILER, HAULING:** A trailer, as defined above, designed and normally used for over-the-road transporting of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.

**TRAILER HOME:** A factory assembled structure or structures designed to be used as a dwelling unit and made so as to be transported as a unit on its own running gear. Such homes are built on a chassis consisting of a drawbar and coupling mechanism, frame (steel I-beam) and running gear assembly. Such homes do not meet or have been modified so as not to comply with the Department of Housing and Urban Development Manufactured Home Construction and Safety Standards established in 1976 pursuant to 42 U.S.C. Section 5403.

**TRANSFER STATION:** The use of a structure or tract of land for the collection and processing of solid municipal waste at a single facility for shipping to an off-site or remote landfill facility.

**USE:** Any purpose for which a structure or 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 requirements of these Zoning Regulations governing the purpose for which a structure or tract of land may be designed, arranged, intended, maintained or occupied including any activity, occupation, business or operation conducted or intended to be conducted in a structure or tract of land.

**UTILITY:** Any governmental utility, nonprofit organization, corporation or any entity defined as a utility for any purpose by Kansas state law engaged in the production, generation, transmission, delivery collection or storage of water, sewage, electricity, gas, oil or electronic signals.

**VARIANCE:** An exemption granted by the Board of Zoning Appeals from the specific terms of these Zoning Regulations which will not be contrary to the public interest and where, owing to special conditions a literal enforcement of these Zoning Regulations will, in an individual case, result in unnecessary hardship. Such variance, however, shall not permit any use not permitted by the Zoning Regulations in such district.

**WIND ENERGY CONVERSION SYSTEMS (COMMERCIAL):** A combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Such systems consist of the turbine apparatus and related support structures and transmission improvements for the generation of electrical power for the purpose of off-site sale/resale for public use.

**WIND ENERGY CONVERSION SYSTEMS (PRIVATE):** A combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Such systems consist of the turbine apparatus and related support structures and transmission improvements for the generation of electrical power for the purpose of on-site use and not for commercial production.

**YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the ground upward; provided, however, that fences, wall, poles, posts and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

**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 of right-of-way line and the front building line.

**YARD, REAR:** A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.

**YARD, SIDE:** A yard between the side building line and the side lot line and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.

**ZONING DISTRICT:** A section of the zoning area for which uniform regulations governing the use, height, area, size and intensity of use of buildings, land and open space about buildings are herein established.

**ZONING REGULATIONS:** The Franklin County Zoning Regulations, as adopted by the Franklin County Board of County Commissioners and as amended from time to time.

## Article 3

# ZONING DISTRICTS AND GENERAL REGULATIONS

### Sections:

- 3-1. Zoning Districts and Zoning District Map Established**
- 3-2. General Regulations Governing All Zoning Districts**
- 3-3. Miscellaneous Regulations Governing All Zoning Districts**

### *Section 3-1. Zoning Districts and Zoning District Map Established*

**3-1.01** Zoning Districts: In order to regulate and restrict the location of trades, callings, industries, commercial enterprises and the location of buildings in designated “Zoning Districts”, there shall be fourteen (14) zoning districts known as:

1. Agriculture (A-1)
2. Transitional Agriculture (A-2)
3. Residential Estate (R-E)
4. Single Family Residential Three Acres (R-3A)
5. Single Family Residential (R-1)
6. Mobile Home Park (MH-P)
7. Neighborhood Commercial (C-1)
8. Highway Commercial District (C-2)
9. Business Park District (B-P)
10. Light Industrial District (I-1)
11. Heavy Industrial District (I-2)
12. Planned Development Overlay District (PD)
13. Floodplain Overlay Zoning District (F-P)
14. Highway Corridor Overlay (H-C)
15. Airport Hazard Overlay (A-H)

**3-1.02** Zoning District Map: The unincorporated territory of Franklin County, Kansas subject to these regulations shall be divided into the thirteen districts established in Section 3-1.01 and the boundaries of such districts shall be shown upon the Zoning District Map of the unincorporated territory of Franklin County, Kansas, marked “Official copy of Zoning District Map” and shall be incorporated into the Zoning Regulations by reference as authorized by K.S.A. 12-741 et seq. Said map shall be on file in the office of the County Clerk and in the office of the Planning Director as provided for by law. A duplicate Zoning District Map shall be on file in the office of the Board of County Commissioners.

**3-1.03** Overlay Zoning Districts: These Zoning Regulations contain four (4) different Overlay Zoning Districts. The Planned Development Overlay Zoning District may be added to any zoning district for purposes of planning and developing areas as a unit as provided in Article 15 of these Zoning Regulations. The Floodplain Overlay Zoning District may be added to any zoning district and shall include all areas shown on the “Flood Hazard Boundary Maps” incorporated by reference in Article 16 of these Zoning Regulations. The Highway Corridor Overlay Zoning District may be added to any zoning district and shall include all areas shown on the “Highway Corridor Boundary Maps” incorporated by reference in Article 17 of these Zoning Regulations. The Airport Hazard Overlay Zoning District may be added to any



zoning district and shall include all areas shown on the “Flood Hazard Boundary Maps” incorporated by reference in Article 18 of these Zoning Regulations.

**3-1.04** It is the intent of these regulations that the entire area of the zoning jurisdiction, including all the land and water areas, rivers, creeks, streets, alleys and railroads and other rights-of-way be included in the districts established in these regulations. Any area not shown on the zoning map(s) as being included in any district shall be deemed to be in the most restrictive district.

**3-1.05** Zoning District Boundaries: In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the zoning map(s), the following rules shall apply:

- A. Where boundary lines are indicated as approximately following streets and alleys, highways or railroads, such boundaries shall be construed as following the centerlines thereof.
- B. Where boundary lines are indicated as approximately following lot lines; or section, half-section or quarter-section lines; such lines shall be construed to be said boundaries.
- C. Where a boundary follows a river, stream, lake or other body of water, such boundary line shall be deemed to be at the centerline thereof, unless otherwise indicated.
- D. Where a boundary line divides a lot, or unsubdivided property and the dimensions are not shown on the zoning map, the location of such boundary shall be determined by using the scale appearing on such map.
- E. All 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 street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

***Section 3-2. General Regulations Governing All Zoning Districts***

**3-2.01** The following are general requirements for uses, structures and lots/parcels governed by these Zoning Regulations:

- A. Permitted Uses: No structure shall hereafter be built, moved or remodeled 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 Zoning Regulations as a special use.
- B. Special Uses: No use of a structure or land that is designated as a special use in a district shall hereafter be established, and no existing special use shall hereafter be changed to another special use in such district unless a special use amendment is approved in the same manner as for an amendment to a zoning district as provided for in Article 19 and whereby additional conditions may be placed on such approval as provided for in Article 19, Section 19-3.04.

- C. Use Limitations: No permitted or special use hereafter established, altered, modified or enlarged shall be operated or designed so as to conflict with the use limitations of the zoning district in which such use is, or will be, located. No permitted, special or conditional use already established on the effective date of these Zoning Regulations shall be altered, modified or enlarged so as to conflict, or further conflict with, the use limitations for the zoning district in which such use is located.
- D. Accessory Structures or Uses: No accessory structure or use, as defined in Article 2, Section 2-1.01 shall hereafter be built, moved or remodeled, altered or enlarged unless permitted by Article 25.
- E. Temporary Structures and Uses: No temporary structure or use shall hereafter be built, moved or remodeled, altered or enlarged unless permitted by Article 26.
- F. Home Occupations: No home occupation, as defined by Article 2, Section 2-1.01, shall hereafter be established, altered or enlarged in any residential district unless it complies with the permitted uses as provided for in Article 2 of these Zoning Regulations.
- G. Bulk Regulations: In these Zoning Regulations, bulk requirements are expressed in terms of maximum structure height, maximum lot coverage, minimum setbacks and minimum front, side and rear yards. No structure, or part thereof, shall hereafter be built, moved or remodeled, and no structure or land shall hereafter be used, occupied or designed for use of occupancy:
  - 1. That would exceed the maximum lot coverage percentage, or the maximum of structure height specified for the zoning district in which the structure is located; or
  - 2. That would provide any setback of front, side or rear yard that is less than that specified for the zoning district in which such district or use of land is located or maintained, except as otherwise provided in these Zoning Regulations.
- H. Off-Street Parking and Loading: No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and off-street loading spaces required by Article 21 are provided. No structure or use already established on the effective date of these Zoning Regulations shall be enlarged unless the minimum off-street parking and loading spaces required by Article 21 are provided.
- I. Signs: No signs shall hereafter be built, and no existing sign shall be moved or remodeled unless it complies, or will thereafter comply with the restrictions imposed by Article 22.
- J. Lot/Tract Sizes: No structure, or part thereof, shall hereafter be built, or moved or remodeled and no structure or land shall hereafter be used, occupied or arranged or designed for use of occupancy on a lot, or tract, unless otherwise provided for in these Zoning Regulations, which in its district is:

1. Smaller in area than the minimum area, or minimum lot area per dwelling unit required;
  2. Narrower than the minimum lot width required; or
  3. Shallower than the minimum lot depth required.
- K. Lot Frontage: Every lot/tract created after the adoption of these Zoning Regulations shall have frontage and direct access onto a public road maintained by the State or County except as otherwise provided.
- L. Lot Size Requirements and Bulk Regulations for Public Utility Facilities: Notwithstanding any other provision of these Zoning Regulations, none of the following public utility or public service uses shall be required to comply fully with the lot size requirements of the zoning district in which they are located except as may be determined by the Planning Commission where a special use permit is required;
1. Electric and telephone substations.
  2. Gas regulator stations.
  3. Pumping stations.
  4. Radio, television, communication and microwave transmitting or relay stations and towers.
  5. Water towers or standpipes.

***Section 3-3. Miscellaneous Regulations Governing All Zoning Districts***

**3-3.01** The following are miscellaneous requirements for uses, structures and lots/tracts governed by these Zoning Regulations:

- A. New Structures: All structures built hereafter shall comply with all of the provisions of these Zoning 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 or destruction by fire or other casualty shall be considered to be a structure built hereafter, unless Article 19 of these Zoning Regulations permits such structures to be rebuilt or restored.
- 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 Zoning Regulations unless permitted by provisions in Article 19. The mere establishment of the new use does not require the existing structure to conform to the lot size requirements or the bulk regulations.

Structural Alterations. If any structure is hereafter structurally altered as defined in Article 2, Section 2-1.01:

1. The entire structure as remodeled shall comply with the use regulations of these Zoning Regulations.
2. Any alterations of, enlargement of or additions to the structure shall comply with the bulk regulations of these Zoning Regulations, except as permitted by Article 20 for nonconforming structures.

3. The off-street parking facilities shall not be reduced below, or if already less than, shall not be further reduced below the requirements applicable to a similar new structure or use.
- C. Number of Structures and Uses on the Zoning Lot: Where a lot is used for other than a single-family dwelling, or two-family dwelling, more than one principal structure and use may be located upon the lot, but only when the structures and uses conform to all requirements for the district in which the lot is located.
- 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 Zoning Regulations.
- E. Yard Requirements for Open Land: If a lot/tract is, or will be occupied by a permitted use without structures, then the minimum setback and minimum side and rear yards that would otherwise be required, shall be provided and maintained unless some other provision of these Zoning Regulations requires or permits a different minimum setback, front, side or rear yard. The front, side and rear yards shall not be required on lots/tracts used for open public recreation areas or agricultural uses.
- F. Restrictions on Allocation and Disposition of Required Yards or Open Space:
1. No part of the lot area, of a yard, other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these Zoning Regulations shall, by reason of change of ownership or otherwise be included as part of the minimum lot area of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.
  2. All of the lot area and all yards and other open spaces provided in connection with any structure or use in order to comply with these Zoning Regulations shall be located on the same lot as such structure or use.
  3. No part of the lot area, the yard, or other open space; or off-street parking or loading space provided in connection with any structure or use (including, but not limited to, any structure or use existing on the effective date of these Zoning Regulations or of any amendment thereof) shall be subsequently reduced below, or further reduced if already less than, the minimum requirements of these Zoning Regulations for the equivalent new construction.
- G. Platted Building and Setback Lines: If a recorded subdivision plat imposes a building or setback line for a lot which is different from the minimum setback or front yard required by the applicable section of these Zoning Regulations, then, notwithstanding any other provision of these Zoning Regulations, the minimum setback or minimum front yard shall be the same as that shown on such subdivision plat provided that it has been recorded prior to the effective date of these Zoning Regulations.
- H. Average Setback in Existing Residential Districts.

1. On streets where a front yard more than that required by these Zoning Regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two (2) intersecting streets, there shall be maintained a front yard setback of not less than the average setback of the existing structures, provided that these Zoning Regulations shall not be interpreted to require a front yard setback of more than fifty (50) feet.
  2. On streets where a front yard less than that required by these Zoning Regulations has been maintained for existing structures on lots having a frontage of 50% or more of the total frontage on one side of that portion of the street line between two intersecting streets, the front yard setback need not be greater than the average setback of the existing structures, provided that these Zoning Regulations shall not be interpreted to permit a front yard setback of less than twenty-five (25) feet.
- I. Permitted Obstruction in Required Yards: The following shall not be considered to be an obstruction when located in a required yard:
1. In all yards: Open terraces or porches not over four feet above the average level of the adjoining ground, but not including a permanent roof over a terrace or porch; awnings or canopies; steps four feet or less above grade which are necessary for access to a permanent structure or for access to a lot from a street or alley; one story bay windows and overhanging eaves and gutters projecting 36 inches or less into the yard; chimneys projecting 36 inches or less into the yard; arbors and trellises; flag-poles ornamental light and gas fixtures; and permitted signs.
  2. In any yard, except a front yard and a side yard adjoining a street: Accessory uses permitted by Article 24; recreational and laundry drying equipment, and open and solid fences not exceeding eight feet in height.
  3. In a front yard and a side yard adjoining a street: Open and solid fences not exceeding eight feet in height; provided that only open type fences are permitted in residential districts.
- J. Height Limitation Exception.
1. The height limitations of these Zoning Regulations shall not apply to church spires, belfries, cupolas, penthouses and domes, not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks, bulk heads, other similar features including necessary mechanical appurtenances usually carried above the roof level; nor to wind generators when located on lots which have at least 100,000 square feet.
  2. The provisions of these Zoning Regulations shall not apply to prevent the erection, above the building height limit, of a parapet wall or cornice for ornament (and without windows) extending above such height limit not more than five feet.
- K. Sewer and Water Facilities: In all districts except agriculture, it is the intention of these Zoning Regulations to encourage the installation of public water supplies

and sewage disposal systems, if available for use and whenever such facilities are provided within an economically feasible distance as determined by the County.

In areas where such facilities are not yet available and on-site wells, cisterns, and septic tank systems, lagoons, or other sewer systems are necessary, the suitability of the lot(s) for such facilities and the standards for installation of such sewage disposal systems shall be governed by the County and/or State.

- L. Protection of Sewers and Utility Lines: No building or addition thereto shall be erected over or across any public sewer or 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.

No utility facilities shall be located within the area shown on the Highway Corridor Management Plan as future rights-of-way for highway improvements.

- M. Dedication of Rights-of-Way and Easements: The Governing Body after receiving a recommendation from the Planning Commission, may require the dedication of additional street rights-of-way and/or easements for utilities as a condition related to a change in zoning on a lot due to the increased intensity of use by either requiring that the lot be platted or re-platted according to the Subdivision Regulations of the County or, in lieu of platting, by a legal document making such required dedications to the County.

- N. 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 remains in effect after such vacation, unless procedures are initiated to amend the district classification.

- O. Public Access.

1. No land, which is located in a residential district, shall be used for a driveway, walkway or access purpose to any land, which is located in any business or industrial district.
2. No building, except structures used for agricultural purposes as defined by Article 2-1.01, shall hereafter be erected, reconstructed, relocated or structurally altered on any lot or parcel unless such lot or parcel faces a publicly dedicated street or right-of-way. Where a building is in existence, no such required dedicated street or right-of-way shall be vacated so as to eliminate the required access.

- P. Flood Plain Requirements: Within any flood plain area as delineated by the Federal Insurance Administration, no use of land shall commence or no structure shall hereafter be constructed, moved, enlarged or altered under these Zoning Regulations unless it also complies with all other regulations and resolutions of the County relating to the use of land in such flood hazard areas as part of the County's participation in the National Flood Insurance Program as set forth in Article 16 of these Zoning Regulations.

- Q. Moving Structures: No structure shall be moved into the zoning jurisdiction, nor from one location to another location within the zoning jurisdiction unless such

structure shall, when relocated, be made to conform fully with these Zoning Regulations and other codes of the zoning jurisdiction. No zoning permit shall be issued unless the general height and outward appearance of such structure conforms to other structures in the immediate area to which it is to be moved and in the 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.

R. Exemptions: The following structures and uses shall be exempt from the provisions of these regulations:

1. Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water, which is operated or maintained by a public or quasi-public agency, but not including substations located on or above the surface of the ground.
2. Railroad track, signals, bridges and similar facilities, equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.
3. Agricultural structures on land used for agriculture. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to the applicable regulations of these Zoning Regulations.
4. Exploration and drilling for oil and gas wells.
5. Land owned by the federal government.

S. Radio, Television, Telecommunication and Microwave Towers.

1. Purpose. The purpose of this section shall be to establish standards for the use and construction of radio or television broadcasting towers and/or apparatus, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 100 feet or more in height from the ground, or 40 feet in height as measured to the highest point of the tower/antenna if mounted on a structure or building, or of any height if lighted; whether publicly or privately owned.
2. Development Plan Required. At the time of application for a Special Use Permit, the applicant shall submit a development plan in sufficient detail, as determined by the staff of the Planning Department, to evaluate its conformance with applicable standards and guidelines.

The development plan shall include:

- a) The applicant shall provide written authorization from the property owner of the proposed tower site.
- b) An application for tower approval shall include the submission of a site plan drawn to scale showing the property boundaries, tower, guy wire anchors and other apparatus, existing and proposed structures,

proposed transmission buildings and/or other accessory uses, access road(s) location, access road surface material, parking area, fences, location and content of warning sign, exterior lighting specifications, a landscaping plan, land elevation contours and existing land uses surrounding the site. If any accessory building is proposed, details of the building, including elevations and proposed use of the building is required to be submitted with the application.

- c) An application for tower approval shall include a report or written information which describes the tower height and design including a cross-section of the structure; engineering specifications detailing construction of tower, base and guy wire anchorage; the proposed painting and lighting schemes; and describes the tower's capacity, including the number and type of antennas that it can accommodate.

3. General Provisions for Towers.

- a) An effort in good faith must be made to co-locate the new antenna on existing towers or other structures. A request for a new tower must be accompanied by evidence that an effort was made to co-locate on existing towers, with no success.

- b) A proposal for a new communication tower shall not be approved unless the applicant can document that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower due to one or more of the following reasons:

- i). The planned equipment would exceed the structural capacity of existing and approved towers, and existing and approved towers cannot be reinforced to accommodate the planned or equivalent equipment at a reasonable cost;
- ii). The planned equipment would cost RF interference with other existing or planned equipment for these towers, and the interference cannot be prevented at a reasonable cost;
- iii) Existing or approved towers do not have space on which planned equipment can be placed so it can function effectively and reasonable in parity with other similar equipment in place or approved; and
- iv) Other reasons that make it impractical to place the equipment planned by the applicant on existing and approved towers.

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

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



- b). A sign shall be posted on the tower or the exterior fence around the base of the tower noting the name and telephone number of the tower owner/operator.
- 5) Development Standards For Towers.
- a). The location of a ground-mounted tower must be such that it is setback at least equal to the height of the tower to the nearest property line measured from the center of the tower. A ground mounted tower may be setback less than the tower height to the nearest property line if documentation from a registered engineer is submitted certifying that in the event of a tower failure or collapse, the fall zone of the tower will be contained within the proposed setback area. All guy wires, similar support devices and other apparatus shall be not closer than twenty (20) feet from any lot line.
  - b). Towers may be placed on the roof of a building or on top of other structures using either of the following to determine tower height and setback:
    - i). Tower height above the roof/structure may be as high as the setback distance to the nearest roof/structure edge; and
    - ii). The height of a ground-mounted tower may be used for a roof/structure-mounted tower if the required setbacks for a ground tower are satisfied.
  - c). Additional setbacks may be required to contain icefall or debris from tower failures and/or to preserve the privacy of adjoining residential and public property. Setbacks shall apply to all tower parts including guy wire anchors and to any accessory facilities.
  - d). The height of a tower shall meet the setback requirements as stated in this Section.
  - e). All towers should be located in areas zoned commercial, industrial or agricultural, except that towers may be permitted in areas zoned residential if it can be demonstrated that all reasonable efforts were made to locate the proposed tower in non-residentially zoned areas.
  - f). All towers and accessory facilities shall be sited to have the least practical adverse visual effect on the environment. Towers shall not be lighted except to assure human safety as required by the Federal Aviation Administration (FAA). Towers should be a galvanized-finish or painted gray or light blue unless other standards are required by the F.A.A. In all cases, mono-pole towers shall be preferable to guyed towers or free standing structures. Towers should be designed and sited so as to avoid, whenever possible, application of F.A.A. lighting and painting requirements.

T. Wind Energy Conversion Systems (Private)

- 1) The purpose of this section is to provide for the construction and operation of wind energy conversion systems in the unincorporated areas of Franklin County.
- 2) Private Wind Energy Conversion Systems (Private) shall be a permitted use in the Agriculture and Residential Estate Zoning Districts on all legal parcels or tracts 10 acres or larger. Private facilities must be approved by a small wind certification program recognized by the American Wind Energy Association and comply with the following criteria and standards:
  - a). One (1) wind energy conversion system may be constructed for all legal tracts of 10 acres or larger. Additional facilities may be allowed at a rate of one (1) facility per each additional 10 acres.
  - b). Private Wind Energy Conversion Systems on parcels smaller than 10 acres shall be subject to a Special Use Permit.
  - c). Installation of more than one (1) Wind Energy Conversion System per each 10 acre tract shall require a Special Use Permit.
  - d). Installation of Wind Energy Conversion Systems shall comply with all requirements of the Franklin County Building Code. Plans shall include an analysis and certificate by a licensed engineer. The design analysis may be provided by the manufacturer.
  - e). Total height of any private Wind Energy Conversion System shall not exceed 80 feet. Total height shall be measured from the ground grade at the base to the highest point reached by the turbine rotor blades.
  - f). The lowest point of the turbine rotor blades shall be at least 20 feet above the ground as measured at the base of the facility.
  - g). The minimum setback distance for any Wind Energy Conversion System shall be one and one-half (1½) times the total height of the system from any property line, public utility, access easement or any residential structure or accessory structure.
  - h). That private Wind Energy Conversion Systems shall be mounted on monopole type structures. Guyed structures shall not be permitted.
  - i). All Wind Energy Conversion Systems shall maintain a galvanized finish or be painted either white, gray, pale blue or pale green in conformance with the surrounding environment.
  - j). Noise levels shall not exceed 55 dba as measured at the property line or nearest residential structure, whichever is closer.

- k). No Wind Energy Conversion System shall be installed and building permits shall not be granted until evidence has been presented that an interconnection agreement with the affected utility company has been approved.
- l). Any Wind Energy Conversion System that is non-functional shall be repaired. Any Wind Energy Conversion System that is no longer in operation or has not been repaired within six (6) months shall be removed by the owner.
- m). That private Wind Energy Conversion Systems used exclusively for Agricultural purposes, such as pumping water, electrical fencing and similar uses, are exempt from these regulations provided such facilities do not exceed thirty (30) feet in height.

U. Wind Energy Conversion Systems (Commercial).

- 1) The purpose of this section is to provide for the construction and operation of Commercial Wind Energy Conversion Systems (CWECS) in the unincorporated areas of Franklin County.
- 2) Commercial Wind Energy Conversion Systems may be permitted in the Agriculture (A-1) Zoning Districts subject to the approval of a Special Use Permit as provided in Article 19, Section 19-3.01 of these Regulations and also subject to the following required criteria and standards:
  - A). A legal description of the perimeter boundaries of the proposed project including lease agreements or other satisfactory evidence that the applicant is the owner of the property or has written permission of the owner/s to make such application.
  - B). Name, address and phone number of the developer and the developer's contact person for the project. A statement from the developer providing relevant information regarding an overview of the company, the company's environmental management history and the company's qualifications and experience in CWECS development. The applicant shall also include the names of the expected owner and/or builder of the proposed project and the name, address and phone numbers of the manager of the project in the event the project. In the event of any change in contact personnel ownership or contact information, the applicant shall provide the address, phone number and name of the contact person to the Franklin County Planning Director.
  - C). A site plan and development plan drawn in sufficient detail and scale to clearly describe the following:
    - 1) General vicinity of the project location within

- the County;
- 2) Scale and North arrow;
- 3) Acreage of the site;
- 4) Existing topography shall be shown at two (2) foot intervals;
- 5) Location of existing electrical lines, including transmission lines, oil & gas pipe lines and any additional utility lines;
- 6) Flood hazard boundaries as shown on the latest Federal Insurance Rate Maps;
- 7) Property lines for each property under separate ownership included within the proposed CW ECS boundaries with a key identifying each owner;
- 8) Location of all existing residential structures within the boundaries of the proposed CW ECS;
- 9) All public roads within and/or adjacent to the CW ECS;
- 10) Location of all turbines, transformers, substations, connecting power lines and other structures to be used as part of the operation;
- 11) The Development Plan shall have a written narrative in a style that is easily understood that describes the project, including cost/benefit analysis, anticipated life time, decommissioning and restoration. Detailed technical data, statistics and other supplementary information shall be included in an appendices.

D). Design requirements for Commercial Wind Energy Conversion Systems (CW ECS)

- 1). If a CW ECS is proposed to be placed within two (2) miles of any existing airport or airstrip, the applicant shall provide acknowledgement of location approval from the Federal Aviation Administration prior to construction.
- 2). Turbine location requirements
  - a). Commercial Wind Energy Conversion Systems shall be set back from public roads a distance equal to at least 1.5 times the height of the system and from any participating commercial or residential structure which is occupied on a regular basis a distance equal to at least twice the height of the system or 1,000 feet, whichever is greater. "Height above grade" or "height of the system" shall be computed as the maximum height of the

- turbine, from the ground, when the blades are at their highest point.
- b). No turbines shall be located closer than 1.5 times the height of the system from the lot lines of any property not included in the Special Use Permit area or of any non-participating landowner.
  - c). All turbines will be set back from any residential structure existing at the time of the application of a non-participating landowner a distance equal to at least three times the height of the system or 2,000 feet, whichever is greater.

3). Noise standards

The audible sound from a wind turbine generator shall not exceed 50 decibels (A weighted), as measured at the exterior of any occupied building on a non-participating landowner's property. This level may be exceeded during short-term events such as utility outage and/or severe weather conditions.

4). Turbine Access Road Requirements.

Access roads shall be constructed in accordance with engineering standards and in accordance with any applicable landowner agreements. Where an access road is to cross a stream or drainage way it shall be designed and constructed following all regulations pertaining to building a structure in any floodplain zone of the Federal Emergency Management Agency, the Kansas Department of Water Resources and the Franklin County Zoning Regulations and any amendments thereto.

5). Communication and Power Collection Lines.

Communication lines and power collection lines rated 45 kv or below are to be installed underground and shall be installed so as to permit agricultural usage or other current usage of the property. An underground (and if applicable, overhead) communication and power collection plan will be submitted with the application.

6). Minimum Blade Clearance.

The lowest point of the rotor blades shall be at least 65 feet above ground level at the base of the tower.

7). Turbine Tower Design

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

8). Turbine Tower Lighting

There shall be no lights on the towers other than those required by the Federal Aviation Administration (FAA). On demand lighting shall be required if permitted for use by the F.A.A.

9). Field Representative

Prior to the start of, and continuously throughout the construction and/or site restoration, the Applicant shall provide a field representative responsible for overseeing conditions of the Special Use Permit. Such representative shall be available by telephone during normal working hours. The address and emergency phone number of such representative shall be provided to the County Planning Director and Franklin County Emergency Management Director.

3. Contents of the CWECS Development Plan

A). Cultural Assessment

Applicant shall perform a cultural resources assessment and provide the same to the County and to the State Historic Preservation Office.

B). Wildlife and Wetlands

Applicant shall comply with all requirements provided by law and obtain all permits required by the U.S. Fish and Wildlife Service (USF&WS), the Kansas Department of Wildlife, Parks and Tourism (KDWP&T), the Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA) regarding the protection of wildlife and identification of wetlands.

C). General Construction Document Requirements

Applicant shall provide a general description of major components of the turbines and on-site facilities including wind turbine specifications, transmission lines and accessory facilities, such as control rooms, transformers, substations, maintenance facilities, underground infrastructure and interior access roads. The number, location, capacity and dimensions of the turbines shall also be included.

D). Soil Erosion Sediment Control and Storm Water Runoff

Applicant shall prepare and provide to the County a KDHE approved Storm Water Pollution Prevention Plan for all construction sites.

E). Fire Safety and Emergency Plan

The develop plan shall include a Fire Safety and Emergency Plan identifying the potential fire risk associated with the project including both prescribed burning and non-prescribed burning. This shall address fire originating within the site, fires escaping from the site and potential effects of fire originating from outside the site. The applicant shall provide 24 hour contact information to the Franklin County Emergency Management Department and shall post emergency contact information on site.

The Fire Safety and Emergency Plan shall address high angle rescue and all provisions for fire suppression, fire and emergency medical response to be provided by the applicant both during construction and during operation of the project. The Plan shall identify what equipment is not presently owned by the public fire department or other first responder, which may be needed to respond to emergencies at the project. Any equipment so identified shall be purchased or provided by applicant.

F). Ground Water Resources

Applicant must notify the County of any risks it finds to ground water aquifers in connection with the construction of CWECs project and all mitigation measures the applicant proposes to utilize to mitigate such risk.

G). Air Quality

Applicant shall submit a plan to control dust on roads which will be used during construction which plan shall be a part of the Road Agreement required below.

H). Land Use and Development

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

- 1). Existing or proposed tourist or recreational activities including hunting and fishing
- 2). Agricultural activities
- 3). Residential activities
- 4). Commercial activities
- 5). Industrial activities

I). Bibliography

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

J). Appendices

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

K). Prerequisites to Construction Under an Approved Special Use Permit

1). Decommissioning Agreement

A Decommissioning Agreement as described in Section (N).(1) below must be approved and accepted by the Board of County Commissioners before any construction begins.

2). Road Agreement

Transportation routes used for construction shall be coordinated with the Franklin County Public Works Director. Franklin County may require the applicant to provide and pay for an independent study of all or some of the roads, bridges and culverts over which equipment for the CW ECS will travel during the construction phase to determine the ability of said roads, bridges and culverts to withstand the expected traffic. Applicant shall be held liable for any damages to county roads or rights-of-way resulting from tower construction, deconstruction and/or maintenance activities. A Road Agreement by which the developer or operator of the



CWECS assumes financial responsibility for infrastructure improvements needed for construction and repair for infrastructure damages caused by construction must be entered into by the Applicant and by the Board of County Commissioners before any construction begins.

3). Power Purchase Agreement

Applicant shall provide evidence that they have successfully entered into an agreement for the off-site purchase of power produced or have a grid interconnection for the energy produced with the relevant electrical authority (e.g. Southwest Power Pool or local utility) before any construction begins.

L). Construction Requirements

1). Licensed Engineer

A professional engineer licensed by the State of Kansas or qualified engineering firm selected by Franklin County shall conduct all inspections on each turbine with respect to the foundation, structural assembly, mechanical and electrical aspects of turbine construction. Documentation regarding each approved inspection shall be submitted to the Planning Director.

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

2). Site Clearance

Site clearance and preparation shall be conducted in accordance with State Law and any applicable landowner agreements.

3). Field Representative

Prior to the start of and continuously throughout the construction and site restoration, Applicant shall designate a field representative responsible for overseeing compliance with the conditions of the Special Use Permit. Such representative shall be

accessible by telephone during normal business hours. The address, phone number and emergency phone number of such representative shall be provided to the Planning Director and the Franklin County Emergency Management Department of any change in contact information.

4). Cleanup

Applicant shall remove all waste and scrap that is the product of construction, operations, restoration and maintenance from the site and properly dispose of it upon the completion of each task. Any land restoration shall be done in a manner that is consistent with the terms of the lease agreement executed between the Applicant and the landowner.

M). Operational Requirements of CW ECS Special Uses

1). Hazardous Materials

Lubricants and/or hazardous material located on the premises shall be kept and transported in accordance with all state and federal regulations.

2). Visual Impact

Applicant shall take reasonable measures, such as planting trees, installing awnings, etc. to mitigate specific adverse visual impacts such as reflections, shadow flicker and blade glint, affecting residences within or immediately adjacent to the CW ECS Special Use area.

3). Electromagnetic Radar and Aviation Interference

Applicant shall conduct a survey and take such other actions necessary to comply with FCC, FAA, TV and Department of Homeland Security requirements regarding mitigations to reduce electromagnetic (radar, TV and aviation) interference.

4). Extraordinary Event Response

Upon an occurrence of an extraordinary event, the Applicant or Operator shall notify the Planning Director of such event and, if the event is deemed to be a possible threat to public safety immediately notify the Franklin County Sheriff. Extraordinary events include tower collapse, turbine failure, thrown/broken blade or collector-feeder line failure. In the event of any extraordinary avian mortality, the Applicant or

Operator shall notify Kansas Department of Wildlife, Parks and Tourism and the U.S. Fish and Wildlife Service as required by law.

5). Decommissioning

Decommissioning shall occur in compliance with the Decommissioning Plan.

N). Decommissioning/Restoration/Abandonment/Financial Security

1). Decommissioning Agreement

Applicant shall enter into a Decommissioning Agreement with the Board of County Commissioners before any construction begins. Compliance with the Plan shall, at all times, be a condition of the Special Use Permit whether or not explicitly listed in any document reflecting the agreement. The Plan shall describe the manner in which the CWECS improvements will be dismantled and removed from the site within 18 months of the abandonment or the end of the useful life of the CWECS or of such improvement and shall required the removal of all above-ground components of the CWECS. Foundations shall be removed to a depth of at least 4 feet below grade and the area refilled with soil which is reasonably similar in quality, structure and fertility to that of the original excavation. Access roads shall be removed in accordance with the terms of the property owners' lease agreements.

2). Abandonment

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

3). Financial Security

In accord with the Decommissioning Agreement, Applicant shall submit an Escrow Account/Surety Bond/Insurance Policy or other approved financial security agreement at the time and in the amount specified in the Decommissioning Agreement in order to guarantee removal of all equipment and to restore the site, as near as possible, to its pre CWECs topography, topsoil quality and to generally guarantee compliance with the Decommissioning Plan at the end of the project's life or in the event of abandonment of the CWECs.

O). Transfer of Special Use Permit

If the Special Use Permit is to be transferred from the CWECs owner/operator (first party) to a different CWECs owner/operator (second party), said transfer must first be approved by the Board of County Commissioners. First party shall inform the second party of all requirements of the CWECs Special Use Permit. The second party, or new holder, of the Special Use Permit shall meet all requirements of the CWECs Special Use Permit. The County Commissioners may direct the Planning Director, the Public Works Director and/or a designated person to field inspect the CWECs project to determine current compliance with required conditions. A transfer fee of \$1,000.00 shall be paid to the County to compensate for work related to the transfer.

P). Proof Of Insurance

Applicant shall indemnify and hold County harmless from and against any and all claims demands, suits and losses to the extent arising out of, relating to or resulting from or in connection with the negligent action or omission of applicant or its contractors or assigns during the development, construction or operation of applicant's wind energy project located in Franklin County, Kansas. Notwithstanding the foregoing, in no event shall the applicant, its contractors or assigns (or any of their respective affiliates, members, shareholders, officers, directors, agents or employees) be liable for consequential, incidental, indirect, special, exemplary or punitive damages.

During the construction phase of the project, Applicant or its main contractor shall, at their own expense, maintain the following insurance policies:

1). Commercial General Liability Insurance

Applicant or its main contractor shall maintain Commercial General Liability Insurance for the wind

energy project on an “occurrence” basis, including coverage for:

Premises and Operations Liability;

Explosion, Collapse and Underground Damage Liability;

Personal Injury-Liability;

Broad Form Property Damage Liability;

Broad Form Contractual Liability supporting Applicant’s indemnification agreements in favor of the additional insureds;

Completed Operations and Products Liability for a period of one (1) year following the date of final completion of the wind energy project; and

Independent Contractor’s Protective Liability. Such policy shall have primary coverage limits of One Million Dollars (\$1,000,000.00) for injuries or death to one or more persons or damage to property resulting from any one occurrence and a Two Million Dollars (\$2,000,000.00) aggregate limit.

2). Commercial Automobile Liability Insurance.

Applicant or its main contractor shall maintain Commercial Automobile Liability Insurance, including coverage for owned, non-owned, rented, leased and hired automobiles for both bodily injury and property damage in accordance with state legal requirements, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per accident with respect to bodily injury, property damage or death.

3). Umbrella Excess Liability Insurance.

Applicant or its main contractor shall maintain Umbrella Excess Liability Insurance with a limit of Twenty-five Million Dollars (\$25,000,000.00) per occurrence and annual aggregate limit of Twenty-five Million Dollars (\$25,000,000.00) with Completed Operations and Products Liability coverage, which coverage shall remain in effect for one (1) year after the date of final completion of the wind energy project.

4). Workers’ Compensation and Employer’s Liability Insurance.

Applicant or its main contractor shall maintain Workers' Compensation Insurance with statutory limits (as may be amended from time to time), including Employer's Liability Insurance with limits of liability of not less than:

- i). One Million Dollars (\$1,000,000.00) for bodily injury by accident, each accident;
- ii). One Million Dollars (\$1,000,000.00) for bodily injury by disease, each employee;
- iii). One Million Dollars (\$1,000,000.00) aggregate liability for disease.

After construction is complete and during the operational phase of the project, Applicant shall maintain the insurance policies provided above, except the limits of the Umbrellas Excess Liability Insurance may be reduced to a lower figure if approved by the Board of County Commissioners.

- Q). Franklin County shall provide written notice of any proposed CW ECS to be located within the established Growth Area or two (2) miles (whichever is greater) of any City within Franklin County requesting a review by that City prior to final consideration and action on the Special Use Permit.

V. Solar Energy Conversion System (Commercial)

- 1). The purpose of this section is to provide for the construction and operation of Commercial Solar Energy Conversion Systems (CSECS) in the unincorporated areas of Franklin County.
- 2). Commercial Solar Energy Conversion Systems may be permitted in the Agricultural (A-1) and Transitional Agriculture (A-2) Zoning Districts subject to the approval of a Special Use Permit as provided in Article 19, Section 19-3.01 of these regulations and also subject to the following required criteria and standards:
  - A). A legal description of the perimeter boundaries of the proposed project including lease agreements or other satisfactory evidence that the applicant is the owner of the property or has written permission of the owner/s to make such application.
  - B). Name, address and phone number of the developer and the developer's contact person for the project. A statement from the developer providing relevant information regarding an overview of the company, the company's environmental management history and the company's qualifications and experience in CSECS

development. In the event of any change in contact personnel ownership or contact information, the applicant shall provide the address, phone number and name of the contact person to the Franklin County Planning Director.

- C). A site plan and development plan drawn in sufficient detail and scale to clearly describe the following:
- 1) General vicinity of the project location within the County;
  - 2) Scale and North arrow;
  - 3) Acreage of the site;
  - 4) Existing topography shall be shown at two (2) foot intervals;
  - 5) Location of existing electrical lines, including transmission lines, oil & gas pipe lines and any additional utility lines;
  - 6) Flood hazard boundaries as shown on the latest Federal Insurance Rate Maps;
  - 7) Property lines for each property under separate ownership included within the proposed CSECS boundaries with a key identifying each owner;
  - 8) Location of all existing residential structures within the boundaries of the proposed CSECS;
  - 9) All public roads within and/or adjacent to the CSECS;
  - 10) Location of all solar collectors, transformers, substations, connecting power lines and other structures to be used as part of the operation;
  - 11) The Development Plan shall have a written narrative in a style that is easily understood that describes the project, including cost/benefit analysis, anticipated life time, decommissioning and restoration. Detailed technical data, statistics and other supplementary information shall be include a appendicies.
- D). Collection lines rated at 45 kv or below are to be installed underground and shall be installed so as to permit agricultural usage or other current usages of the property, an underground (and if applicable overhead) communication and power collection plan will be submitted with the application.
- E). Information shall be provided relative to the solar technology to be used (i.e. polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc); approximate number of solar modules/panels; system mounting (i.e. fixed-tilt on flat roof, fixed-tilt ground-mount, I-axis tracking groundmount, etc); the maximum height of any new utility poles; and power capacity of the system, in both DC and AC Watts where applicable; total acreage of array

and acreage of total project; manner in which the project will connect (i.e. net meter to existing distribution line, to new distribution line, to transmission line); and, whether a new substation will be constructed. (If so, provide location and size).

- F). If a CSECS is proposed to be placed within one (1) mile of any airport or airstrip as shown on the Airport and Airstrip Map incorporated herein by reference, the applicant shall provide acknowledgement from the Federal Aviation Administration prior to construction.

The applicant shall provide a Solar Glare Hazard Analysis utilizing the latest version of the Solar Glare Hazard Analysis Tool (SGHAT), or its equivalent, per its user's manual, to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information, shall be submitted to the Planning Director at least thirty (30) days before the required public hearing for the Special Use Permit for the CSECS. Any applicable CSECS design changes (e.g. module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the Planning Director for accurate records of the as-built system. The analysis shall provide an assessment of when and where glare will occur throughout the year.

- 1). If solar glare is predicted, the applicant shall provide mitigation measures to address the impacts of solar glare. Mitigation measure may include, and are not limited to, texture glass, anti-reflective coatings, screening, distance and angling of solar PV modules in a manner that reduces glare to surrounding land uses of non-participating property owners.
- G). The CSECS shall not exceed thirty-five feet (35') in height; provided, however, said height restriction shall not apply to substation facilities or transmission lines.
- H). All CSECS structures shall be setback from the project boundary lines and public rights-of-way at least forty feet (40'). Additionally, all CSECS structures shall be setback two hundred fifty (250) feet as measured from the nearest portion of any existing and non-participating landowners residential structure at the time of the application.
- I). The CSECS shall be enclosed by perimeter fencing at least eight feet (8') tall to restrict unauthorized access. No outdoor storage of any materials or equipment is permitted except for construction equipment and materials during construction.



- J). There shall be no signage allowed on the CSECS with the exception of safety and emergency contact signs, warning signs, directional or project identification signs and any other signage required by applicable law or regulations.
  - K). The CSECS should be located to make maximum use of existing terrain, vegetation and structures to screen the Project from off-site views. Where possible, CSECS should be sited such that non-shading vegetation and/or existing structures are located between the facility and public and private viewpoints. Landscaping and/or screening may be required to help screen the CSECS.
  - L). The applicant shall identify the potential fire risk associated with the project, including both prescribed burning and non-prescribed burning.
  - M). No CSECS shall be placed such that concentrated solar glare casts onto adjacent properties or roadways.
  - N). Access roads to be constructed within the project, for installation and operation purposes, shall be shown on the site plan and shall be constructed in accordance with engineering standards and in accordance with any applicable landowner agreements.
- 3). Contents of the CSECS Development Plan
- A). Cultural Assessment
 

Applicant shall perform a cultural resources assessment and provide the same to the County and to the State Historic Preservation Office.
  - B). Wildlife and Wetlands
 

Applicant shall comply with all requirements provided by law and obtain all permits required by the U.S. Fish and Wildlife Service (USF&WS), the Kansas Department of Wildlife, Parks & Tourism (KDWP&T), the Natural Resources Conservation Service (NRCS) and the Farm Service Agency (FSA) regarding the protection of wildlife and identification of wetlands.
  - C). General Construction Document Requirements
 

Applicant shall provide a general description of major components of the solar panels and on-site facilities including solar panel specifications, transmission lines and accessory facilities, such as control rooms, transformers, substations, maintenance facilities, underground infrastructure and interior access roads. The proposed number, location, capacity and dimensions of the arrays shall also be included.

D). Soil Erosion Sediment Control and Storm Water Runoff

Applicant shall prepare and provide to the County a KDHE approved Storm Water Pollution Prevention Plan for all construction sites.

E). Fire Safety and Emergency Plan

The develop plan shall include a Fire Safety and Emergency Plan identifying the potential fire risk associated with the project, including both prescribed burning and non-prescribed burning. This shall address fire originating within the site, fires escaping from the site and potential effects of fire originating from outside the site. The applicant shall provide 24 hour contact information to the Franklin County Emergency Management Department and shall post emergency contact information on site.

F). Ground Water Resources

Applicant must notify the County of any risks it finds to ground water aquifers in connection with the construction of CSECS project and all mitigation measures the applicant proposes to utilize to mitigate such risk.

G). Air Quality

Applicant shall submit a plan to control dust on roads which will be used during construction which plan shall be a part of the Road Agreement required below.

H). Land Use and Development

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

- 1). Agricultural activities;
- 2). Residential activities;
- 3). Commercial activities;
- 4). Industrial activities.

I). Bibliography

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

J). Appendices

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

K). Prerequisites to Construction Under an Approved Special Use Permit

1). Decommissioning Agreement

A Decommissioning Agreement as described in Section “N.1)” below must be approved and accepted by the Board of County Commissioners before any construction begins.

2). Road Agreement

Transportation routes used for construction shall be coordinated with the Franklin County Public Works Director. Franklin County may require the applicant to provide and pay for an independent study of all or some of the roads, bridges and culverts over which equipment for the CSECS will travel during the construction phase to determine the ability of said roads, bridges and culverts to withstand the expected traffic. Applicant shall be held liable for any damages to county roads or rights-of-way resulting from solar panel construction, deconstruction and/or maintenance activities. A Road Agreement by which the developer or operator of the CSECS assumes financial responsibility for infrastructure improvements needed for construction and repair for infrastructure damages caused by construction must be entered into by the Applicant and by the Board of County Commissioners before any construction begins.

3). Power Purchase Agreement

Applicant shall provide evidence that they have successfully entered into an agreement for the off-site purchase of power produced or have a grid interconnection for the energy production with the relevant electrical authority (e.q. Southwest Power Pool or local utility) before any construction begins.

L). Construction Requirements

1). Licensed Engineer

Construction shall be in compliance with applicable County Building Codes, State and Federal Regulations and applicable conditions set forth in the Special Use Permit

2). Site Clearance

Site clearance and preparation shall be conducted in accordance with State Law and any applicable landowner agreements.

3). Field Representative

Prior to the start of, and continuously throughout the construction and site restoration, Applicant shall designate a field representative responsible for overseeing compliance with the conditions of the Special Use Permit. Such representative shall be accessible by telephone during normal business hours. The address and emergency phone number of such representative shall be provided to the Planning Director and the Franklin County Emergency Management Director of any change in contact information.

4). Cleanup

Applicant shall remove all waste and scrap that is the product of construction, operations, restoration and maintenance from the site and properly dispose of it upon the completion of each task. Any land restoration shall be done in a manner that is consistent with the terms of any agreement executed between the Applicant and the landowner.

M). Operational Requirements of CSECS Special Uses

1). Hazardous Materials

Lubricants and/or hazardous material located on the premises shall be kept and transported in accordance with all state and federal regulations.

2). Visual Impact

Applicant shall take reasonable measures to mitigate specific adverse visual impacts such as reflections and glare affecting residences within or immediately adjacent to the CSECS Special Use area.

3). Decommissioning

Decommissioning shall occur in compliance with the Decommissioning Plan.

N). Decommissioning/Restoration/Abandonment/Financial Security

1). Decommissioning Agreement

Applicant shall enter into a Decommissioning Agreement with the Board of County Commissioners before any construction begins. Compliance with the Plan shall, at all times, be a condition of the Special Use Permit whether or not explicitly listed in any document reflecting the agreement. The Plan shall describe the manner in which the CSECS improvements will be dismantled and removed from the site within 18 months of the abandonment or the end of the useful life of the CSECS or of such improvement and shall require the removal of all above-ground components of the CSECS. Foundations shall be removed to a depth of at least four feet (4') below grade and the area refilled with soil which is reasonably similar in quality, structure and fertility to that of the original excavation. Access roads shall be removed in accordance with the terms of the property owners' lease agreement.

2). Abandonment

The CSECS shall be deemed abandoned at the end of a one year period following the mailing by certified mail of written notice of abandonment to the CSECS owner of record sent when a complete inverter block of panels does not produce electrical energy for distribution and there is no demonstrated plan to restore the equipment to operating condition. The Board of County Commissioners may require the current Special Use Permit holder to decommission any abandoned CSECS or may undertake such decommissioning with the proceeds of the escrow account, surety bond or insurance policy or otherwise at the expense of the last approved holder of the Special Use Permit.

3). Financial Security

In accord with the Decommissioning Agreement, Applicant shall submit an Escrow Account/Surety Bond/Insurance Policy or other approved financial security agreement at the time and in the amount specified in the Decommissioning Agreement in order to guarantee removal of all equipment and to restore the

site, as near as possible, to its pre CSECS topography, topsoil quality and to generally guarantee compliance with the Decommissioning Plan at the end of the project's life or in the event of abandonment of the CSECS.

O). Transfer of Special Use Permit

If the Special Use Permit is to be transferred from the CSECS owner/operator (first party) to a different CSECS owner/operator (second party), said transfer must first be approved by the Board of County Commissioners. First party shall inform the second party of all requirements of the CSECS Special Use Permit. The second party, or new holder, of the Special Use Permit shall meet all requirements of the CSECS Special Use Permit. The County Commissioners may direct the Planning Director, the Public Works Director and/or a designated person to field inspect the CSECS project to determine current compliance with required conditions. A transfer fee of \$1,000.00 shall be paid to the County to compensate for work related to the transfer.

P). Proof of Insurance

Applicant shall indemnify and hold the County harmless from and against any and all claims demands, suits and losses to the extent arising out of, relating to or resulting from or in connection with the negligent action or omission of Applicant or its contractors or assigns during the development, construction or operations of Applicant's solar energy project located in Franklin County, Kansas. Notwithstanding the foregoing, in no event shall the Applicant, its contractors or assigns (or any of their respective affiliates, members, shareholders, officers, directors, agents or employees) be liable for consequential, incidental, indirect, special, exemplary or punitive damages.

During the construction phase of the project, Applicant or its main contractor shall, at their own expense, maintain the following insurance policies:

1). Commercial General Liability Insurance

a). Commercial General Liability Insurance

Applicant or its main contractor shall maintain Commercial General Liability Insurance for the solar energy project on an "occurrence" basis, including coverage for:

Premises and Operations Liability;

Explosion, Collapse and Underground Damage Liability;

Personal Injury-Liability;

Broad Form Contractual Liability supporting Applicant's indemnification agreements in favor of the additional insureds;

Completed Operations and Products Liability for a period of one (1) year following the date of final completion of the solar energy project; and

Independent Contractor's Protective Liability. Such policy shall have primary coverage limits of One Million Dollars (\$1,000,000.00) for injuries or death to one or more persons or damage to property resulting from any one occurrence and a Two Million Dollars (\$2,000,000.00) aggregate limit.

b). Commercial Automobile Liability Insurance

Applicant or its main contractor shall maintain Commercial Automobile Liability Insurance, including coverage for owned, non-owned, rented, leased and hired automobiles for both bodily injury and property damage in accordance with state legal requirements, with a combined single limit of not less than One Million Dollars (\$1,000,000.00) per accident with respect to bodily injury, property damage or death.

c). Umbrella Excess Liability Insurance

Applicant or its main contractor shall maintain Umbrella Excess Liability Insurance which coverage shall remain in effect for one (1) year after the date of final completion of the solar energy project. The County Commission has discretion to determine the exact Umbrella Excess Liability Insurance limit within the following: Up to ten million dollars (\$10,000,000.00) per occurrence and annual aggregate limit of up to ten million dollars (\$10,000,000.00) with Completed Operations and Products Liability coverage for a project up to twenty (20) MW in size. Between ten million dollars (\$10,000,000.00) and twenty million dollars (\$20,000,000.00) per occurrence

and annual aggregate limit of between ten million dollars (\$10,000,000.00) and twenty million dollars (\$20,000,000.00) with Completed Operations and Products Liability coverage for a project twenty-one (21) MW to fifty (50) MW in size. Between twenty million dollars (\$20,000,000.00) and twenty-five million dollars (\$25,000,000.00) per occurrence and annual aggregate limit of between twenty million dollars (\$20,000,000.00) and twenty-five million dollars (\$25,000,000.00) with Completed Operations and Products Liability coverage for a project above fifty (50) MW in size.

d). Workers' Compensation and Employer's Liability Insurance

Applicant or its main contractor shall maintain Workers' Compensation Insurance with statutory limits (as may be amended from time to time), including Employer's Liability Insurance with limits of liability of not less than:

- i). One Million Dollars (\$1,000,000.00) for bodily injury by accident, each accident;
- ii). One Million Dollars (\$1,000,000.00) for bodily injury by disease, each employee;
- iii). One Million Dollars (\$1,000,000.00) aggregate liability for disease.

After construction is complete, and during the operational phase of the project, Applicant shall maintain the insurance policies provided above, except the limits of the Umbrellas Excess Liability Insurance may be reduced to a lower figure if approved by the Board of County Commissioners.

- Q. Franklin County shall provide written notice of any proposed CSECS to be located within the established Growth Area or one (1) mile (whichever is greater) of any City within Franklin County requesting a review by that City prior to final consideration and action on the Special Use Permit.



## Article 4

### AGRICULTURAL DISTRICT (A-1)

#### Sections:

- 4-1. Purpose
- 4-2. Permitted Uses
- 4-3. Special Uses
- 4-4. Lot Size
- 4-5. Height and Yard Regulations
- 4-6. Sign Regulations
- 4-7. Parking and Loading Regulations
- 4-8. Temporary Uses

#### *Section 4-1. Purpose*

- 4-1.01** The purpose of the Agriculture District is to provide for a full range of agricultural activities on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises. The District is intended to protect watersheds and water supplies; to protect woodlands and grasslands; to protect wetland and conserve fish and wildlife habitat; and to prevent and/or discourage untimely scattering of residential and other more dense urban development. This District is also intended to direct nonagricultural growth to cities and to the established urban growth areas around cities, where full services can be provided.

#### *Section 4-2. Permitted Uses*

- 4-2.01** No building, structure, land or premises, located in the Agriculture District, shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the following:
1. Agricultural uses and activities including:
    - a. the raising, pasturing and feeding of animals;
    - b. growing of crops, orchards, groves and timber;
    - c. the raising of fish, birds or poultry and;
    - d. the necessary operations including storage, processing and sales of products, animals and farm commodities raised on the premises.
  2. Single family detached residential dwellings and accessory structures.
  3. Manufactured home or mobile home, provided a manufactured home complies with a nationally recognized Building Code or mobile home unit meets the standards of the National Manufactured Home Construction and Safety Standards Act of 1976 and all amendments through 1994 as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations and displays the HUD Label identifying the manufacturer and the date it was manufactured.
  4. A second detached single family dwelling unit shall be permitted when used exclusively for housing family members or for farm labor housing on agricultural lands exceeding forty (40) acres, provided the second unit is clearly subordinate in function and capacity to the main dwelling unit.
  5. Churches, chapels, temples or synagogues.
  6. Schools, private and public.
  7. Greenhouses and nurseries.
  8. Fish farms, including hatcheries.

9. Cemeteries.
10. Outdoor stands for the sale of produce or commodities raised on the premises.
11. Home Occupations as defined in Article 2, Section 2-1.01 (Definitions) of these Regulations.
12. Public and private wildlife habitats and reserves.
13. Accessory buildings and structures customarily incidental to any of the above uses.
14. Wind Energy Conversion Facilities subject to the standards set forth in Section 3-3.01.T of these regulations.

***Section 4-3. Special Uses***

**4-3.01**

The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Development of natural resources including the extraction and processing of rock, gravel and sand and saw mills for the processing of native timber grown at the site.
2. Riding stables, boarding stables and training academies providing no lighted arenas shall be located closer than 600 feet to the boundary of any residential district.
3. Salvage/junk yards subject to the following standards:
  - a. No salvage yard operation shall be located closer than 300 feet to the boundary of a residential district.
  - b. The operation shall be conducted wholly within an enclosed noncombustible building or within an area screened where necessary by a fence, wall or landscaping at least eight feet high, but not more than 10 feet high. Such fence, wall, or landscaping 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, and wall or within the public right-of-way.
  - d. No salvage materials shall be stored 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.
4. Bulk storage and wholesale of fuel such as gasoline, diesel, propane and the storage of anhydrous ammonia and other similar gases or fuels other than for direct use on a farm or ranch.
5. Sanitary landfills, incineration plants, large recycling collection and process centers, refuse transfer stations and hazardous waste facilities, publicly and privately owned.
6. Privately owned gun clubs, archery ranges, trap/skeet ranges and hunting preserves. Farmlands leased by individuals, corporations or other organizations solely for hunting or fishing of naturally occurring native species shall not be subject to the requirement of a Special Use Permit, provided that there are not campgrounds, cabins or similar facilities associated with the lease.
7. Public and privately owned parks, playgrounds, golf courses or other outdoor recreational uses such as campgrounds, youth and similar activities including outdoor concerts, music festivals, rodeo/roping events conducted for a period of

- more than two (2) days at one event or more than six (6) times during any calendar year.
8. Radio, television, microwave and other telecommunication transmitting or relay stations and towers.
  9. Public utility installations including electric substations, sewer lift stations, telephone exchanges, gas regulators and water tower stands, but not including utility offices, repair, storage or production facilities.
  10. Any sign not specifically provided in Section 4-6 of this Article.
  11. Kennels: Breeding and boarding, subject to the following:
    - a. No kennel run or open area shall be located nearer than 300 feet to any property line.
    - b. All kennel runs or open areas shall be screened from adjoining properties.
  12. Keeping of wild/exotic animals subject to the following:
    - a. all wild/exotic animals must be kept within an enclosure.
    - b. all enclosures shall be screened either completely around the enclosure facility or at the property lines to prevent the distraction or excitement of the animals.
    - c. all enclosures shall be maintained in healthy, sanitary conditions in accordance with the Franklin County Sanitation code and Kansas Administrative Regulations 28-5-1 et. seq. No incineration of animal refuse shall be permitted.
    - d. All bears, wolves, wolf hybrids, coyotes, fox, lions, tigers, mountain lions, cougars, leopards, lynx, bobcats, shall be securely enclosed in a locked building, pen or kennel. All structures used for the keeping/housing of such animals must be locked with a key or combination lock. Such pens, kennels or other structures shall be constructed with metal or concrete sides with a secure metal top attached to the sides. In addition there shall be a concrete floor which shall attach to all sides or the sides of such pens, kennels or other structures shall be embedded into the ground no less than three (3) feet.
  13. Fire stations and similar public building of any agency of a City, County, or State government.
  14. Sales of agricultural produce and similar products when not grown or produced on the premises.
  15. Such other uses which are not listed as a special use but which are determined by the Planning Commission to be in keeping with the intent of these Zoning Regulations and are deemed to be compatible with the uses permitted by this Article.
  16. More than one (1) Wind Energy Conversion Facility per each ten (10) acres subject to the standards set forth in Section 3-3.01.T of these regulations.
  17. Wind Energy Conversion Systems (Commercial)
  18. Solar Energy Conversion Systems (Commercial)
  19. Gunsmith and related businesses

**Section 4-4. Lot Size**

**4-4.01** Minimum lot area:

1. 40 acres or an aliquot division of a Quarter (1/4) Section
2. Churches, Temples or Synagogues, public and private schools or parks requiring on-site sanitation are exempt from the lot size provided such uses maintain a minimum lot area to comply with the County Sanitation Code.

3. Public utilities, substations, pumping stations, water, communication and microwave transmission towers and related facilities minimum lot size shall be as approved by the Planning Commission

**4-4.02** Minimum lot width: 660 feet

**4-4.03** Minimum lot depth: 660 feet

**4-4.04** The lot length to width ratio shall not exceed 4:1 except for aliquot divisions of a Quarter (1/4) Section.

***Section 4-5. Height and Yard Regulations***

**4-5.01** No building or structure shall exceed the following height restrictions:

1. Residential: 35 feet or three stories, whichever is greater.
2. Agricultural buildings and structures; personal radio, television and telecommunications antennae: 100 feet.
3. Other non-agricultural structures (such as water towers, rock crushers and telecommunications, radio, microwave and television towers, etc.): Shall be determined by the Planning Commission in consideration of a Special Use Permit.

**4-5.02** Building setback requirements shall be as follows:

1. Front Yard

- a) Dwelling Structures: 80 feet from the front property boundary.
- b) Churches, chapels, temples or synagogues: 50 feet from the front property boundary.
- c) Agricultural Structures, as defined in these regulations: 50 feet from the front property boundary.
- d) Commercial greenhouses, nurseries and other structures associated with uses subject to the approval of a Special Use Permit shall be determined by the Planning Commission.
- e) Non-Agricultural storage shed, shops and similar accessory structures: 80 feet from the front property boundary.

2. Side Yard

- a. Dwelling Structures: 150 feet from any side yard property boundary.
- b. Churches, chapels, temples or synagogues: 100 feet from any side yard property boundary.
- c. Agricultural Structures, as defined in these regulations: 35 feet from any side yard property boundary.
- d. Commercial greenhouses, nurseries and similar structures associated with uses subject to the approval of a Special Use Permit shall be determined by the Planning Commission.
- e. Non-agricultural storage sheds, shops and similar accessory structures: 75 feet from any side yard property boundary.
- f. Side yards abutting a highway or road shall maintain the same setback as required for the front yard.

3. Rear Yard: All structures/buildings shall maintain the same building setback as the side yard requirements, except for through lots wherein the front yard setback requirements shall apply.

***Section 4-6. Sign Regulations***

**4-6.01** The following signs are permitted in the Agricultural District:

- A. One non-illuminated sign advertising any permitted use, not to exceed 12 square feet in area.
- B. Temporary signs as defined in Article 22.

**4-6.02** Any permanent sign in excess of 12 square feet shall be subject to the requirements of a Special Use Permit as provided in Article 19.

***Section 4-7. Parking and Loading Regulations***

**4-7.01** There shall be no parking or loading areas within any public right-of-way.

**4-7.02** There shall be no access road or entrance allowed from any public road or highway right-of-way within a 150 foot radius of the intersection of any two public roads or highways. Field entrances shall be excluded.

**4-7.03** The number of parking spaces shall be provided in accordance with the requirements set forth in Article 21, Parking and Loading Regulations.

***Section 4-8. Temporary Uses***

**4-8.01** Temporary Uses as provided in Article 25.

## Article 5

### TRANSITIONAL AGRICULTURE DISTRICT (A-2)

#### Sections:

- 5-1. Purpose
- 5-2. Permitted Uses
- 5-3. Special Uses
- 5-4. Lot Size
- 5-5. Height and Yard Requirements
- 5-6. Sign Regulations
- 5-7. Parking and Loading Regulations
- 5-8. Temporary Uses

#### *Section 5-1. Purpose*

- 5-1.01 The purpose of the Transitional Agriculture District is to recognize lands throughout the County that may have limited capabilities for long term agriculture due to physical limitations or impacts from encroaching non-agricultural uses. Although the Transitional Agricultural District permits a full range of agricultural uses and activities, it is intended to provide a buffer between intensive agricultural uses and urban/suburban development while retaining the rural character of the community.

#### *Section 5-2. Permitted Uses*

- 5-2.01 No building structure, land or premises, located in the Transitional Agriculture District, shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the following:
1. Agricultural uses and activities including:
    - a. the raising, pasturing and feeding of animals;
    - b. growing of crops, orchards, groves and timber;
    - c. the raising of fish, birds or poultry and;
    - d. the necessary operations including storage, processing and sales of products, animals and farm commodities raised on the premises.
  2. Single family detached residential dwellings.
  3. Manufactured home or mobile home, provided a manufactured home complies with a nationally recognized Building Code or mobile home unit meets the standards of the National Manufactured Home Construction and Safety Standards Act of 1976 and all amendments through 1994 as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations and displays the HUD Label identifying the manufacturer and the date it was manufactured.
  4. A second detached single family dwelling unit shall be permitted when used exclusively for housing family members or farm labor housing on agricultural lands exceeding forty (40) acres, provided the second unit is clearly subordinate in function and capacity to the main dwelling unit.
  5. Churches, chapels, temples or synagogues.
  6. Schools, private and public.
  7. Greenhouses and nurseries.
  8. Fish farms, including hatcheries.
  9. Cemeteries.

10. Outdoor stands for the sale of produce or commodities raised on the premises.
11. Home Occupations as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.
12. Public and private wildlife habitats and reserves.
13. Accessory buildings and structures customarily incidental to any of the above uses.
14. One (1) Wind Energy Conversion Facility per each 10 acres subject to the standards set forth in Section 3-3.01.T of these regulations.

***Section 5-3. Special Uses***

**5-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Development of natural resources including the extraction and processing of rock, gravel and sand and saw mills for the processing of native timber grown at the site.
2. Riding stables, boarding stables and training academies providing no lighted arenas shall be located closer than 500 feet to the boundary of any residential district.
3. Privately owned gun clubs, archery ranges, trap/skeet ranges and hunting preserves. Farmlands leased by individuals, corporations or other organizations solely for hunting or fishing of naturally occurring native species shall not be subject to the requirement of a Special Use Permit, provided that there are no campgrounds, cabins or similar facilities associated with the lease.
4. Radio, television, microwave and other telecommunication transmitting or relay stations and towers.
5. Public utility installations including electric substations, sewer lift stations, telephone exchanges, gas regulators and water tower stands, but not including utility offices, repair, storage or production facilities.
6. Public and privately owned parks, playgrounds, golf courses or other outdoor recreational uses such as campgrounds, youth and similar activities including outdoor concerts, music festivals, rodeo/roping events conducted for a period of more than two (2) days at one event or more than six (6) times during any calendar year.
7. Veterinary clinics and animal hospitals.
8. Kennels: breeding and boarding, subject to the following:
  - a. No kennel run or open area shall be located nearer than 250 feet to any property lines.
  - b. All kennel runs or open areas shall be screened from adjoining properties.
9. Auction facilities.
10. Any sign not specifically provided in Section 5-6 of this Article.
11. Temporary, hardship mobile or manufactured home.
12. Fire stations and similar public building of any agency of a City, County, or State government.
13. Sales of agricultural produce and similar products when not grown or produced on the premises.
14. Such other uses which are not listed as a special use but which are determined by the Planning Commission to be in keeping with the intent of these Zoning

Regulations and are deemed to be compatible with the uses permitted by this Article.

15. More than one (1) Wind Energy Conversion Facility per each ten (10) acres subject to the standards set forth in Section 3-3.01.T of these Regulations.
16. Solar Energy Conversion Systems (Commercial)
17. Gunsmith and related businesses
18. Distilleries as defined in Article 2, Section 2-1.01 of these Regulations.

**Section 5-4. Lot Size**

**5-4.01** Minimum lot area:

1. 20 acres or an aliquot division of a Quarter (1/4) Quarter (1/4) Section
2. Churches, Temples or Synagogues, public and private schools or parks requiring private on-site sanitation are exempt from the lot size provided they maintain a minimum lot area to comply with the County Sanitation Code.
3. Public utilities, substations, pumping stations, water, communication and microwave transmission towers and related facilities minimum lot size shall be as approved by the Planning Commission

**5-4.02** Minimum lot width: 330 feet.

**5-4.03** Minimum lot depth: 330 feet.

**5-4.04** The lot length to width ratio shall not exceed 4:1 except for aliquot divisions of a Quarter (1/4) Quarter (1/4) Section.

**Section 5-5. Height and Yard Regulations**

**5-5.01** No building or structure shall exceed the following height restrictions:

1. Residential: 35 feet or three (3) stories, whichever is greater.
2. Agricultural Building and Structure, including personal radio, television and telecommunication antennae: 100 feet.
3. Other non-agricultural structures (such as water towers, rock crushers and telecommunications, radio, microwave and television towers, etc.): Shall be determined by the Planning Commission in consideration of a Special Use Permit.

**5-5.02** Building setback requirements shall be as follows:

1. Front Yard
  - a) Dwelling Structures: 80 feet from the front property boundary.
  - b) Churches, chapels, temples or synagogues: 50 feet from the front property boundary.
  - c) Agricultural Structures, as defined in these regulations: 50 feet from the front property boundary.
  - d) Commercial greenhouses, nurseries and other structures associated with uses subject to the approval of a Special Use Permit shall be determined by the Planning Commission.
  - e) Non-Agricultural storage shed, shops and similar accessory structures: 80 feet from the front property boundary.



2. Side Yard

- a. Dwelling Structures: 80 feet from any side yard property boundary.
- b. Churches, chapels, temples or synagogues: 50 feet from any side yard property boundary.
- c. Agricultural Structures, as defined in these regulations: 35 feet from any side yard property boundary.
- d. Commercial greenhouses, nurseries and similar structures associated with uses subject to the approval of a Special Use Permit shall be determined by the Planning Commission.
- e. Non-agricultural storage sheds, shops and similar accessory structures: 50 feet from any side yard property boundary.
- f. Side yards abutting a highway or road shall maintain the same setback as required for the front yard.

3. Rear Yard: All structures/buildings shall maintain the same building setback as the side yard requirements, except for through lots wherein the front yard setback requirements shall apply.

***Section 5-6. Sign Regulations***

**5-6.01** The following signs are permitted in the Transitional Agricultural District:

- A. One non-illuminated sign advertising any permitted use, not to exceed 12 square feet in area.
- B. Temporary signs as defined in Article 22.

**5-6.02** Any permanent sign in excess of 12 square feet shall be subject to the requirements of a Special Use Permit as provided in Article 19.

***Section 5-7. Parking and Load Regulations***

**5-7.01** There shall be no parking or loading areas within any public right-of-way.

**5-7.02** There shall not be access roads or entrances allowed from any public road or highway right-of-way within a 150 foot radius of the intersection of any two public roads or highways. Field entrances shall be excluded.

**5-7.03** The number of parking spaces shall be provided in accordance with the requirements set forth in Article 21, Parking and Loading Regulations.

***Section 5-8. Temporary Uses***

**5-8.01** Temporary uses as provided in Article 25.

## Article 6

### RESIDENTIAL ESTATE DISTRICT (R-E)

#### Sections:

- 6-1. Purpose
- 6-2. Permitted Uses
- 6-3. Special Uses
- 6-4. Lot Size
- 6-5. Height and Yard Regulations
- 6-6. Sign Regulations
- 6-7. Parking and Loading Regulations

#### *Section 6-1. Purpose*

- 6-1.01** The purpose of the Residential Estate District is to provide a rural density residential district where public services may not be present. The intent is to provide for the orderly development of land having sufficient area and conditions to be compatible for residential and accessory or limited agriculture and horticulture uses.

#### *Section 6-2. Permitted Uses*

- 6-2.01** No building, structure, land or premises located in the Residential Estate District shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for the following:

1. Single-family dwellings.
2. Manufactured home or mobile home, provided a manufactured home complies with a nationally recognized Building Code or mobile home unit meets the standards of the National Manufactured Home Construction and Safety Standards Act of 1976 and all amendments through 1994 as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations and displays the HUD Label identifying the manufacturer and the date it was manufactured.
3. Churches, chapels, temples and synagogues.
4. Day care facilities not to exceed six (6) children, including any children of the residence.
5. Parks and playgrounds.
6. Home occupations as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.
7. Accessory structures.
8. Agricultural uses and activities including:
  - a. the raising, pasturing and feeding of animals;
  - b. growing of crops, orchards, groves and timber;
  - c. the raising of fish, birds or poultry and;
  - d. the storage and processing of agricultural products grown or produced on the premises;
  - e. the sale of agricultural products, animals and farm commodities produced on the farm subject to the requirements of Article 26, Section 26-2.01.5 of these Zoning Regulations.
9. One (1) Wind Energy Conversion Facility per each ten (10) acres subject to the standards set forth in Section 3-3.01.T of these regulations.

**Section 6-3. Special Uses**

**6-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Day care home or nurseries for more than six (6) children.
2. Group Homes and Group Boarding Homes as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.
3. Public utility installations, including electric substations, sewer lift stations, telephone exchanges, but not including utility offices, repair and/or storage and production facilities.
4. Bed and Breakfast facilities.
5. Cemeteries and mausoleums.
6. Greenhouses and nurseries.
7. Kennels, breeding and boarding (not to exceed 10 dogs over the age of 6 months) provided that:
  - a. No kennel run or open area shall be located nearer than 250 feet to any property lines.
  - b. All kennel runs or open areas shall be screened from adjoining properties.
8. Riding stables, boarding stables and training academies, providing there are no lighted arenas.
9. Temporary, hardship mobile or manufactured home.
10. Fire stations and similar public building of any agency of a City, County, or State government.
11. One (1) Wind Energy Conversion Facility per each tract less than ten (10) acres subject to the standards set forth in Section 3-3.01.T of these regulations.
12. Gunsmith and related businesses

**Section 6-4. Lot Size**

**6-4.01** Any Residential Estate District created after the adoption of these Zoning Regulations shall include a minimum lot area of 5 acres.

**6-4.02** The minimum lot width shall be 250 feet.

**6-4.03** The minimum lot length shall be 500 feet.

**6-4.04** The minimum lot or tract length to width ratio shall not exceed 4:1.

**Section 6-5. Height and Yard Regulations**

**6-5.01** No building or structure shall exceed the following height restrictions:

1. Residential structure – 3 stories or 35 feet, whichever is greater.
2. Churches, chapels, temple and synagogues and personal radio, television and telecommunication antennae – 35 feet, except that such facilities may be increased one (1) foot in height for each additional 5 feet of building setback, but in no case shall the height exceed 80 feet.

**6-5.02** Building setback requirements shall be as follows:

1. Front Yard
  - a. Dwelling Structures: 50 feet from the front property boundary.
  - b. All other structures: 75 feet from the front property boundary.
  - c. On cul-de-sac streets or roads, the building setback shall be measured from the center of the radius of the lot frontage.
2. Side Yard
  - a. Dwelling Structures: 75 feet from the side property boundary.
  - b. Churches, chapels, temples and synagogues: 50 feet from any side yard property boundary.
  - c. Agricultural Structures, as defined in these regulations: 50 feet from any side yard property boundary.
  - d. Commercial greenhouses, nurseries and similar structures associated with uses subject to the approval of a Special use Permit shall be determined by the Planning Commission.
  - e. Non-agricultural storage shed, shops and similar accessory structures: 50 feet from the side yard property boundary.
  - f. When a building or structures is located on a corner lot or tract, the side yard adjacent to the highway or road shall maintain the same setback as required for the front yard.
3. Rear Yard
  - a. Dwelling Structures: 50 feet from the rear property boundary.
  - b. Churches, chapels, temples and synagogues: 50 feet from the rear property boundary
  - c. Agricultural Structures, as defined in these regulations: 75 feet from the rear property boundary.
  - d. Commercial greenhouses, nurseries and other structures associated with uses subject to the approval of a Special Use Permit shall be determined by the Planning Commission.
  - e. Non-agricultural storage sheds, shops and similar accessory structures: 35 feet from the rear property boundary.
  - f. In the case of a through lot or tract, the front yard building setback shall apply.

***Section 6-6. Sign Regulations***

**6-6.01** The following signs shall be permitted in the Residential Estate District.

- A. Non-illuminated signs advertising any permitted use.
- B. Temporary signs as defined in Article 22.

**6-6.02** Any permanent sign in excess of 12 square feet shall be subject to the requirements of a Special Use Permit as provided in Article 19.

***Section 6-7. Parking and Load Regulations***

**6-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.

## Article 7

### SINGLE FAMILY RESIDENTIAL THREE-ACRE DISTRICT (R-3A)

#### Sections:

- 7-1. Purpose
- 7-2. Permitted Uses
- 7-3. Special Uses
- 7-4. Lot Size
- 7-5. Height and Yard Regulations
- 7-6. Sign Regulations
- 7-7. Parking and Loading Regulations

#### *Section 7-1. Purpose*

- 7-1.01 The purpose of the Single Family Residential Three-Acre District is to provide a low-density residential district and development standards suitable for locations near urban growth areas. The Single Family Residential Three-Acre District is intended primarily for the suburban areas that cannot be served by public sewer.

#### *Section 7-2. Permitted Uses*

- 7-2.01 No building, structure, land or premises located in the Single Family Residential Three-Acre District shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for the following:
  - 1. Single-family dwellings.
  - 2. Manufactured home or mobile home, provided a manufactured home complies with a nationally recognized Building Code or mobile home unit meets the standards of the National Manufactured Home Construction and Safety Standards Act of 1976 and all amendments through 1994 as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations and displays the HUD Label identifying the manufacturer and the date it was manufactured.
  - 3. Churches, chapels, temples and synagogues.
  - 4. Day care facilities not to exceed six (6) children, including any children of the residence.
  - 5. Parks and playgrounds.
  - 6. Home occupations as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.
  - 7. Accessory structures.
  - 8. Limited agricultural uses and activities including the keeping and raising of livestock, except swine including:
    - a. the storage and processing of agricultural products grown or produced on the premises;
    - b. the sale of agricultural products, animals and farm commodities produced on the farm subject to the requirements of Article 26, Section 26-2.01.5 of these Zoning Regulations.

#### *Section 7-3. Special Uses*

- 7-3.01 The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as

recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Day care home or nurseries for more than six (6) children.
2. Group Homes and Group Boarding Homes as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.
3. Public utility installations, including electric substations, sewer lift stations, telephone exchanges, but not including utility offices, repair and/or storage and production facilities.
4. Bed and breakfast facilities.
5. Cemeteries and mausoleums.
6. Fire stations and similar public building of any agency of a City, County, or State government.
7. One (1) Wind Energy Conversion Facility subject to the standards set forth in Section 3-3.01.T of these regulations.
8. Gunsmith and related businesses

***Section 7-4. Lot Size***

- 7-4.01** Any Single Family Residential Three-Acre District created after the adoption of these Zoning Regulations shall include a minimum lot area of 3 acres.
- 7-4.02** The minimum lot width shall be 200 feet.
- 7-4.03** The minimum lot length shall be 450 feet.
- 7-4.04** The lot length to width ratio shall not exceed 3:1.

***Section 7-5. Height and Yard Regulations***

- 7-5.01** No building or structure shall exceed the following height restrictions:
1. Residential structure – 3 stories, not to exceed 35 feet.
  2. Churches, chapels, temples and synagogues and personal radio, television and telecommunication antennae – 35 feet, except that such facilities may be increased one (1) foot in height for each additional 5 feet of building setback, but in no case shall the height exceed 50 feet.
- 7-5.02** Building setback requirements shall be as follows:
1. Front Yard
    - a. Dwelling Structures: 35 feet from front property boundary.
    - b. Churches, chapels, temples and synagogues: 50 feet from the front property boundary.
    - c. Agriculture Structures, as defined in these regulations: 50 feet from the front property boundary.
    - d. Structures associated with uses subject to approval of a Special Use Permit shall be determined by the Planning Commission.
    - e. Non-agriculture storage sheds, shops and similar structures: 35 feet from the front property boundary.
    - f. On cul-de-sac roads the setback shall be measured from the center of the radius of the lot frontage.

2. Side Yard
  - a. Dwelling Structures: 25 feet from the side property boundary.
  - b. Churches, chapels, temples & synagogues: 35 feet from any side property boundary.
  - c. Agricultural Structures, as defined in these regulations: 50 feet from any side property boundary.
  - d. Non-agricultural storage sheds, shops and similar accessory structures: 50 feet from any side property boundary.
  - e. When a building or structure is located on a corner lot or tract, the side yard adjacent to the road shall maintain the same setback as required for the front yard.
3. Rear Yard
  - a. Dwelling Structures: 35 feet from the rear property boundary.
  - b. Other structures shall maintain a building setback of 50 feet from the rear property boundary.

***Section 7-6. Sign Regulations***

- 7-6.01** The following signs shall be permitted in the Single Family Residential Three-Acre District:
- A. Non-illuminated signs advertising any permitted use.
  - B. Temporary signs as defined in Article 22.

- 7-6.02** Any permanent sign in excess of 12 square feet shall be subject to the requirements of a Special Use Permit as provided in Article 19.

***Section 7-7. Parking and Loading Regulations***

- 7-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.

## Article 8

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

#### Sections:

- 8-1. Purpose
- 8-2. Permitted Uses
- 8-3. Special Uses
- 8-4. Lot Size
- 8-5. Height and Yard Regulations
- 8-6. Sign Regulations
- 8-7. Parking and Loading Regulations

#### *Section 8-1. Purpose*

- 8-1.01** The purpose of the Single Family Residential District is to provide a residential district with a density and development standards compatible with urban areas. The Single Family Residential District is intended primarily for the Urban Growth areas, as well as existing rural community centers and platted town sites.

#### *Section 8-2. Permitted Uses*

- 8-2.01** No building, structure, land or premises located in the Single Family Residential District shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for the following:
1. Single-family dwellings.
  2. Manufactured home or mobile home, provided a manufactured home complies with a nationally recognized Building Code or mobile home unit meets the standards of the National Manufactured Home Construction and Safety Standards Act of 1976 and all amendments through 1994 as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations and displays the HUD Label identifying the manufacturer and the date it was manufactured.
  3. Churches, chapels, temples and synagogues.
  4. Schools, public and private.
  5. Day care facilities not to exceed six (6) children, including any children of the residence.
  6. Parks and playgrounds.
  7. Home occupations as defined in Article 2, Section 2-1.01 (Definitions) of these Regulations.
  8. Accessory structures.

#### *Section 8-3. Special Uses*

- 8-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.
1. Day care home or nurseries for more than six (6) children.
  2. Group Homes and Group Boarding Homes as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.



3. Public utility installations, including electric substations, sewer lift stations, telephone exchanges, but not including utility offices, repair and/or storage and production facilities.
4. Bed and breakfast facilities.
5. Cemeteries and mausoleums.

***Section 8-4. Lot Size***

- 8-4.01** Any Single Family Residential District created after the adoption of these Zoning Regulations shall include a minimum lot area of 6,000 square feet and be provided with public water and sewer.
- 8-4.02** The minimum lot width shall be 60 feet.
- 8-4.03** The minimum lot length shall be 100 feet.
- 8-4.04** The lot length to width ratio shall not exceed 3:1.

***Section 8-5. Height and Yard Regulations***

- 8-5.01** No building or structure shall exceed the following height restrictions:

1. Residential Structure – 2 ½ stories, not to exceed 35 feet.
2. Churches, chapels, temples and synagogues – 35 feet, except that such facilities may be increased one (1) foot in height for each additional 5 feet of building setback, but in no case shall the height exceed 50 feet.

- 8-5.02** Building setback requirements shall be as follows:

1. Front Yard
  - a. Residential structures: 25 feet as measured from the front property line.
  - b. Other structures: 30 feet as measured from the front property line.
  - c. On cul-de-sac streets, the setback shall be measured from the center of the radius of the lot frontage.
2. Side Yard
  - a. There shall be a side yard setback of 10% of the width of the lot, but not less than 6 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.

***Section 8-6. Sign Regulations***

- 8-6.01** The following signs shall be permitted in the Single Family Residential District.
- A. Non-illuminated signs advertising any permitted use.
  - B. Temporary signs as defined in Article 22.

**8-6.02** Any permanent sign in excess of 10 square feet shall be subject to the requirements of a Special Use Permit as provided in Article 19.

***Section 8-7. Parking and Loading Regulations***

**8-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.

## Article 9

### MOBILE HOME PARK DISTRICT (MH-P)

#### Sections:

- 9-1. Purpose
- 9-2. Permitted Uses
- 9-3. Special Uses
- 9-4. Lot Size
- 9-5. Height and Yard Regulations
- 9-6. Sign Regulations
- 9-7. Parking and Loading Regulations
- 9-8. Special Requirements
- 9-9. Development within Designated Floodplain

#### *Section 9-1. Purpose*

- 9-1.01 The purpose of the Mobile Home Park District is to provide an area suitable for a low to moderate residential density where non-conventional (manufactured) homes may be placed. The intent of the Mobile Home Park District is to establish a residential environment conducive to mobile home living, including recreational facilities and other services under a single ownership.

#### *Section 9-2. Permitted Uses*

- 9-2.01 No building, structure, land or premises located in the Mobile Home Park District shall be used or occupied, and no building or structure shall be hereafter constructed, erected, reconstructed, placed, moved or altered except for the following:

1. Mobile homes, single and doublewide.
2. Recreational areas, public parks and related buildings.
3. Golf courses, tennis courts and swimming pools.
4. Office facilities, clubhouse or Laundromats solely for occupants of the mobile home park.
5. Boat and storage facilities.
6. Accessory structures.
7. Home occupations as defined in Article 2, Section 2-1.01 (Definitions) of these Zoning Regulations.

#### *Section 9-3. Special Uses*

- 9-3.01 The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.
1. Day care facilities.
  2. Churches, chapels, temples and synagogues.
  3. Schools.
  4. Temporary or tourist overnight camping spaces for recreational vehicles (RVs) and camping trailers.
  5. Any sign not specifically provided for in Section 9-6 of this Article.

**Section 9-4. Lot Size**

- 9-4.01** Prior to the establishment of any Mobile Home Park District, the applicant shall submit a development plan for review by the Planning Commission. The development plan shall include the following minimum standards:
1. Mobile home parks shall not be less than two (2) acres in gross area.
  2. Mobile home parks shall not exceed seven units per gross acres.
  3. Each mobile home space shall have a minimum of 3200 square feet in area with minimum dimensions of 40 feet in width by 80 feet in length.
  4. Temporary overnight camping spaces shall have a minimum of 1600 square feet in area with minimum dimensions of 20 feet in width by 80 feet in length.
- 9-4.02** The lot length to width ratio shall not exceed 3:1.

**Section 9-5. Height and Yard Regulations**

- 9-5.01** No building or structure shall exceed the following height restrictions:
1. Residential units and accessory structures shall not exceed 25 feet in height.
  2. Nonresidential structures shall not exceed 35 feet in height.
- 9-5.02** Building setback requirements shall be as follows:
1. Front Yard
    - a. All mobile home parks shall provide a front yard setback of 25 feet as measured from the front property line.
    - b. Each mobile home space shall have frontage on a private street or road within the park and all mobile home units shall maintain a 20-foot setback from the private roadway.
  2. Side Yard
    - a. All mobile home parks shall provide a 20 foot landscaped side yard setback from any side lot line.
    - b. All mobile home units shall be located so as to maintain a side yard separation of not less than 20 feet from any other mobile home.
    - c. No mobile home unit shall be located closer than 30 feet to any structure or building, except private storage sheds, carports or garages serving the unit.
  3. Rear Yard
    - a. All mobile home parks shall provide a 20 foot landscaped rear yard setback from the rear lot line. In the case of a through lot (double frontage), the front yard setback shall apply regardless of which is used as the rear yard.
    - b. All mobile home units shall be located so as to maintain a rear yard separation of not less than 30 feet from any other mobile home.

**Section 9-6. Sign Regulations**

- 9-6.01** Mobile home parks shall provide an identification sign. Such signs may be attached to a perimeter wall or affixed to an entrance monument and shall not exceed 30 square feet in area.
- 9-6.02** The following signs shall be permitted in the Mobile Home Park District.
- A. Non-illuminated signs advertising any permitted use.
  - B. Temporary signs as defined in Article 22.

**9-6.03** Signs other than the identification sign shall conform to the requirements as provided in Article 22, Sign Regulations.

**9-6.04** Any permanent sign in excess of 10 square feet shall be subject to the requirements of a Special Use Permit as provided in Article 19.

***Section 9-7. Parking and Loading Regulations***

**9-7.01** Each mobile home space or overnight camping space shall provide a minimum of one (1) off-street parking space.

**9-7.02** Parking for non-residential facilities such as recreational areas, golf courses, club houses, etc., shall be shown on the development plan pursuant to Section 9-4.01 and subject to the approval of the Planning Commission.

**9-7.03** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.

***Section 9-8. Special Requirements***

**9-8.01** Mobile home parks shall comply with the following criteria:

1. All mobile home parks shall be connected to a public water supply.
2. All mobile home parks shall be connected to a public sewer system or be provided with an alternative public waste water system approved by the Kansas Department of Health and Environment and Chapter 2 of the Franklin County Sanitation Code.
3. Each mobile home space shall be clearly defined and numbered in a conspicuous and uniform manner.
4. All mobile home parks shall provide open space and/or recreational areas equal to 20% of the gross area. Required yards and building setbacks shall not be considered as serving this requirement.
5. A mobile home park shall not be permitted within any A, AE or AH Zone shown on the 100 Year Flood Hazard Boundary Map (FHBM) adopted for Franklin County except for areas used for recreation or permanent open space. Such recreational areas or permanent open space shall be included within a non-building drainage easement and filed with the development plan. The boundaries of the drainage easement shall be certified by a licensed surveyor or professional engineer.

***Section 9-9. Development within Designated Floodplain***

**9-9.01** Any manufactured home that is placed or substantially improved within any A, AE or AH Zone shown on the 100 Year Floodplain Insurance Rate Map (FIRM) adopted for Franklin County shall be elevated on a permanent foundation system such that the lowest floor is a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Where base flood elevations have not been established as part of the Flood Insurance Rate Maps, said base flood shall be certified by a licensed engineer. The elevations of the lowest floor shall be certified by a licensed surveyor or professional engineer.

## Article 10

### NEIGHBORHOOD COMMERCIAL DISTRICT (C-1)

#### Sections:

- 10-1. Purpose**
- 10-2. Permitted Uses**
- 10-3. Special Uses**
- 10-4. Lot Size**
- 10-5. Height and Yard Regulations**
- 10-6. Sign Regulations**
- 10-7. Parking and Loading Regulations**

#### *Section 10-1. Purpose*

- 10-1.01** The purpose of the Neighborhood Commercial District is to provide small areas of convenience shopping with limited commercial services in or near rural residential neighborhoods or communities outside of the incorporated areas.

#### *Section 10-2. Permitted Uses*

- 10-2.01** No building, structure, land or premises located in the Neighborhood Commercial District shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered except for the following:
1. Accessory structures.
  2. Appliance sales and repair.
  3. Bakeries
  4. Banks, Savings and Loan, including ATMs and drive-up/drive-through facilities.
  5. Barber and beauty shops.
  6. Churches and similar places of worship.
  7. Convenience markets, including sale of gasoline.
  8. Day care centers.
  9. Drug Stores and prescription shops/pharmacies.
  10. Dry cleaning and laundry establishments.
  11. Laundromats.
  12. Package liquor stores.
  13. Parks and play fields.
  14. Professional offices including doctor, lawyer and similar activities.

#### *Section 10-3. Special Uses*

- 10-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.
1. Business and technical schools, including dance and music.
  2. Car washes.
  3. Fitness centers
  4. Fraternal lodges and similar membership clubs.
  5. Medical clinics.
  6. Restaurants, including drive-ins.
  7. Service stations.

8. Veterinarian offices and animal hospitals.

**Section 10-4. Lot Size**

- 10-4.01** The minimum lot area of the Neighborhood Commercial District shall be as follows.
1. Neighborhood Commercial uses served by public water and sewer – 10,000 square feet.
  2. Neighborhood Commercial uses not served by public sewer but not requiring sanitation facilities – 15,000 square feet.
  3. Neighborhood Commercial uses not served by public sewer but requiring sanitation facilities – 3 acres.
- 10-4.02** The minimum lot width shall be 50 feet.
- 10-4.03** The minimum lot depth shall be 100 feet.
- 10-4.04** The lot length to width ratio shall not exceed 3:1.

**Section 10-5. Height and Yard Regulations**

- 10-5.01** No building or structure shall exceed the following height restrictions:
1. When a building or structure is within 50 feet of a residential district or within 50 feet of a residential dwelling unit, said building or structure shall not exceed 35 feet in height.
  2. When a building or structure is more than 50 feet from a residential district or residential dwelling unit, said building or structure shall not exceed 45 feet in height.
- 10-5.02** Building setbacks shall be as follows:
1. Front Yard
    - a. There shall be a front yard setback of 25 feet as measured from the front property line.
    - b. When a building or structure is located adjacent to an arterial road or highway, the front yard setback shall be 80 feet as measured from the centerline of said road or highway.
    - c. When a building or structure is located adjacent to a major collector road, the front yard setback shall be 60 feet as measured from the centerline of said road.
  2. Side Yard
    - a. There shall be side yard setback of 10% of the width of the lot but not less than 5 feet.
    - b. When a building or structure is located adjacent to a residential district, there shall be a side yard setback of 20 feet and a solid or semi-solid wall or fence at least six (6) feet in height shall be provided at the property boundary.
    - c. 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 20 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.
- c. When a building or structure is located adjacent to a residential district, a solid or semi-solid fence or wall at least six (6) feet in height shall be provided at the property line.

***Section 10-6. Sign Regulations***

**10-6.01** Signs shall conform to the requirements as provided in Article 22, Sign Regulations.

***Section 10-7. Parking and Loading Regulations***

**10-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.



## Article 11

### HIGHWAY COMMERCIAL DISTRICT (C-2)

#### Section:

- 11-1. Purpose
- 11-2. Permitted Uses
- 11-3. Special Uses
- 11-4. Lot Size
- 11-5. Height and Yard Regulations
- 11-6. Sign Regulations
- 11-7. Parking and Loading Regulations

#### *Section 11-1. Purpose*

- 11-1.01 The purpose of the Highway Commercial District is to provide for services which may be needed by the motoring public and motor transportation industry along the Interstate and Highway systems, including selected retail and service businesses which need a high degree of accessibility or serve a large trade area.

#### *Section 11-2. Permitted Uses*

- 11-2.01 No building, structure, land or premises located in the Highway Commercial District shall be used and no building or structure shall be hereafter erected or altered, except for the following uses:

1. Any use permitted in the C-1 Zone.
2. Agricultural equipment sales and service, primarily of new equipment.
3. Amusement places (indoors), including video game arcades, game machines and other similar establishments.
4. Antique shops and stores, providing all merchandise is displayed and sold inside a building.
5. Animal clinics and hospitals with no outdoor facilities.
6. Apartments on a floor other than the ground floor.
7. Automobile and truck service stations, including minor repair services and the sale of petroleum fuels, automotive accessories and convenience foods and related items.
8. Automobile and truck sales, sales lots and repair garage, when part of a new vehicle dealership.
9. Bowling alleys, skating rinks, miniature golf.
10. Car washes
11. Farmers co-operatives.
12. Fraternal and service clubs.
13. Gift shops and furniture stores selling new merchandise only.
14. Liquor stores, retail only, taverns and private clubs.
15. Livestock sale, yard and barns.
16. Manufactured/mobile home and recreation vehicle sales and service when part of a dealership.
17. Motels, including dining and meeting rooms and small shops, such as: drug stores; gift shops; newsstands; barber and beauty shops and similar service related activities.
18. Restaurants, including private clubs, and drive-in and carryout food service.

**Section 11-3. Special Uses**

**11-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Any use permitted by Special Use Permit in the C-1 Zoning District.
2. Anhydrous ammonia, propane and butane bulk storage and distribution.
3. Communication structures, antennas and towers.
4. Crematories, funeral homes and mortuaries.
5. Government buildings and uses
6. Oil and gas well supply sales, service and office facilities, including storage and repair of exploration equipment and the outside storage of pipe and related materials, providing storage of outside materials is completely enclosed with a six foot high enclosure or is screened from view of adjoining properties.
7. Public utility and service facilities as follows:
  - A. Substations.
  - B. Outdoor storage yards.
8. Truck and freight terminals.
9. Used auto and truck repair shops and garages.
10. Used auto, truck/trailer, manufactured home, mobile home and recreational vehicle sales.
11. Utility substations, pumping stations and water towers.
12. Government Buildings and Uses
13. Sexually Oriented Business as defined in Article 2, Section 2-1-01 as follows:
  - A.
    1. adult arcade
    2. adult bookstore or adult video store
    3. adult cabaret
    4. adult motel
    5. adult motion picture theater
    6. semi-nude model studio
    7. sexual device shop
    8. sexual encounter center
    9. Such sexually oriented businesses allowed to operate in the unincorporated areas of Franklin County shall meet the following criteria:
      - a. that the structure occupied by the sexually oriented business is at least 1000 feet from any structures occupied by another sexually oriented business or by a business licensed by the State of Kansas to sell alcohol on the premises.
      - b. that the structure occupied by the sexually oriented business is at least 1000 feet from any structure occupied by a house of worship, licensed day-care homes or center, public or private secondary schools or public park.
      - c. that the structure occupied by the sexually oriented business is at least 1000 feet from any structure used as a residence.

For purposes of this section, measurements shall be made in a straight line in all directions, without regard to intervening structures or objects, from the nearest portion of the structure occupied by the sexually oriented business to the nearest

portion of the structure occupied or used for any of the land use/s identified in subsection 11-2.1, 2 or 3 above.

14. The fabrication, assembly, packaging, testing and calibration of instruments and their associated sensors and accessories for optical instruments and lenses; surveying and drafting instruments; hydrological, hydrographic, meteorological and geophysical equipment; search, detection, navigation and guidance systems; surgical, medical and dental instruments; ophthalmic goods and photographic equipment.
15. The fabrication, assembly and sale of furniture, cabinets, picture frames, art work and awards plaques provided there is not outside storage of materials.
16. Repair, assembly and sale of communication, energy conservation and energy systems including storage of materials provided that such storage is within a completely enclosed building or enclosed with a solid fence or wall constructed with new materials at a height adequate to totally screen such storage from view of adjoining properties and the traveling public. No outside storage shall block any fire lane or cover any on-site sanitation system.
17. Fabrication, construction, storage and sales of sheds and similar accessory structures provided such structures do not exceed 840 square feet nor 12 feet in height. Storage of materials shall be within a completely enclosed building or is enclosed with a solid fence or wall constructed of new materials at a height adequate to totally screen such storage from view of adjoining properties and the traveling public. No outside storage shall block any fire lane or cover any on-site sanitation system.
18. Fabrication, construction, storage and sales of metal (pipe/wrought iron) gates and fence panels. Storage of materials shall be within a completely enclosed building or is enclosed with a solid fence or wall constructed of new materials at a height adequate to totally screen such storage from view of adjoining properties and the traveling public. No outside storage shall block any fire lane or cover any on-site sanitation system.
19. Mini Storage Facilities

***Section 11-4. Lot Size***

- 11-4.01** The minimum lot area for the Highway Commercial District shall be as follows:
1. Commercial uses served by public water and sewer – 10,000 square feet.
  2. Commercial uses not served by public water but not requiring sanitation facilities – 20,000 square feet.
  3. Commercial uses not served by public sewer but which require sanitation facilities – 3 acres.
- 11-4.02** The minimum lot width shall be 50 feet.
- 11-4.03** The minimum lot depth shall be 100 feet.
- 11-4.04** The lot length to width ratio shall not exceed 3:1.

***Section 11-5. Height and Yard Regulations***

- 11-5.01** No building or structure shall exceed the following height restrictions:

1. When a building or structure is within 25 feet of a residential district or within 50 feet of a residential dwelling unit, said building or structure shall not exceed 35 feet in height.
2. When a building or structure is more than 25 feet from a residential district or 50 feet from a residential dwelling unit, said building or structure shall not exceed 50 feet in height.

**11-5.02** Building setbacks shall be as follows:

1. Front Yard
  - a. There shall be a front yard setback of 20 feet as measured from the front property line.
  - b. When a building or structure is located adjacent to an arterial road or highway, the front yard setback shall be 80 feet as measured from the centerline of said road or highway.
  - c. When a building or structure is located adjacent to a major collector road, the front yard setback shall be 60 feet as measured from the centerline of said road.
2. Side Yard
  - a. There shall be a side yard setback of 10% of the width of the lot, but not less than 10 feet when adjacent to a residential district, otherwise, none.
  - b. When a building or structure is located on a corner lot, the side yard adjacent to the street shall be 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 through lot (double frontage), the front yard building setback shall apply regardless of which is used as the rear yard.

***Section 11-6. Sign Regulations***

**11-6.01** Signs shall conform to the requirements as provided in Article 22, Sign Regulations.

***Section 11-7. Parking and Loading Requirements***

**11-7.01** Parking and loading spaces shall conform to the requirements as shown in Article 21, Parking and Loading Regulations.

## Article 12

### BUSINESS PARK DISTRICT (B-P)

#### Sections:

- 12-1. Purpose
- 12-2. Permitted Uses
- 12-3. Special Uses
- 12-4. Lot Size
- 12-5. Height and Yard Regulations
- 12-6. Sign Regulations
- 12-7. Parking and Loading Regulations

#### *Section 12-1. Purpose*

- 12-1.01** The purpose of the Business Park District is to provide for the mixed use development of aesthetically attractive locations for research and development institutions, specialized manufacturing establishments, office facilities, and selected retail and service businesses in a single, coordinated development. It is the intent of this district to accommodate the planned and orderly development of large tracts of land in a campus style setting.

#### *Section 12-2. Permitted Uses*

- 12-2.01** No building, structure or premises located in the Business Park District shall be used and buildings or structures shall be hereafter erected, or altered, except for the following uses:

##### A. Commercial

1. Banks and other saving and lending institutions.
2. Blueprinting, cartography, copying, photostatting, photo finishing, printing, publishing, book-binding, plate engraving and other similar printing—publishing activities.
3. Barber shops and beauty salons.
4. Business, professional, governmental and medical offices and services.
5. Communication equipment sales and services.
6. Computer equipment sales and related services.
7. Medical equipment sales and services.
8. General merchandise stores.
9. Super markets.
10. Restaurants, cafeterias and other food service facilities.
11. Theaters, cinemas, art galleries and museums.
12. Cleaning and laundry establishments.
13. Office supplies and furniture sales and services.

##### B. Research and Development

1. Research and development activities including, but not limited to, scientific, technical and research-oriented laboratories conducted by professional staff employed by either a corporation, institute, foundation or educational organization involved in the study or advancement of science or technology within the fields of medicine, biomedicine, chemistry, bio-chemistry, animal science, computer science, energy, biology, economics, environmental science, engineering,

atmospheric or oceanographic science, physics, product development and agriculture.

2. Accessory uses customarily incidental and subordinate to the research laboratory uses, including administrative offices and maintenance facilities and outdoor testing areas when enclosed with fencing/screening and located on the same tract as the principal uses.

C. Industrial

1. Manufacture, fabrication and assembly of:
  - a. Communication equipment and components.
  - b. Computer equipment and components.
  - c. Electronic and electrical equipment and components.
  - d. Food containers and related items.
  - e. Furniture.
  - f. Household appliances and fixtures.
  - g. Office machines and products.
  - h. Optical instruments and lenses.
  - i. Paper products including paperboard and cardboard products.
  - j. Photographic equipment and supplies.
  - k. Sporting goods including firearms.
  - l. Surgical, medical and dental instruments and equipment.
2. Packaging, servicing, storage, warehousing, wholesales sales or distribution of the products listed above, including products associated with research and development activities.

***Section 12-3. Special Uses***

**12-3.01** The following uses may be permitted by approval of a Special Use Permit as provided by Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Day care, childcare centers.
2. Schools, private or public.
3. Radio, television, microwave or communication towers for broadcasting or retransmission of communication signals, or receiving towers, or stations taller than sixty (60) feet, or any other structure taller than sixty (60) feet above the ground, whether privately or publicly owned.
4. Manufacturing activities including the processing, assembly, production, warehousing, distribution, servicing, disassembly, repair, packaging, storage of one or more of the following products or services:
  - a. Chemical and allied products including the production of basic chemicals and the manufacturing of products predominantly by chemical process.
  - b. Fabricated metal products including the fabrication of ferrous and nonferrous metal products, such as metal cans, tin ware, hand tools, cutlery, general hardware, nonelectric heating apparatus, fabricated structural metal products, metal stampings and a variety of metal and wire products.

- c. Leather and leather products including the tanning, currying, and finishing of hides and skins, leather converts, and finished leather and artificial leather products.
- d. Lumber and wood products including planning mills, plywood mills, and veneer mills; and articles made entirely or mainly of wood or related materials.
- e. Industrial and commercial machines including engines and turbines; farm and garden machinery; construction, mining, and oil field machinery; elevators and conveying equipment; hoists, cranes, monorails, and industrial trucks and tractors; metalworking machinery; special or general industrial machinery; computer and peripheral equipment and office machinery; and refrigeration and service industry machinery.
- f. Rubber and miscellaneous products including articles made from plastic resins and from natural, synthetic, or reclaimed rubber, gutta percha, balata, or gutta siak.
- g. Stone, glass, clay and concrete including the manufacturing of flat glass and other glass products, cement, structural clay products, pottery, concrete and gypsum products, cut stone, abrasive and asbestos products.

***Section 12-4. Lot Size***

**12-4.01** The minimum lot size for the Business Park District shall be as follows:

- 1. Business parks served by public water and sewer: 20 acres under one ownership or unified control.
- 2. Business parks served by public water with on-site sanitation: 40 acres under one ownership or unified control.

**12-4.02** The lot length to width ratio shall not exceed 3:1.

***Section 12-5. Height and Yard Requirements***

**12-5.01** No building or structure shall exceed the following height restrictions:

- 1. When a building or structure is within 150 feet of a residential district or within 150 feet of a residential dwelling unit, said building or structure shall not exceed 45 feet in height.
- 2. Buildings or structures located more than 150 feet from a residential district or dwelling unit shall not exceed 60 feet in height except as provided in Section 12-3.01 of these Zoning Regulations.

**12-5.02** Building setback requirements shall be as follows:

- 1. Front Yard
  - a. All business parks shall provide a landscaped front yard setback of 25 feet as measured from the front property line exclusive of parking areas.
  - b. In addition, each building shall maintain a 20-foot setback from parking areas or access drives.
- 2. Side Yard
  - a. All business parks shall provide a 20-foot landscaped side yard setback from any side lot line.
  - b. Buildings shall be located so as to maintain a side yard separation of not less than 10 feet from any other buildings.

3. Rear Yard

- a. All Business parks shall provide a 20-foot landscaped rear yard setback from the rear lot line. In the case of a through lot (double frontage), the front yard setback shall apply regardless of which is used as the rear yard.

***Section 12-6. Sign Regulations***

- 12-6.01** Signs shall conform to the requirements as provided in Article 22, Sign Regulations. In addition, all signs in a business park shall conform to a master sign program using the same architectural style and materials.

***Section 12-7. Parking and Loading Regulations***

- 12-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.



## Article 13

### LIGHT INDUSTRIAL DISTRICT (I-1)

#### Sections:

- 13-1. Purpose
- 13-2. Permitted Uses
- 13-3. Special Uses
- 13-4. Lot Size
- 13-5. Height and Yard Regulations
- 13-6. Sign Regulations
- 13-7. Parking and Loading Regulations

#### *Section 13-1. Purpose*

- 13-1.01 The purpose of the Light Industrial District is to provide for certain industrial uses which do not:

1. Require intensive land coverage.
2. Generate large volumes of traffic.
3. Create obnoxious emissions such as noise, dust, glare, odor and vibration.

#### *Section 13-2. Permitted Uses*

- 13-2.01 No building, land or premises located in the Light Industrial District shall be used and no building or structure shall be hereafter erected or altered unless provided for in these Zoning Regulations, except for the following uses:

1. Animal hospitals or clinics.
2. Automobile repair and body shop.
3. Bottling works.
4. Building material (new) sales and storage, providing the storage is completely enclosed with a six foot high solid or semi-solid fence or wall or is maintained entirely within a building.
5. Carpenter, cabinet, plumbing or sheet metal shops, providing the storage is completely enclosed with a six-foot high solid or semi-solid fence or wall or is maintained entirely within a building.
6. Contractor's office and equipment storage yard, providing the storage yard is completely enclosed with a six-foot high solid or semi-solid fence, wall or hedge.
7. Dog kennels.
8. Dry cleaning and/or laundry plants.
9. Frozen food storage, warehousing and distribution facilities.
10. Greenhouses and nurseries, retail and wholesale.
11. Light manufacturing operation – providing that such is not noxious or offensive by reason of vibration or noise beyond the confines of the building or emission of dust, fumes, gas odor or smoke.
12. Mini-storage facilities.
13. Monument sales and manufacture.
14. Motor vehicle sales, services, repairs and painting.
15. New and used machinery sales, service repairs, painting and storage.
16. Public utility and public service uses as follows:
  - a. Substations.

- b. Telephone and telecommunication exchange and transmission buildings.
  - c. Public utility storage yards when the entire storage area is screened from public view by a fence or wall six (6) feet or greater in height.
17. Restaurants (not including drive-ins).
  18. Service Stations.
  19. Sign printing and manufacturing.
  20. Truck and rail terminals.
  21. Upholstery shops.
  22. Warehouses.
  23. Wholesale merchandise sales and storage.

***Section 13-3. Special Uses***

**13-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Livestock auction sales.
2. Telecommunication towers, water towers and grain elevators.
3. Oilfield supply sales and service stores and storage yards.
4. Electric power plants.
5. Propane, anhydrous ammonia or similar gas storage.
6. Gun clubs, trap and skeet ranges.
7. Food processing plants (human consumption).

***Section 13-4. Lot Size***

**13-4.01** The minimum lot area for the Light Industrial District shall be as follows:

1. Light industrial uses served by public water and sewer – 10,000 square feet.
2. Light industrial uses not served by public sewer but not requiring sanitation facilities – 20,000 square feet.
3. Light industrial uses not served by public sewer but which requires sanitation facilities – 3 acres.

**13-4.02** The minimum lot width shall be 50 feet.

**13-4.03** The minimum lot depth shall be 200 feet.

**13-4.04** The lot length to width ratio shall not exceed 3:1.

***Section 13-5. Height and Yard Regulations***

**13-5.01** No building or structure shall exceed the following height restrictions:

1. When a building or structure is within 150 feet of a residential district or within 150 feet of a residential dwelling unit, said building or structure shall not exceed 45 feet in height.
2. When a building or structure is more than 150 feet from a residential district or residential dwelling unit, said building or structure shall not exceed 75 feet in height.

**13-5.02** Building setbacks shall be as follows:

1. Front Yard

- a. There shall be a front yard setback of 25 feet as measured from the front property line.
- b. When a building or structure is located adjacent to an arterial road or highway, the front yard setback shall be 100 feet as measured from the centerline of said road or highway.
- c. When a building or structure is located adjacent to a major collector road, the front yard setback shall be 80 feet as measured from the centerline of said road.

2. Side Yard

- a. There shall be a side yard setback of 10% of the width of the lot, but not less than 6 feet.
- b. When a building or structure is located adjacent to a residential district, there shall be a side yard setback of 35 feet and a solid or semi-solid wall or fence at least six (6) feet in height shall be provided at the property boundary.
- c. 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.
- c. When a building or structure is located adjacent to a residential district, a solid or semi-solid fence or wall at least six (6) feet in height shall be provided at the property line. In addition, no outside storage shall exceed the height of said fence or wall.

***Section 13-6. Sign Regulations***

**13-6.01** Signs shall conform to the requirements as provided in Article 22, Sign Regulations.

***Section 13-7. Parking and Loading Regulations***

**13-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.

## Article 14

### HEAVY INDUSTRIAL DISTRICT (I-2)

#### Sections:

- 14-1. Purpose
- 14-2. Permitted Uses
- 14-3. Special Uses
- 14-4. Lot Size
- 14-5. Height and Yard Regulations
- 14-6. Sign Regulations
- 14-7. Parking and Loading Regulations

#### *Section 14-1. Purpose*

- 14-1.01** The purpose of the Heavy Industrial District is to provide a district that allows basic or primary industries, which are not generally compatible with residential or commercial uses and activities.

#### *Section 14-2. Permitted Uses*

- 14-2.01** No building or structure, land or premises located in the Heavy Industrial District shall be used and no building or structure shall hereafter be erected, constructed, moved or altered except for the following:

1. Any use listed as a permitted use in the Light Industrial District (I-1).
2. Aircraft repair, sales and storage.
3. Blacksmith/welding shops.
4. Building materials (new and used) sales and storage yards.
5. Carpenter, cabinet, plumbing shops and storage yards.
6. Contractors office and equipment storage yards.
7. Feed and seed sales and storage.
8. Food processing and packaging plants (human consumption).
9. Grain elevators.
10. Lumber yards including outdoor storage.
11. Machinery sales and storage lots.
12. Poultry storage and slaughtering.
13. Radiator repair shops and auto body shops.
14. Sawmills and storage yards.
15. Wood product manufacturing.

#### *Section 14-3. Special Uses*

- 14-3.01** The following uses may be permitted by approval of a Special Use Permit as provided in Article 19 of these Zoning Regulations and subject to such conditions as recommended by the Planning Commission and adopted by the Board of County Commissioners to ensure the utility and value of adjacent property and the protection of the public health, safety and general welfare.

1. Auto and aircraft wrecking yards, junk yards, salvage yards and scrap processing yards subject to the following:
  - a. Located on a tract of land at least 300 feet from a residential district zone.

- b. The operation shall be conducted wholly within a non-combustible building or within an area completely surrounded on all sides by a fence, wall or other screening at least eight feet high. The fence, wall or screening shall be of uniform height, ensure maximum safety to the public, and preserve the general welfare of the neighborhood. The fence, wall or screening shall be installed in such a manner as to retain all scrap, junk or other materials within the yard.
  - c. No junk shall be loaded, unloaded or otherwise placed, whether temporarily or permanently, outside the enclosed building, fence or wall or within the public right-of-way.
  - d. Burning of paper, trash, junk or other waste materials shall be permitted only after approval of the Fire Department. Said burning, when permitted, shall be done only during daylight hours.
  - e. No junk, salvage, scrap or other materials shall be piled or stacked higher than the top of the required fence or wall.
  - f. Said use shall not be located adjacent to or directly visible from an arterial or major collector road.
2. Manufacturing or storage of bulk oil, gas and explosives.
  3. Manufacturing, canning and processing of animal food.
  4. Petroleum refining and fuel storage.
  5. Quarries.
  6. Ready-mix concrete and asphalt-mix plants.
  7. Sewage treatment plant.
  8. Sanitary landfill and waste disposal processing plant.
  9. Stockyard and slaughter houses.
  10. Other uses which have been determined by the Planning Commission to be noxious or offensive by reason of the emission of odor, dust, smoke, gas, noise or vibration.

***Section 14-4. Lot Size***

- 14-4.01** The minimum lot area for the Heavy Industrial District shall be as follows:
1. Heavy industrial uses served by public water and public sewer – 24,000 square feet.
  2. Heavy industrial uses not served by public sewer but not requiring sanitation facilities – 1 acre.
  3. Heavy industrial uses not served by public sewer but requiring sanitation facilities – 3 acres.
- 14-4.02** The minimum lot width shall be 80 feet.
- 14-4.03** The minimum lot depth shall be 200 feet.
- 14-4.04** The lot length to width ratio shall not exceed 3:1.

***Section 14-5. Height and Yard Regulations***

- 14-5.01** No building or structure shall exceed the following height restrictions:
1. When a building or structure is within 150 feet of a residential district or within 150 feet of a residential dwelling unit, said building or structure shall not exceed 45 feet in height.
  2. When a building or structure is more than 150 feet from a residential district or residential dwelling unit, said building or structure shall not exceed 80 feet in height.

**14-5.02** Building setbacks shall be as follows:

1. Front Yard

- a. There shall be a front yard setback of 25 feet as measured from the front property line.
- b. When a building or structure is located adjacent to an arterial road or highway, the front yard setback shall be 100 feet as measured from the centerline of said road or highway.
- c. When a building or structure is located adjacent to a major collector road, the front yard setback shall be 80 feet as measured from the centerline of said road.

2. Side Yard

- a. There shall be a side yard setback of 10% of the width of the lot, but not less than 8 feet.
- b. When a building or structure is located adjacent to a residential district, there shall be a side yard setback of 35 feet and a solid or semi-solid wall or fence at least six (6) feet in height shall be provided at the property boundary.
- c. 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.
- c. When a building or structure is located adjacent to a residential district, a solid or semi-solid fence or wall at least six (6) feet in height shall be provided at the property line. In addition, no outside storage shall exceed the height of said fence or wall.

***Section 14-6. Sign Regulations***

**14-6.01** Signs shall conform to the requirements as provided in Article 22, Sign Regulations.

***Section 14-7. Parking and Loading Requirements***

**14-7.01** Parking and loading spaces shall conform to the requirements as provided in Article 21, Parking and Loading Regulations.

## Article 15

### PLANNED DEVELOPMENT OVERLAY DISTRICT (PD)

#### Sections:

- 15-1. Purpose
- 15-2. Objectives
- 15-3. Applicability and Procedures
- 15-4. Permitted Uses
- 15-5. Special Uses
- 15-6. Preliminary Development Permit Required
- 15-7. Final Development Plan Approval

#### *Section 15-1. Purpose*

- 15-1.01 The purpose of the Planned Development Overlay District is to encourage a more efficient use of land and services while preserving or protecting resources such as open space, natural habitat, agricultural lands and topographic and geological features by allowing the use of modern planning and development techniques providing for the increased flexibility of the minimum development standards and criteria as set forth in each of the zoning districts of these Zoning Regulations.

#### *Section 15-2. Objectives*

- 15-2.01 In order to insure the effective management of land and its environmental resources within Franklin County while recognizing the economic constraints and limitations inherent in all types of development, the following objectives are established:
  - A. Promote and encourage innovation in residential, recreational, limited retail business and employment center developments by creative planning so that the growing demands of the residents of Franklin County may have a greater variety in type, design and layout of buildings and development.
  - B. To aid in the reduction of development costs by allowing developers to incorporate changes in technology and market demands for land development.
  - C. Encourage a more desirable environment by providing for a combination of different land uses which complement each other but which may not, in all aspects, conform to the requirements and strict application of other sections of these Regulations.
  - D. Promote a development environment that is in harmony with the character of the developments in the surrounding community and in a manner consistent with the County Comprehensive Plan and any adopted area or Highway Corridor Management Plan.

**Section 15-3. Applicability and Procedures**

**15-3.01** The Planned Development Overlay District is intended to be used in conjunction with any zoning district established in these regulations to create a combined zoning district to provide small and large scale development incorporating a single type or a mix of related land uses which are *planned and developed* as a unit. The Planned Development Overlay District may provide a greater overall development density based on the gross project area where private roads, common open space and common recreation areas and facilities are incorporated in the development plan.

**15-3.02** Applications for rezoning to include a Planned Development Overlay District shall be submitted and processed in accordance with the provisions of K.S.A. 12-757 and Article 22 of these Regulations. For purposes of these regulations the inclusions of the Planned Development Overlay to any of the established zoning districts, as set forth in Section 22-5.05 (Table of Lesser Change) of these Zoning Regulations, shall be deemed to be a less intense zoning district and would follow the basic zoning district in descending order on the Table of Lesser Change.

**Section 15-4. Permitted Uses**

**15-4.01** All uses permitted by the Planned Development Overlay District shall comply with those uses specifically permitted by the basic zoning district with which the Planned Development zone is combined, except for those uses and activities requiring a Special Use Permit as identified in the basic zoning district. Additional uses may be approved by the Planning Commission provided such uses are shown on the Preliminary Development Plan and found to complement the other uses included in the Development Plan and to be consistent with the provisions of the County Comprehensive Plan.

**Section 15-5. Special Uses**

**15-5.01** Any use or activity included on the Preliminary Development Plan submitted with an application for rezoning to combine a Planned Development Overlay Zone that requires a Special Use Permit as identified in the basic zoning district, shall submit a request for a Special Use Permit concurrently with the rezoning application. The Planned Development Overlay District and Preliminary Development Plan shall not be approved unless the Planning Commission approves the Special Use Permit as provided by Article 19, Section 19-3 of these Zoning Regulations.

**Section 15-6. Preliminary Development Permit Required**

**15-6.01** A Preliminary Development Plan shall be submitted and approved concurrently with the rezoning application for a Planned Development Overlay District. The Preliminary Development Plan shall be reviewed at the public hearing(s) for the rezoning and approved or conditionally approved.

**15-6.02** The Preliminary Development Plan shall be drawn to a scale not smaller than 1 inch = 200 feet and shall contain at a minimum the following information:

- A. Date and North Arrow
- B. Names, addresses and phone numbers of the applicant, owner and designer of the Plan.
- C. Legal description of the property.
- D. Names of surrounding streets/roads.
- E. Existing and proposed contours at no greater than two (2) foot intervals.



- F. Boundaries of the area included in the development plan, including dimensions and references to section corners, quarter section corners, or recorded plats.
- G. Names of adjoining property owners.
- H. Location of any existing water lines, sewer lines and other utilities including size of facilities if applicable.
- I. The location and dimensions of existing structures or permanent building and natural features such as ponds, lakes, drainages and any land area subject to the Flood Plain.
- J. Location, number and size of proposed lots.
- K. Location, number and size of all proposed buildings or structures.
- L. Location and number of parking spaces to be provided.
- M. General location, arrangement and purpose of any open space, recreational or other common areas proposed.
- N. General location, dimensions and improvement standards for roads, vehicular access drives, pedestrian trails, sidewalks or walkways proposed.
- O. Location, height and general materials to be used for walls, fences and landscaping.
- P. Preliminary sketches of building elevations depicting the general style, size and exterior materials of the buildings proposed in sufficient detail to indicate the relative compatibility of the proposed development with the character of the surrounding community.
- Q. Indication of the proposed schedule, sequence and location of each development phase if the project is to be developed in phases.

***Section 15-7. Final Development Plan Approval***

**15-7.01** Prior to the issuance of any building permits for construction on land within a Planned Development Overlay District, a Final Development Plan shall be submitted and approved as provided in the following Sections.

**15-7.02** The applicant for a Planned Development Overlay District shall file a Final Development Plan for at least the first phase within one (1) year after approval of the Preliminary Development Plan and rezoning by the Board of County Commissioners. Failure to do so shall cause the approval of the Preliminary Development Plan to become null and void, unless a time extension is applied for and approved by the Planning Commission and granted by the Board of County Commissioners. A request for a time extension must be submitted at least fourteen (14) days prior to the expiration date of the Preliminary Development Plan and may be extended for a period of twelve (12) months.

Where a zoning change to include the Planned Development Overlay District was approved based on the Preliminary Development Plan and the time frame has expired, the Planning Commission shall review the Planned Development Overlay District and initiate an action to change the zoning back to the previous zoning classification or such other zoning district as may be determined to be consistent with the Comprehensive Plan.

**15-7.03** A Final Development Plan must be submitted at least thirty (30) days prior to the Planning Commission meeting at which the application is requested to be considered. The Final Development Plan shall conform to all requirements and conditions placed on the approval of the Preliminary Development Plan, and the Planning Commission must find that the Final Development Plan substantially complies with the Preliminary Development Plan and all conditions of approval.

**15-7.04** Upon approval of the Final Development Plan by the Planning Commission, the applicant shall be authorized to apply for building permits and such other permits as may be required for the proposed development.

If the Planning Commission, or upon appeal the Board of County Commissioners find that the Final Development Plan is not in substantial compliance with the Preliminary Development Plan and conditions of approval, the Planning Commission or Board of County Commissioners shall take one of the following actions:

- A. Specify what changes to the Final Development Plan are necessary to bring it in compliance with the Preliminary Development Plan and conditions of approval and grant conditional approval subject to verification of the Planning Director that all required changes have been satisfied; or
- B. Disapprove the Final Development Plan and advise the applicant of the reasons for the disapproval.

**15-7.05** Where a Final Development Plan has been denied, a revised Final Development Plan may be submitted provided such submittal complies with the time frames set forth in Section 15-7.02 and 15-7.03.

## Article 16

### FLOODPLAIN OVERLAY DISTRICT (F-P)

#### Sections:

- 16-1. Purpose
- 16-2. Applicability, Enforcement, Interpretation and Conflict
- 16-3. Warning and Disclaimer of Liability
- 16-4. Definitions
- 16-5. Floodplain Overlay District
- 16-6. Development Permits Required
- 16-7. Development Standards
- 16-8. Standards for Subdivisions and other Development Proposals
- 16-9. New Water and Sewer Systems
- 16-10. Nonconforming Uses and Structures
- 16-11. Changes and Amendments
- 16-12. Variances
- 16-13. Penalties for Violation
- 16-14. Floodwater Retarding Dam Breach Areas (BA)
- 16-15. Areas of Shallow Flooding (AO and AH Zones)

#### *Section 16-1. Purpose*

- 16-1.01 The floodplain regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Floodplain Overlay District (F-P). The purpose of this district is to promote the public health, safety and general welfare by minimizing potential losses due to flooding; to establish and maintain the County's participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22 (a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44.

#### *Section 16-2. Applicability, Enforcement, Interpretation and Conflict*

- 16-2.01 Land to Which This Article Applies: This Article shall apply to all areas of special flood hazards within unincorporated Franklin County, Kansas.
- 16-2.02 Basis for Establishing Areas of Special Flood Hazard: The Board of County Commissioners hereby designates the current "Flood Insurance Rate Maps Franklin County, Kansas (Unincorporated Area)," prepared by FEMA, Federal Insurance Administration and dated May 3, 2011, and amendments thereto, as the official maps to be used in determining those areas of special flood hazard in the unincorporated territory of Franklin County, Kansas. Said maps are incorporated herein by reference as part of these Zoning Regulations.

Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this resolution is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this resolution. The base flood is the flood that is estimated to have one (1) percent chance of being equaled or exceeded in any one (1) year as delineated on the Federal Insurance Administrator's (FIS) and illustrative materials dated May 3, 2011 as amended and any future revisions thereto.

- 16-2.03** Enforcement: The Planning Director hereby has these added responsibilities and is authorized and directed to enforce all of the provisions of this Article.
- 16-2.04** Rules for Interpretation of District Boundary: The boundary of the Floodplain Overlay District shall be determined by reviewing the “Flood Insurance Rate Maps”. Where interpretation is needed as to the exact location of the boundaries of the district, the Planning Director shall make the necessary interpretation based upon data available. The Planning Director shall maintain the “Flood Insurance Rate Maps” and other engineering studies relating to flood data. In such cases where the Planning Director’s interpretation is contested, the Board of Zoning Appeals shall resolve the dispute as provided by K.S.A. 12-759. The owner of the property of which the regulatory flood elevation is in question shall be given a reasonable opportunity to present his case to the Board of Zoning Appeals and to submit technical or supporting evidence.
- 16-2.05** Conflict: In the event of conflict between any floodplain zoning regulations in this Article and any other zoning regulations applicable to the same area, whether the conflict be with respect to the use of land or any other matter, the more stringent limitation or requirement as to flood hazards shall govern and prevail.

***Section 16-3. Warning and Disclaimer of Liability***

- 16-3.01** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Article does not imply what land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of Franklin County, Kansas, or by any officer or employee thereof for any flood damages that result from reliance on these floodplain regulations or any administrative decision lawfully made there under.

***Section 16-4. Definitions***

- 16-4.01** Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the same meaning they have in common usage and to afford the most reasonable application.

**100-Year Flood**: See *Base Flood*.

**Accessory Structure**: means the same as *Appurtenant Structure*.

**Actuarial Rates**: See *Risk Premium Rates*.

**Administrator**: means the Federal Insurance Administrator.

**Agency**: means the Federal Emergency Management Agency (FEMA).

**Appeal**: means a request for review of the Planning Director’s interpretation of any provision of this ordinance or a request for a variance.

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

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

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

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

**Basement:** means any area of the building having its floor subgrade (below ground level) on all sides.

**Board of County Commissioners:** means the Franklin County, Kansas, Board of County Commissioners, also known as the *governing body*.

**Building:** See Structure.

**Chief Engineer:** means the Chief Engineer of the Division of Water Resources, Kansas Department of Agriculture.

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

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

**County:** means Franklin County, Kansas.

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

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

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

**Existing Construction:** means for the purposes of determining rates, structure for which the *start of construction* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. *Existing construction* may also be referred to as existing structures.

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

**Expansion to an Existing Manufactured Home Park or Subdivision:** means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Flood or Flooding:** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**Flood Boundary and Floodway Map (FBFM):** see Flood Hazard Boundary Map.

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

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

**Flood Hazard Boundary Map (FHBM):** mean the official map of a community issued by the Administrator and adopted by the governing body showing the boundaries of flood areas having special flood hazards that have been designated as (numbered or unnumbered) zones and depicting the limits of (1) the floodplain; (2) the floodway; (3) stream channel and other pertinent information such as roads, railroads, geographic features, section numbers, township and range lines. May also be referred to as Flood Hazard Map, Flood Boundary Map and Floodway Map (FBFM).

**Flood Hazard Map:** see Flood Hazard Boundary Map.

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

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

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

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

**Floodplain Management Regulations:** means zoning regulations, subdivision regulations, building codes, health regulations, special purpose regulations (such as floodplain and grading regulations) and other applications of home rule. The term describes such state or local regulations, in any combination thereof that provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing:** means any combination of structural and nonstructural additions, changes or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**Floodwater Retarding Dam Breach Impact Area:** Is the land located below a floodwater-retarding dam that is subject to flooding in the event of a failure or breach of the dam, which could result in the loss of life and property. The boundaries of the Floodwater Retarding Dam Breach Impact Area shall be determined by the Planning Director using the FIRM maps prepared by FEMA and the U.S.G.S. Map Elevations until the detailed Breach Impact Studies showing the exact location of such boundaries have been completed. In cases where the interpretation of the boundary by the Planning Director is contested, the Planning Commission will determine the boundaries.

**Floodway or Regulatory Floodway:** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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

**Freeboard:** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management.

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

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

**Historic Structure:** means any structure that is

- a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

**Lowest Floor:** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this ordinance.

**Manufactured Home:** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* **does not include** a *recreational vehicle*.

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

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

**Mean Sea Level:** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.

**New Construction:** means, for the purposes of determining insurance rates, structures for which the *start of construction* commenced on or after the effective date of an initial FHBM or after August 16, 1977, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**New Manufactured Home Park or Subdivision:** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of



utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

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

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

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

**Person:** includes any individual, group of individuals, corporation, partnership, association or any other entity, including Federal, State and local governments and agencies.

**Planning Director:** means the Franklin County official assigned the responsibility of administering and enforcing the Franklin County Zoning Regulations, the Flood Management Regulations and Subdivision Regulations.

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

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

**Recreational Vehicle:** means a vehicle which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

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

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

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

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

**Start of Construction:** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvements were within

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

**State Coordinating Agency:** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in the State of Kansas.

**Structure:** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home. Structure for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

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

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

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

**Violation:** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other

evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation:** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain riverine areas.

***Section 16-5. Floodplain Overlay District***

**16-5.01** The floodplain overlay district shall include only those areas of special flood hazard as designated by the Federal Insurance Administration's "Flood Hazard Boundary Map Franklin County, Kansas (Unincorporated Area)", dated August 16, 1977, and any revisions thereto. The floodplain overlay district created for this Article is F-P (Floodplain Overlay District).

***Section 16-6. Development Permits Required***

**16-6.01** No person, firm, corporation or unit of government shall initiate any development or substantial improvement, or cause the same to be done, within an area of special flood hazard without first obtaining a separate floodplain development permit for each structure or other development, including the placement of manufactured homes or mobile homes. Said Development Permits shall be in addition to any required building permits, if applicable.

**16-6.02** To obtain a Development Permit, the applicant shall first file an application therefore, in writing, on a form furnished for that purpose by the Planning Director. Every such application within the Special Flood Hazard Area shown as Zone A on the official Flood Insurance Rate Map, shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by lot, block, tract, and house and street address, or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use or occupancy for which the proposed work is intended.
4. Be accompanied by plans and specifications for proposed construction.
5. Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.
6. Be accompanied by elevations (in relation to a mean sea level) of the lowest floor (including basement) or in the case of flood-proofed non-residential structures, the elevation to which it has been flood-proofed. Documentation or certification of such elevations shall be maintained by the Planning Director.
7. Give such other information as reasonably may be required by the Planning Director.

**16-6.03** The Planning Director shall review all Development Permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal, State or local law.

**16-6.04** The Planning Director, in reviewing all Development Permit applications located within special flood hazard areas, shall obtain, review and reasonably utilize, any regulatory flood elevation data and floodway data available from Federal, State or other sources within the areas designated as Zone A on the Official Flood Insurance Rate Map and shall ensure that performance standards presented in Section 16-7 of this Article are met.

***Section 16-7. Development Standards***

**16-7.01** Residential Construction: New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to at least one foot (1') above the base flood elevation. The elevation of the lowest floor or basement shall be certified by a licensed land surveyor or a licensed engineer. The Planning Director shall verify and maintain record of the certification.

**16-7.02** Nonresidential Construction: New construction or substantial improvements of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to at least one foot (1') above the base flood elevation as certified by a licensed land surveyor or a licensed engineer or together with attendant utility and sanitary facilities, be flood-proofed one (1) foot above the base flood elevation and is watertight with walls substantially impermeable to the passage of water and with structure components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify the hydrostatic and hydrodynamic loading of this subsection has been satisfied. The Planning Director shall verify and maintain record of the certifications. When floodproofing techniques are utilized for a particular non-residential structure, the Floodplain Administrator shall require certification from a registered professional engineer or architect.

**16-7.03** Manufactured and Mobile Homes: In addition to the above standard and requirements presented elsewhere in these Zoning Regulations, or any applicable state regulations, all temporary or permanent manufactured homes and mobile homes shall be anchored to resist flotation, collapse, or later; movement. Manufactured homes and mobile homes must be anchored in accordance with State law, these Zoning Regulations, and Federal Emergency Management Agency (FEMA) guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

1. Any manufactured home or mobile home that is placed or substantially improved within any unnumbered or numbered A zones, or AE zones as shown on the official Flood Insurance Rate Map, shall be elevated on a permanent foundation such that the lowest floor is elevated at least one (1) foot above the base flood elevation as certified by a licensed land surveyor or a licensed engineer and shall be securely anchored to the permanent foundation as set forth in the Franklin County Zoning Regulations as well as the requirements of any other applicable state law or administrative regulations.
2. Any manufactured mobile home that is placed or substantially improved in an existing mobile home park or subdivision wherein a manufactured home or mobile home has sustained "substantial damage" as the result of a flood shall be elevated at least one (1) foot above the base flood elevation as certified by a

licensed land surveyor or a licensed engineer and shall be securely anchored to the permanent foundation as set forth in the Franklin County Zoning Regulations as well as the requirements of any other applicable state law or administrative regulation.

3. Any recreational vehicle placed on sites within any unnumbered or numbered A zones, or AE zones, as shown on the official Flood Insurance Rate Map shall either (a) be placed on the site for a period not to exceed 90 consecutive days; (b) be fully licensed and ready for highway use; (c) meet the permit requirements regarding elevation and anchoring for manufactured or mobile homes of this Article. A recreational vehicle is considered ready for highway use if it is on its wheels or jacking system, is attached to the land only by quick disconnect type utilities and security devices and has no permanently attached additions.

**16-7.04** General Standards: The following provisions shall be required for all new construction or substantial improvements in any area of special flood hazard.

1. Fully enclosed areas that are below the lowest floor and used solely for parking of vehicles, building access, or storage in an area other than a basement that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - A. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
  - B. The bottom of all openings shall be no higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
2. The use of construction materials that are resistant to flood damage.
3. The use of construction methods and practices that will minimize flood damage.
4. New structures shall be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
5. New structures shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
6. Provide a "no-rise" certificate prepared by a registered professional engineer that the new structure or substantial improvement would not result in any increase in flood levels.

7. Franklin County shall ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The County will notify adjacent communities and the State Coordinating Office prior to any alteration or relocation of a watercourse, and submit copies of such notification to the Federal Emergency Management Agency (FEMA). Moreover, the County will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973.

**16-7.05** Special Standards: In all areas of special flood hazard, once **floodway** data is obtained, the following provisions are required:

1. Until a floodway is designated, no new construction, substantial improvements or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
2. The community shall prohibit any encroachments, including fill, new construction, substantial-improvements, and other development within the designated regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

***Section 16-8. Standards for Subdivisions and other Development Proposals***

**16-8.01** The Planning Commission and Board of County Commissioners shall review all subdivision applications and other proposed new developments, including manufactured or mobile home parks and subdivisions, and shall make findings of fact and assure that:

1. All subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding.
2. Subdivision proposals and other proposed new developments (including proposals for manufactured or mobile home parks and subdivisions), greater than five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals regulatory flood elevation data in areas designated Zone A on the official Flood Insurance Rate Map.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.

4. All public utilities and facilities are located so as to minimize or eliminate flood damage.

***Section 16-9. New Water and Sewer Systems***

**16-9.01** New and replacement water and sewer systems shall be constructed to eliminate or minimize infiltration by, or discharge into floodwaters. Any private water supply or private sewer system shall comply with the provisions set forth in the Franklin County Environmental Sanitation Code. A registered professional engineer shall certify that the standards of this section are satisfied. Such certification shall be provided to the Planning Director.

***Section 16-10. Nonconforming Uses and Structures***

**16-10.01** All nonconforming uses and structures within the Floodplain Overlay District (F-P) shall be subject to the following requirements in addition to the provisions of Nonconforming Uses and Structures as set forth in these Zoning Regulations:

1. A structure or use of a structure or premise which was lawful before the passage of these floodplain regulations but which is not in conformity with the provisions of said regulations may be continued subject to the following conditions:
  - A. No such use or substantial improvement of that use shall be expanded, changed, enlarged or altered in any way which increases its nonconformity.
  - B. If such use is discontinued for six (6) consecutive months or more, any future use of the building premises shall conform to the provisions established in this Article.
2. If any nonconforming use or structure is destroyed by any means, including flood it shall not be reconstructed if the cost is more than fifty percent (50%) of its assessed valuation before the damage occurred unless it is reconstructed in conformity with the provisions established in this Article. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the costs any alteration for a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

***Section 16-11. Changes and Amendments***

**16-11.01** These floodplain regulations shall take precedence over conflicting regulations or parts of regulations. The Board of County Commissioners may, from time to time, amend this Article to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, that such amendments shall be in compliance with the requirements of these Zoning Regulations and with the requirements of K.S.A. 12-766. These floodplain regulations are in compliance with the National Flood Insurance Program Regulations as published in Title 44 of the Code of Federal Regulations. (CFR) 60.3(b).

***Section 16-12. Variances***

**16-12.01** Variances and Variance Procedures: The Board of Zoning Appeals shall hear and decide all variances from the requirements of this Article and shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or

determination made by the Planning Director in the enforcement or administration of this Article. The procedure for filing an application for a variance shall be in compliance with K.S.A. 12-759(d).

**16-12.02** Variances for Historic Places: Variances may be issued for the reconstruction rehabilitation or restoration of structures listed on the National Register of Historic Places of the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section, provided the proposed activity will not preclude the structure's continued historic designation.

**16-12.03** Criteria for Consideration of Variances: The Board of Zoning Appeals in passing upon variance application in the Floodplain Overlay District (F-P), shall consider all technical evaluations, all relevant factors and standards specified in this Article, and the following:

1. The danger that materials may be swept onto other land to the injury of others.
2. The danger to life and property due to flooding or erosion damage.
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
4. The importance of the services provided by the proposed facility to the community.
5. The necessity to the facility of a water front location, where applicable.
6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
7. The compatibility of the proposed use with existing and anticipated development.
8. The relationship of the proposed use to the adopted Franklin County Comprehensive Plan.
9. The safety of access to the property in times of flood for ordinary and emergency vehicles.
10. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at this site.
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets, roads and bridges.

**16-12.04** Conditions for Granting a Variance: The Board of Zoning Appeals may grant a variance from the requirements of this article subject to the following:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.



2. Variances shall only be issued upon: a) a showing of good and sufficient cause; and b) a determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws, regulations, or ordinances.
3. Variances shall not be issued within any designated floodway if **any** increase in flood levels would result from a base flood.
4. The Board of Zoning Appeals shall notify the Applicant in writing over the signature of a community official that:
  - a) The issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage; and
  - b) Such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required by this ordinance.
5. Upon consideration of the factors listed above and the purposes of this Article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Article.

***Section 16-13. Penalties for Violation***

- 16-13.01** Any person, company, firm, corporation, institution, municipality or agency of the State who violates any provision of any regulation set forth in this Article (including violations of conditions and safeguards required for variances) shall constitute a misdemeanor and shall be subject to the penalties and remedies as provided by K.S.A. 12-761.

***Section 16-14. Floodwater Retarding Dam Breach Areas (BA)***

- 16-14.01** Special regulations for Floodwater Retarding Dam Breach Areas. In addition to the limitations and restrictions set forth in Floodplain Management Regulations, only uses having a low flood damage potential and not obstructing a flood flow are permitted as follows:
- a. Agricultural uses excluding structures.
  - b. Residential uses such as lawns, gardens, parking, play and yard areas excluding any structures.
  - c. Nonresidential uses such as loading areas, parking and landing strips.
  - d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks and wildlife and nature preserves.

***Section 16-15. Areas of Shallow Flooding (AO and AH Zones)***

- 16-15.01** Located within the areas of special flood hazard as described in this Article are areas designated AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. AO Zones:

- a. All new construction and substantial improvements of residential structures, including manufactured homes, shall have the lowest floor, including basements, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
- b. All new construction and substantial improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basements, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

2. AH Zones

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

## Article 17

### HIGHWAY CORRIDOR OVERLAY DISTRICT (H-C)

#### Sections:

- 17-1. Purpose
- 17-2. Applicability, Enforcement, Interpretation and Conflict
- 17-3. Height and Yard Regulation

#### *Section 17-1. Purpose*

- 17-1.01 The purpose of the Highway Corridor Overlay District is to encourage the implementation of adopted Highway Corridor Management Plans by protecting future right-of-way needs from conflicting development and to facilitate orderly growth consistent with future highway improvements.

#### *Section 17-2. Applicability, Enforcement, Interpretation and Conflict*

- 17-2.01 Land to which this Article applies. This article shall apply to all properties within one (1) mile North and South of K-68 Highway extending easterly from I-35 Highway to the Franklin/Miami County line.
- 17-2.02 Enforcement: The Planning Director hereby has this responsibility after review and recommendation of the Kansas Department of Transportation that any development within the Highway Corridor Overlay District is consistent with the Highway Corridor Management Plan.
- 17-2.03 Conflict: In the event of conflict between any zoning requirements in the Zoning Regulations and any other adopted standard or regulation in a Highway Corridor Management Plan, the more stringent limitation or requirements shall govern and prevail.

#### *Section 17-3. Height and Yard Regulations*

- 17-3.01 No building or structure shall exceed a height that will be deemed to limit or otherwise conflict with highway improvements identified in the adopted Highway Corridor Management Plan.
- 17-3.02 No building or structure shall encroach into any front, side or rear yard setback identified as required for the projected right-of-way projected for improvements to the highway as shown on the adopted Highway Corridor Management Plan.

## ARTICLE 18

### AIRPORT HAZARD OVERLAY ZONING DISTRICT (A-H)

#### Sections:

- 18-1. Purpose
- 18-2 Applicability, Enforcement, Conflict
- 18-3 Definitions
- 18-4 Airport Hazard Overlay (A-H) Zoning District
- 18-5 Ottawa Airport Zone Height Limitations
- 18-6 Supplemental Notice of Construction Requirements
- 18-7 Use Restrictions
- 18-8 Nonconformities
- 18-9 Permits
- 18-10 Administration
- 18-11 Appeals
- 18-12 Variances or Exceptions
- 18-13 Validity

#### *Section 18-1 Purpose*

- 18-1.01 The purpose of the Airport Hazard Overlay (A-H) Zoning District is to protect the safety of residents and private properties within the Airport Hazard Zone Boundaries, to protect pilots and others using the airport and to protect the public investment in the airport and its environs as provided in Federal Aviation Administration Regulations (FAR Part 77) and the “Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport as referenced in the “Kansas Airspace Awareness Tool”.

#### *Section 18-2 Applicability, Enforcement and Conflict*

- 18-2.01 Land to which this Article applies. This article shall apply to all properties within the boundaries of the Airport Airspace Protection Area Map.
- 18-2.02 Enforcement. The Planning Director hereby has this responsibility after review and recommendation of the Airport Advisory Board that any development within the Airport Hazard Overlay District is consistent with the requirements of this Article.
- 18-2.03 Conflict. In the event of conflict between any zoning requirements in the Zoning Regulations and any other adopted standard or regulation in this Article, the more stringent limitation or requirements shall govern and prevail.

#### *Section 18-3. Definitions*

- 18-3.01 As used in this Airport Hazard Overlay Zoning, words or phrases shall be interpreted as set forth in this Section unless the context otherwise requires:  
  
**ABANDONED:** Means any item which has ceased to be used for its designed and intended purpose.

**AIRPORT ADVISORY BOARD:** Means the appointed advisory board for the OWI.

**AIRPORT ELEVATION:** Means the highest point of the airport's usable landing area measured in feet above sea level (966 feet above sea level).

**AIRPORT HAZARD:** Means any structure or tree or use of land which obstructs or is hazardous to the airspace required for the flight of aircraft in landing or taking-off or permanently raises the published or planned approach minimums at the airport.

**AIRPORT HAZARD AREA (also referred to as the "Airport Hazard Overlay District"):** Means any area of land or water surrounding the Ottawa Airport upon which an airport hazard might be established – including any which may permanently raise the published or planned approach minimums of the airport – if not prevented as provided in this Resolution and as depicted on the "Airport Hazard Area Graphic" adopted by and made a part of this Resolution; and including the FAA Part 77 Civil Airport Imaginary Surfaces, which consist of the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface, Transitional Surface and Precision Approach Surfaces; and the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport as referenced on the Kansas Department of Transportation (KDOT) "Kansas Airspace Awareness Tool" at <http://www.ksdot.org/airspaceool>.

**AIRPORT HAZARD AREA GRAPHIC:** Means the map depicting the airspace Airport Airspace Protection Area and attached to this Article as Exhibit A, and made a part thereof.

**AIRPORT LAYOUT PLAN (ALP):** Means a plan adopted by the City Commission that depicts existing airport facilities and proposed developments as determined from the Airport Advisory Board's review of the aviation activity forecasts, facility requirements and alternatives analysis.

**APPROACH MINIMUMS:** Means the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure. It also means planned non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan or any other planning document.

**APPROACH SURFACE:** Means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 18.5 of these Regulations. The perimeter of the approach surface coincides with the perimeter of the approach zone.

**CITY COMMISSION:** Means the Governing Body for the City of Ottawa, Kansas.

**CONICAL SURFACE:** Means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty feet horizontally to each foot vertically (20:1) for a horizontal distance of 4,000 feet.

**FAA:** Means the Federal Aviation Administration.

**HAZARD TO AIR NAVIGATION:** Means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.

**HAZARDOUS WILDLIFE:** Means species of wildlife (birds, mammals, reptiles), including feral animals and domesticated animals not under control, that are associated with aircraft strike problems, are capable of causing structural damage to airport facilities, or act as attractants to other wildlife that pose a strike hazard.

**HEIGHT:** Means for the purpose of determining the height limits in all zones set forth in this Article and shown on the Ottawa Airport Hazard Area Graphic, the datum shall be mean heights as measured from the elevations of OWI Runways 17-35, 13-31 unless otherwise specified.

**HORIZONTAL SURFACE:** Means a horizontal plane 150 feet above the established airport elevations, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

**LARGER THAN UTILITY RUNWAY:** Means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft (OWI Runways 17-35, 13-31).

**OBSTRUCTION:** Means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 18.5 of this Article.

**OTTAWA AIRPORT (OTTAWA MUNICIPAL AIRPORT, OWI):** Means the public-use airport owned and operated by the City of Ottawa, Kansas.

**OWI:** Means the three-letter identifier assigned by the Federal Aviation Administration to the public-use airport owned and operated by the City of Ottawa, Kansas.

**PERSON:** Means an individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

**PRIMARY SURFACE:** Means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. The width of the primary surface is set forth in Section 18.4 of this Article. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

**RUNWAY:** Means a defined area on an airport prepared for landing and taking-off of aircraft along its length.

**RUNWAY, NON-PRECISION INSTRUMENT APPROACH:** Means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned. (OWI Runways 17-35, 13-31).

**RUNWAY, PRECISION INSTRUMENT APPROACH OR INSTRUMENT APPROACH PROCEDURE (IAP):** Means a series of predetermined maneuvers for the orderly transfer of an aircraft under instrument flight conditions from the beginning of the initial approach to a landing, or to a point from which a landing may be made visually (OWI Runways 17-35, 13-31).

**TERMINAL INSTRUMENT PROCEDURE (TERPS):** Means surfaces that are constructed from the electronic signals transmitted by ground-based and satellite-based air navigation electronic equipment, which are the instrument procedures that aircraft pilots use to fly between airports and land on runways.

**TRANSITIONAL SURFACES:** Means these surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically (7:1) from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90 degree angles to the extended runway centerline.

**TREE:** Means any object of natural growth.

**VERTICALLY GUIDED APPROACH SURFACES (VGAS):** Means satellite-based approach surfaces that are established to protect Instrument Approach Procedures (IAP) that provide vertical guidance and lower approach minima. Examples of landings systems protected by VGAS include Instrument Landing System (ILS) based approaches and GPS based procedures utilizing a Wide Area Augmentation System (WAAS) with Localizer Performance with Vertical Guidance (LPV); and which can improve airport capacity when ground based systems are out of service, and provide accurate, reliable access to more airports previously not served by precision approaches.

**WILDLIFE ATTRACTANTS:** Means any human-made structure, land-use practice or human-made or natural geographic feature that can attract or sustain hazardous wildlife within the Airport Hazard Area. These attractants can include architectural features, landscaping, waste disposal sites, wastewater treatment facilities, agricultural or aquaculture activities, surface mining or wetlands.

**ZONES: APPROACH, TRANSITIONAL, HORIZONTAL, CONICAL, VGAS AND TERPS:** Means the zones that are set forth in Section 18.4 of this Article.

*Section 18-4. Airport Hazard Overlay Zoning District.*

**18-4.01** The airport Height and Hazard Regulations shall apply to the Airport Hazard Area as an “Airport Hazard Overlay District” to the County Zoning Regulations, in coordination with the City of Ottawa which shall have zoning jurisdiction over the remainder of said hazard area in the portions of the unincorporated Franklin County not within the City but within the Urban Growth Area. The Airport Hazard Area, wherein the Height and Hazard Regulations apply, include all of the land area as defined in these regulations, generally lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, conical surfaces and any other territory

surrounding the Ottawa Airport divided into zones – including the established and ultimate minimum approach surfaces and precision approaches, as depicted on the Ottawa Airport Hazard Area Exhibit A (which is based on the KDOT “Kansas Airspace Awareness Tool”), made a part hereof and attached to this Article. The Airport Hazard Area Exhibit A is provided to the public as an attachment to this Article for illustrative purposes only, in order to generally show where these regulations apply; and is not to be relied upon as a regulatory tool. For administrative purposes, when applying these regulations on a case-by-case basis, the standard FAA procedures for determining compliance of proposed structures with height and hazard standards should be relied upon as the starting point for interpreting the applicability of these regulations.

**18-4.02** An area located in more than one of the following zones is considered to be in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

- A. FAR Part 77 Surfaces, sub-part C Civil Airport Imaginary Surfaces Zones – the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface and Transitional Surface as designated by the FAA:
1. *Runway larger than utility with a visibility minimum greater than ¾ mile non-precision instrument approach zone (34:1)* – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (OWI Runway 17-35).
  2. *Visual Utility Runway* – The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 2,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (OWI Runway 13-31, existing).
  3. *Utility Runway with a visibility minimum at/or greater than one (1) mile non-precision instrument approach zone* – The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (OWI Runway 13-31, ultimate).
  4. *Transitional Zone* – The transitional zones are the areas beneath the transitional surfaces.
  5. *Horizontal Zone* – The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawings lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.



6. *Conical Zone* – The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.
- B. Runway Approach Minimum Zones – the approach zones to the runways, the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and the planned non-precision or precision instrument approach minimums so indicated on the approved Airport Layout Plan (ALP) or the Airport Hazard Area Graphic, which depicts the Terminal Instrument Procedures (TERPS) surfaces and the Vertically Guided Approach Surfaces (VGAS) for the airport.
  - C. Terminal Instrument Procedures Surface (TERPS) Zones – which can extend ten (10) nautical miles from a runway, constructed from the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways.
  - D. Vertically Guided Approach Surfaces (VGAS) Zones – which provide lower minima for approach procedures that do not rely on ground based navigational systems, including Instrument Landing System (ILS), to improve airport capacity when ground based systems are out of service – for better access to runways with terrain or airspace constraints using curved RNAV legs and narrower protected surfaces; and for improved safety by eliminating circling maneuvers and providing laterally and vertically guided approaches not available through conventional ground-based Navigational Aid (NAVAID) procedures or through existing Area Navigation (RNAV) procedures.

***Section 18-5    Ottawa Airport Zone Height Limitations***

- 18-5.01**    Except as otherwise provided in this Article, no structure shall be erected, altered or maintained and no tree shall be allowed to grow in any zone created by these regulations to a height in excess of the applicable height herein established for such zone.
- 18-5.02**    Such applicable height limitations are hereby established for each of the zones in question as follows:
- A. FAR Part 77 Surfaces, sub-part C Civil Airport Imaginary Surfaces Zones – the Horizontal Surface, Conical Surface, Primary Surface, Approach Surface and Transitional Surface as designated by the FAA:
    1. *Runway larger than utility with a visibility minimum greater than ¾ mile non-precision instrument approach zone* – slopes thirty-four (34) feet outward for each foot upward (34:1) beginning at the end of, and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended centerlines of each runway (OWI Runway 17-35).
    2. *Visual utility runway* – Slopes twenty (20) feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary

surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline. (OWI Runway 13-31, existing).

3. *Utility runway with a visibility minimum at/or greater than one (1) miles non-precision instrument approach zone* – slopes twenty (20) feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline (OWI Runway 13-31, ultimate).
  4. *Transitional Zones* – slope seven (7) feet outward for each foot upward (7:1) beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the elevations each runway. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface of each runway, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
  5. *Horizontal Zone* – established at 150 feet above the airport elevation.
  6. *Conical Zone* – slopes twenty (20) feet outward for each foot upward (20:1) beginning at the periphery of the horizontal zone and at 150 feet above the airport elevations and extending to a height of 350 feet above the airport elevations.
- B. Runway Approach Minimum Zones – The slopes established by the minimum ceiling or visibility under which an aircraft may be landed with the use of a published approach procedure; and by the planned non-precision or precision instrument approach minimums so indicated on an approved Airport Layout Plan.
- C. Terminal Instrument Procedures (TERPS) Surface Zones – The slopes established by the electronic signals transmitted by ground and space based air navigation electronic equipment, which instrument procedures aircraft pilots use to fly between airports and land on runways.
- D. Vertically Guided Approach Surfaces (VGAS) Zones – The slopes established by the VGAS approach surfaces longitudinally centered on the extended runway centerline beginning at the runway threshold and extending outward and upward at a **slope** of 40:1 (2.5%) for a horizontal distance of 20,200 feet. The surface is 2,000 feet wide (1,000 feet either side of centerline) at the runway threshold and expands to a width of 8,000 feet at 10,200 feet from threshold. From 10,200 to 20,200 feet the surface is 8,000 feet wide (4,000 feet either side) and parallel to the runway centerline extended.

***Section 18-6. Supplemental Notice of Construction Requirements.***

- 18-6.01** In order to comply with Section 18.4, *Airport Zones* and Section 18.5, *Airport Zone Height Limitations* in this Article, as well as relevant FAA *Advisory Circulars*, including *Hazardous Wildlife Attractants on or Near Airport, AC No. 150/5200-33B*, this Section is established to require notice of construction or alteration to any object(s) that potentially affects the navigable airspace of the Ottawa Airport. Any application for a permit submitted to Franklin County that potentially affects the navigable airspace of the Ottawa Airport must include a completed Federal Aviation Administration (FAA) Form 7460-1 (2-99) *Notice of Proposed Construction or Alteration*. Any application to construct or alter any wildlife attractant or a proposed solid waste landfill shall be submitted with a completed FAA Form 7460-1 (2-99).

***Section 18-7. Use Restrictions***

- 18-7.01** Notwithstanding any other provisions of this Article, no use may be made of land or water within any zone established by this Article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create wildlife attractants or habitat for hazardous wildlife, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. Furthermore, no use may be made of the land or water within any zone established by this Article that would result in permanently raising the published or planned approach minimums.

***Section 18-8. Nonconformities.***

- 18-8.01** The regulations prescribed in this Article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Article, or otherwise interfere with the continuance of a legal nonconforming use.
- 18-8.02** Regulations Not Retroactive. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article and is diligently prosecuted.
- 18-8.03** Marking and Lighting and Tree Trimming. Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree, upon proper notification from the FAA and/or KDOT, is hereby required to permit the installation, operation and maintenance of such markers and lights by the City, upon recommendation by the Airport Advisory Board, or trimming, topping or cropping the tree at the expense of the Ottawa Airport.
- 18-8.04** Nonconforming Uses Abandoned or Destroyed. Whenever the Franklin County Planning Director determines that a nonconforming tree or structure has been abandoned or more than fifty-one percent (51%) destroyed, physically deteriorated, or decayed, no permit shall be granted that would allow the reconstruction of such abandoned or destroyed nonconforming structure or tree to exceed the applicable height limit or otherwise deviate from these Height and Hazard Regulations. Factors to be considered in determining abandoned could include: operability and functional utility of the item; last effective use; disrepair or damage; status of registration or licensing of the item; or the nature of the area and location of the item.

**Section 18-9. Permits**

- 18-9.01** No permit shall be granted for a use inconsistent with the provisions of this Article, or for a use that would allow the establishment or creation of an airport hazard or permit a nonconforming structure to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or when the application for a permit is made; unless a variance has been approved.
- 18-9.02** Permits Required When. Permit applications shall be submitted for proposed structures in any of the zones or surfaces except as specifically provided in subsection 2. Each permit application shall be submitted on forms required by the County to determine whether the resulting use, structure or tree would conform to these regulations. If such determination is in the affirmative, the permit shall be granted.
- 18-9.03** No Permit Required When. No permit shall be required for structures shorter than seventy-five (75) feet; provided that, in an approach or transitional zone the proposed structure or tree is more than 4,200 feet from the end of a runway; provided further that, this permit exception shall not be construed as permitting any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article.
- 18-9.04** Permit Conditioned on FAA Form 7460-1, "Notice of Construction". Any proposed construction, alteration or repair requiring a permit must have filed an FAA Form 7460-1 (FAA 77.13 Construction or Alteration Requiring Notice) with the appropriate FAA Regional Office. No construction, alteration or repair work may commence until the determination is received from the FAA and said determination is reviewed by the Planning Director in consultation with the Airport Advisory Board.
- 18-9.05** Permit may be Conditioned on Marking or Lighting and Tree Trimming. Any permit or variance granted may be conditioned on a requirement that the owner of the structure or tree in question install, operate and maintain, at the owner's expense, such markings and lights or tree trimming as may be deemed reasonably necessary to effectuate the purpose of this Article. If deemed proper by the Airport Advisory Board, this condition may be modified to require the owner to permit the City, at its own expense, to top, crop or trim the tree or install, operate and maintain the necessary markings and lights.

**Section 18-10 Administration**

- 18-10.01** It shall be the duty of the Planning Director to administer the regulations prescribed herein in consultation with the recommendation of the Airport Advisory Board. Applications for permits shall be made to the Franklin County Planning Department upon a form for that purpose. Applications for appeals, variances or exceptions shall be made to the Planning Director upon a form published for that purpose per Article 24.

**Section 18-11 Appeals**

- 18-11.01** Any person aggrieved or any property owner in the Height and Hazard Area affected by any decision of the Planning Director made in the administration of this Article may appeal to the Board of Zoning Appeals per Article 24.

***Section 18-12***                    ***Variance or Exception***

- 18-12.01** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use of property, not in accordance with the regulations prescribed in this Article, may apply to the Board of Zoning Appeals for a variance or exception from such regulations. The application for variance or exception shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the published or planned approach minimums, operation of air navigation facilities, and the safe, efficient use of navigable airspace. Such variances shall be granted where it is duly found that a literal application or enforcement of these regulations will result in undue hardship and relief granted would not be contrary to the public interest, would not create a hazard to air navigation, would do substantial justice and would be in accordance with the spirit of this Article. Additionally, no application for variance to the requirements of this Article may be considered by the Board of Zoning Appeals unless a copy of the application has been furnished to the Ottawa Airport Advisory Board for review and comment.

- 18-12.02** The Board of Zoning Appeals shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts in reversing, affirming or modifying any order, requirements, decision or determination which comes before it under the provisions of this Article.

***Section 18-13***                    ***Validity***

- 18-13.01** Should any section, clause or provision of this Article be declared invalid or unconstitutional by any court of record, the same shall not affect the validity of these Regulations as whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.
- 18-13.02** Any previous Regulations or any parts of regulations in conflict with this Article are hereby repealed.

## Article 19

# SPECIAL USE PERMITS

### Sections:

- 19-1. Purpose**
- 19-2. Application for Special Use Permit**
- 19-3. Approval Procedures**
- 19-4. Denial of an Application**
- 19-5. Continuance, Expiration, Revocation or Modification of Special Use Permit**

### *Section 19-1. Purpose*

- 19-1.01** Franklin County recognizes that certain uses or activities may be desirable or necessary to be located within the community, but that these uses or activities may not be totally compatible with other uses and activities permitted within that zoning district unless limited or specifically restricted in their use or activity. Whenever a zoning district has identified such uses or activities, a Special Use Permit shall be required.

### *Section 19-2. Application for Special Use Permit*

- 19-2.01** An application for a Special Use Permit may be initiated by a property owner or agent representing a property owner to the County Planning and Building Office on forms available from the Planning Director.

- 19-2.02** The application shall include the following:
- a. Filing fee as established by the County Commissioners.
  - b. Legal description of the property.
  - c. Names of all property owners having a legal interest in the property.
  - d. Description of the proposed activity.
  - e. Composite site plan showing the major details of the proposed development, including the location of all structures, fences, driveways, utilities, drainages, slopes, parking, landscaping and other physical features.
  - f. A statement from the utility services regarding their capabilities to serve the development.
  - g. If private on-site sanitation is proposed, a description of the sanitation system, including size and location of the proposed facility.

### *Section 19-3. Approval Procedures*

- 19-3.01** All applications for a Special Use Permit shall be submitted to the Planning Commission for recommendation and report, and no Special Use Permit shall be approved without a hearing before the Planning Commission. If an application for a Special Use Permit for lands within the Highway Corridor Overlay District has been filed, notice of that application shall be submitted to KDOT at least twenty (20) days prior to the Planning Commission meeting. The Planning Commission shall cause an accurate written summary to be made of the proceedings. Public Notice of such hearing shall be published by the Planning Director not less than twenty (20) days prior to the date of said hearing in the official County Newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place of the hearing; describe the nature of the application which will be presented; and state that

the public may attend and be heard. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.

- 19-3.02** Notice shall be sent by mail, at least twenty (20) days prior to the scheduled Planning Commission meeting, to all property owners within one thousand (1,000) feet of the boundaries of the land being considered for the rezoning where the surrounding properties are unincorporated or two hundred (200) feet where the surrounding properties are within the corporate limits of a city. Said written notice shall include the requirements as set forth in Section 23-5.02. Property owners notified of the public hearing shall have the opportunity to be heard or to submit a protest petition as provided in K.S.A. 12-757 (e) to be filed in the office of the County Clerk and to be considered by the Board of County Commissioners in considering the proposed rezoning.
- 19-3.03** All such special use permit applications shall be set for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, with the consent of the applicant, be continued.
- 19-3.04** In considering any application for a Special Use Permit, the Planning Commission shall give consideration that the proposed use is in conformance with the Comprehensive Plan, complies with other adopted standards, is in the interest of the public health, safety and general welfare and the following additional factors:
- a. The character of the neighborhood.
  - b. The zoning and uses of nearby properties.
  - c. The suitability of the subject property to the proposed use.
  - d. Mitigation measures to minimize impacts to surrounding properties or services.
- 19-3.05** After conclusion of the public hearing, the Planning Commission shall recommend approval, conditional approval or denial of the Special Use Permit. The recommendation of the Planning Commission shall be considered by the Board of County Commissioner's at the Board's next regular meeting after receiving the recommendation of the Planning Commission.
- 19-3.06** After receiving the recommendation of the Planning Commission, such amendment, together with the reasons therefore, the Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission's recommendation by a  $\frac{3}{4}$  majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove.
- 19-3.07** If the Board of County Commissioners returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon receipt of such recommendation, the Board of County Commissioners, by a simple majority, may adopt, may revise or amend and adopt such recommendation by resolution, or it may deny the zoning amendment.
- 19-3.08** If the Planning Commission fails to deliver a recommendation to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioner's report, the Board of County

Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

**19-3.09** In approving a Special Use Permit, the Board of County Commissioners may require such reasonable conditions as deemed necessary to mitigate impacts to the community, maintain the character of the neighborhood and to protect the public health, safety and general welfare.

**19-3.10** Regardless of whether or not the Planning Commission recommends approval, conditional approval or denial of a Special Use Permit, if a protest petition signed by the owners of at least twenty percent (20%) of the total area (less public streets and ways) located within one thousand (1,000) feet of the boundaries of the proposed Special Use Permit or two hundred (200) feet when the surrounding properties are within the corporate limits of a city, is filed with the County Clerk within fourteen (14) days after the date of the conclusion of the Planning Commission hearing, the resolution approving the Special Use Permit shall not be passed and adopted except by a 4/5 vote of all of the members of the Board of County Commissioners.

***Section 19-4. Denial of an Application***

**19-4.01** Whenever the application for a Special Use Permit has been denied by the Board of County Commissioners, the same application or one substantially similar, shall not be reconsidered for the property within a period of one (1) year from the date of denial unless the Planning Director finds that there has been a substantial change of circumstances from those existing when the previous application was considered.

***Section 19-5. Continuance, Expiration, Revocation or Modification of Special Use Permit***

**19-5.01** Any approved Special Use Permit shall be allowed to continue, unless specifically limited in time as a condition of its approval, and, provided that **all** conditions attached to the permit by the Board of County Commissioners are complied with.

**19-5.02** All Special Use Permits shall automatically expire, be considered abandoned and become invalid by operation of law when:

- a. A definite time frame has been established as a condition by the County Commissioners and that time frame has elapsed.
- b. An approved Special Use Permit has not been initiated or utilized by commencing the activity or use at the site specified in said Permit within one (1) year of the date of authorization. The authorization date shall be the date that the Permit is approved by resolution of the County Commissioners.
- c. An approved special use permit wherein the authorized activity, service or use has ceased, except for rock quarries, for three hundred and sixty-five (365) continuous days, for any reason.
- d. Special Use Permits subject to termination due to the provision of paragraphs b. and c. above, may file a written petition with the Planning Director at least thirty (30) days prior to the expiration date requesting an extension of time to begin to reinstitute activity, service or use. The application shall state specific reason for such an extension and shall include all reports from appropriate County agencies. The County Commissioners may grant an extension if it is found that



circumstances beyond the normal control of the holder of the permit resulted in a cessation of the activity, service or use for three hundred sixty-five (365) consecutive days or the holder(s) were unable to initiate the Special Use Permit.

**19-5.03** Any Special Use Permit authorized in accordance with these provisions may be revoked or modified when the Planning Commission finds, after a public hearing, that the following exist:

- a. There has been a failure to comply with the conditions established for that Special Use Permit.
- b. That the Special Use Permit has substantially expanded or deviated from its original use and intent. Original use and intent shall be interpreted as being the actual use(s) specifically authorized in the Special Use Permit application. If the Planning Commission finds that there has been no change or that the change is minimal, the original Special Use Permit will remain in effect.
- c. That the Special Use Permit has been found by a court of law and/or federal or state administrative agency to be an illegal activity or to be a nuisance as defined by Kansas statutes.

**19-5.04** Action to modify or revoke a Special Use Permit may be initiated by the County department responsible for enforcing these regulations, or any condition(s) established for that Special Use Permit or upon a valid complaint filed with the Planning Department and/or other affected County Department. Upon receipt of a complaint, the Planning Director shall investigate the complaint. If the investigation finds that the complaint is valid and that sufficient grounds exist for modification or revocation of a Special Use Permit, the matter shall be referred to the Planning Commission for a hearing.

**19-5.05** The decision of the Planning Commission to modify or revoke shall be submitted to the Board of County Commissioners for final consideration.

## Article 20

### NONCONFORMING USES

#### Sections:

- 20-1. Application
- 20-2. Nonconforming Lots of Record
- 20-3. Nonconforming Use of Structures
- 20-4. Discontinuance of Nonconforming Uses
- 20-5. Destruction of a Nonconforming Use
- 20-6. Nonconforming Uses Within Floodplain Overlay Zoning District
- 20-7. Nonconforming Uses With a Special Use Permit

#### *Section 20-1. Application*

- 20-1.01 The provisions of these Zoning Regulations shall not apply to any lawful existing use of any building or land and shall not prevent the restoration of a building damaged not more than fifty percent (50%) of its assessed valuation by fire, explosion, act of God or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to the alteration of a building to provide for a change in such use of any building or land after the effective date of these Zoning Regulations.
- 20-1.02 No nonconforming use or substantial improvement of that use shall be expanded, changed, enlarged or altered in a way which increases its nonconformity except as provided in these Regulations.
- 20-1.03 Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.
- 20-1.04 A lawful nonconforming use of a building, structure or land that has been voluntarily discontinued for a period of six (6) consecutive calendar months shall not thereafter be resumed.

#### *Section 20-2. Nonconforming Lots of Record*

- 20-2.01 Building Permits for Nonconforming Residential Lots of Record: In any zoning district, notwithstanding the requirements imposed by any other provision of the County development regulations, single-family detached dwelling units, which otherwise comply with County Regulations, may be constructed on a lot or parcel that:
  - 1. Is less than the prescribed minimum lot size for that zoning district; and/or
  - 2. Has less than the prescribed minimum lot width for that zoning district; and/or
  - 3. Does not contain the prescribed frontage on a County or State maintained road or highway where the following have been determined:
    - A. The lot or parcel was created as part of a land division approved or otherwise acknowledged by an agency of the County prior to December 8, 1997.

- B. The lot or parcel was part of an official survey or deed recorded with the County Register of Deeds, wherein the lot or parcel has been owned separately and individually from adjoining properties and said ownership had been conveyed prior to December 8, 1997.
- C. Building permits shall be granted for replacement structures, building additions and/or accessory structures where it is established that a building permit for existing single-family residential structures and/or accessory structures were approved or otherwise acknowledged by an agency of the County, or it has been determined that said structures were constructed prior to December 8, 1997.
- D. Building permits may be granted where the Zoning Board of Appeals has reviewed the existing circumstances and has determined that the lot or building generally satisfies the provisions set forth in this Section and substantially complies with the purpose and intent of the County Zoning Regulations.

**20-2.02** Side Yard Requirements for Nonconforming Lots: Building permits authorized in Section 25-1.02 shall comply with all requirements of that zoning district, except that the following side yard setback requirements shall apply in lieu of side yard setbacks as set forth in the zoning districts:

- 1. The dwelling shall be placed on the lot so as to provide a yard on each side of the dwelling.
- 2. No side yard shall be less than ten percent (10%) of the width of the lot and in no case less than three feet (3’).

**20-2.03** Sanitary Sewer Requirements for Nonconforming Residential Lots: Nonconforming lots on which construction is permitted per Section 25-1.02 and which contain less than three (3) acres of lot area, shall be served by either a public wastewater system or alternative wastewater system (as defined by the Franklin County Sanitation Code); unless a waiver is granted as provided for in said Code and a septic system is installed.

***Section 20-3. Nonconforming Use of Structures***

**20-3.01** Except as otherwise provided herein, the lawful use of a structure existing on the effective date of these Regulations may be continued although such use does not conform to the provisions of these Regulations. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. The nonconforming use of a structure may be hereafter extended throughout those parts of the structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of these Zoning Regulations.

***Section 20-4. Discontinuance of Nonconforming Uses***

**20-4.01** No land or structure or portion thereof used in whole or in part for a nonconforming use which voluntarily remains idle or unused for a continuous period of six (6) months, whether or not the equipment, fixture, improvements or facilities are

removed, shall not again be used except in conformity with the regulations of the district in which such land or structure is located.

***Section 20-5. Destruction of a Nonconforming Use***

**20-5.01** No structure which has been damaged, by any cause whatsoever, to the extent of more than fifty percent (50%) of the fair market value of the structure immediately prior to damage, shall be restored except in conformity with the provisions of these Zoning Regulations, and all rights as a nonconforming use shall be terminated. If a structure is damaged by less than fifty percent (50%) of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction be substantially completed within twelve (12) months of the date of such damage.

***Section 20-6. Nonconforming Uses Within Floodplain Overlay Zoning District***

**20-6.01** Additional regulations regarding nonconforming uses within the Floodplain Overlay District (F-P) are presented in Section 16-10 of these Zoning Regulations.

***Section 20-7. Nonconforming Uses With a Special Use Permit***

**20-7.01** Any use made nonconforming by the adoption of these Regulations having been allowed under a valid special use permit issued by the County prior to the effective date of these Zoning Regulations, shall continue to comply with the conditions set forth in that permit until the permit expires or is otherwise terminated.

## Article 21

# PARKING AND LOADING REGULATIONS

### Sections:

- 21-1. Purpose
- 21-2. General Provisions
- 21-3. Required Parking
- 21-4. Loading and Unloading Requirements

### *Section 21-1. Purpose*

- 21-1.01** It is the intent and purpose of this Article to establish minimum requirements as to the number, design and construction for off-street parking and loading spaces. These Zoning Regulations, as well as the parking regulations of each zoning district, are intended to ensure that all uses of land within the unincorporated territory shall have adequate off-street parking for such use.

### *Section 21-2. General Provisions*

- 21-2.01** Off-street parking and loading space, as required in this Article, shall be provided for all new buildings and structures or additions thereto. Off-street parking and loading space shall also be required for any expansion or enlargement of any existing building or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats or intensity of use. Existing parking areas previously required shall not be used to satisfy required off-street parking for any new structures or additions to existing building, structures or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this Article. The issuance of a building or zoning permit shall require compliance with the following standards:

- a. Parking spaces shall be located entirely on private property with no portion, except the necessary drives, extending into any street or other public way.
- b. Off-street parking shall be considered as an accessory to the use for which the parking is provided. Parking shall be located on the same tract with the main use, or be located in accordance with the provisions of this Article relating to off-street parking exceptions.
- c. Required off-street parking shall be solely for the parking of motor vehicles, in operating condition, of patrons, occupants or employees of such use.
- d. Minimum design criteria for off-street parking are as follows:

Area: A required off-street parking space shall be at least 9' 0" in width and at least 20 feet in length. Truck and oversize vehicle parking spaces shall be at least 10'00" in width and at least 40 feet in length.

Access: Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking spaces.

Parking Lots: Off-street parking lots shall comply with such design standards relating to stall width, stall depth, driveway width, island width, carriers, and ingress and egress as may be established from time to time by the Planning Commission.

Surfacing: All open off-street parking and loading areas shall be graded or otherwise improved with an all-weather, dust-free material and shall be constructed of material greater than or equal to the surfacing on the main travel way upon which the parking areas have access.

Lighting: Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

Repair and Service: No motor vehicle repair work or service of any kind shall be permitted on any required off-street parking facilities.

Computation: When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of less than ½ may be disregarded and a fraction of ½ or more shall be counted as one parking space.

Location: In no instance shall off-street parking required by this Article be located more than 300 feet (as measured along lines of public access) from the use which it serves.

Marking: All required off-street parking spaces shall be clearly marked or otherwise delineated.

Plans and Approval Required: Plans showing the layout and design of all required off-street parking and loading areas shall be submitted and approved by the Planning Director prior to issuance of a zoning or building permit. Before approving any parking layout, the Planning Director shall be satisfied that the spaces provided are usable and meet standard design criteria.

### ***Section 21-3. Required Parking***

**21-3.01** In addition to the parking and loading requirements set forth in each Zoning District, off-street parking shall be provided as follows:

1. Residential and Lodging Uses:
  - a. *Boarding or lodging houses:* One parking space per each sleeping room.
  - b. *Dormitories, fraternities, and sororities:* Two parking spaces for each three occupants based on the designed maximum capacity of the building.
  - c. *Hotels and motels:* One space per each rental unit plus one space per each twenty units, plus such spaces as are required for restaurants, assembly rooms and other affiliated facilities.
  - d. *Mobile home parks:* Two parking spaces per each mobile home.
  - e. *Nursing homes, rest homes, etc.:* One parking space per each two beds based on the designed maximum capacity of the building, plus one additional parking space for every ten beds.

- f. *Single-family*: One space per dwelling unit.
- g. *Two-family and multiple-family*: 1 ½ spaces per dwelling unit.

2. Commercial and Industrial Uses:

- a. *Automobile, truck, trailer and mobile home sales and rental lots*: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of said vehicles plus one parking space for each service bay.
- b. *Automobile wrecking yards*: Two parking spaces for each 10,000 square feet of storage area.
- c. *Banks, post office and business and professional office*: One parking space for each 300 feet of gross floor area.
- d. *Bowling alleys*: Eight parking spaces for each alley plus such additional spaces as required for restaurants, bars, cocktail lounges, or other affiliated facilities.
- e. *Express/parcel delivery and freight terminal establishments*: One parking space for each two employees based upon the largest working shift in a 24-hour period plus one parking space for each delivery vehicle maintained on the premises.
- f. *Car wash*: Three holding spaces for each car washing stall plus two drying spaces for each car washing stall.
- g. *Funeral homes and mortuaries*: One parking space for each eight seats based upon the designed maximum capacity of the parlor plus one additional parking space for each service vehicle maintained on the premises.
- h. *Furniture and appliance stores, household equipment or furniture repair shop*: One parking space for each 600 square feet of floor space.
- i. *Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials or products*: One per two employees based upon the largest working shift in any 24-hour time period.
- j. *Medical and dental clinics or offices*: One parking space for each 100 square feet of gross floor area.
- k. *Restaurants, night clubs, taverns and lounges*: One parking space for each two seats based on the maximum designed seating capacity; provided, however, that drive-in restaurants shall have, in addition to service stalls, one parking space for every two employees.
- l. *Retail stores and shops*: One space per 300 square feet of floor area.
- m. *Service stations*: One parking space for each inside service stall plus two spaces for each outside service bay.
- n. *Theaters, auditoriums and places of assembly with fixed seats*: One space for each four seats.
- o. *Theaters, auditoriums and places of assembly without fixed seats*: One parking space for each three people based upon the design maximum capacity of the building.
- p. *Warehouse, storage and wholesale establishments*: One parking space for each two employees based upon the largest working shift in any 24-hour period.
- q. *All other business and commercial establishments not specified above*: One parking space for each 300 square feet of floor area.

3. Other Uses:

- a. *Churches*: One parking space for each four seats based upon the maximum designed seating capacity including choir lofts.
- b. *Elementary, junior high and equivalent parochial and private schools*: Two for each classroom.
- c. *High schools, colleges, universities and other similar public or private institutions of higher learning*: Eight parking spaces for each classroom.
- d. *Hospitals*: One parking space for each two beds plus one parking space for each resident or staff doctor plus one space for each two employees based on the largest working shift in any 24-hour period.
- e. *Laundromats*: One space for each two washing machines.
- f. *Nursery schools and day care centers, public or private*: One parking space for each five children.
- g. *Private clubs, lodges and union headquarters*: One parking space for each three seats based upon the design maximum seating capacity.
- h. *Swimming pools and clubs*: One parking space for each 40 square feet of water area.
- i. *Trade and commercial schools*: One parking space for each student.

**Section 21-4. Loading and Unloading Requirements**

**21-4.01** Off-street loading and unloading shall be provided, erected, established or enlarged and occupied for goods display, retail operation, department store, market, hotel, mortuary, laundry, dry cleaning or other uses, involving the receipt or distribution of material or merchandise by motor vehicle. The loading and unloading space or spaces shall be so located to avoid undue interference with public use of streets, alleys and walkways. Such space shall include a 10 foot by 50 foot loading space with a minimum of 14 feet of height clearance. Number of spaces shall be provided as follows:

<u>Number of Spaces</u>	<u>Gross Floor Area in Square Feet</u>
1	3,000 to 20,000
2	20,000 to 40,000
3	40,000 to 60,000
4	60,000 to 80,000
5	80,000 to 100,000



## Article 22

# SIGN REGULATIONS

### Sections:

- 22-1. Purpose
- 22-2. Use Limitation/Permit Required
- 22-3. General Sign Requirements
- 22-4. Signs Exempt from Permits
- 22-5. Classification of Signs
- 22-6. Sign Regulations
- 22-7. Nonconforming Signs

### *Section 22-1. Purpose*

- 22-1.01 The purpose of this Article is to protect, preserve and promote the beauty, safety and general welfare of the unincorporated territory by establishing certain minimum standards and procedures for the erection of signs in various zoning districts. It is the intent of these Zoning Regulations to qualify, supplement, and more specifically, define the permitted use of signs, and the size or type of signs allowed by the various zoning districts.

### *Section 22-2. Use Limitation/Permit Required*

- 22-2.01 Unless otherwise exempt as provided in Section 22-4 of these Zoning Regulations, no new sign shall hereafter be constructed, erected, attached, supported or hung on a building, wall or structural support and no existing sign shall be altered, rebuilt, extended in height, replaced, relocated or expanded until a permit has been issued by the Planning Director.

In addition to these Zoning Regulations, all provisions of the Kansas Highway Advertising and Control Act must be met for any sign within three hundred (300) feet of any State or Federal highway.

### *Section 22-3. General Sign Requirements*

- 22-3.01 The following general sign requirements shall apply to all signs in all zoning districts:
  - a. No sign shall be maintained at any location, where by reason of its position, size, shape or color to be an obstruction or to impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, or where it may interfere with, mislead or confuse traffic.
  - b. Sign area shall include the entire surface area within a single perimeter enclosing the outside limits or boundaries of such sign. Where the perimeter boundaries are irregular or are not parallel, the sign area shall be the surface of the regular geometric shape which most nearly closes the outside limits or boundaries.
  - c. No permanent sign shall be attached to a utility pole or tree whether on public or private property.
  - d. Illuminated signs shall be designed and installed so as not to reflect or direct light onto any residential lot or residential zoning district and shall not interfere with any traffic signals.

- e. Sign height shall be measured from the average ground elevation at the base of the sign to the highest element of the sign.
- f. Signs shall be maintained so as to be structurally sound and in a safe condition; shall be kept in a state of intact appearance by means of painting sealing or coating and repair or replacement of damaged parts, panels or lights. Signs pertaining to businesses, activities, places or occupants that are no longer using the premises or the activity to which the sign relates, shall be removed by the permittee or property owner within sixty (60) days.
- g. No advertising sign shall project into any required front, side or rear yard building setback for the zoning district in which the sign is located.
- h. Any advertising sign located within three (3) feet of a driveway, travel way, parking or loading area shall have its lowest elevation at least 10 feet above the grade of the driveway, travel way, parking or loading area.

***Section 22-4. Signs Exempt from Permits***

**22-4.01** The following signs shall be exempt from the requirements of this Article, but shall conform with the other requirements of these Zoning Regulations:

- 1. Public street name signs, traffic control signs, legal notices; rezoning signs, railroad crossing signs, danger, temporary warning and emergency signs.
- 2. Memorial signs or tables on private property not in excess of four (4) square feet.
- 3. Official notices by public officers or employees in the performance of their duties.
- 4. Signs required or specifically authorized by statute or County regulations.
- 5. Non-illuminated, detached political signs for political candidates for public office or measures on election ballots. Said signs shall not be placed more than ninety (90) days prior to the date of the election and shall be removed by the property owner or occupant within ten (10) days after the date of the election. Signs shall not be more than thirty-two (32) square feet in area and not more than six (6) feet in height.
- 6. In residential and agricultural districts, one (1) temporary “For Sale”, “For Lease”, “Open House”, “Estate Sale” or “Garage Sale” sign per property lot that is non-illuminated and not more than ten (10) square feet in area, and not more than four feet (4’) in height.
- 7. In commercial or industrial districts, one (1) temporary “For Sale” or “For Lease” sign per property lot that is non-illuminated and no more than thirty-two (32) square feet in area, and not more than six feet (6’) in height.
- 8. In commercial districts, temporary indoor window signs.
- 9. Agricultural signs.
- 10. Parking lot ground signs, for the purpose of guiding and directing pedestrians and/or vehicle traffic.
- 11. Such additional signs as “No Hunting”, “No Fishing”, “No Trespassing” and other like signs, not to exceed six (6) square feet.
- 12. Signs for non-profit service clubs, civic organizations, fraternal organizations, youth organizations and religious organizations as follows:
  - A. Temporary signs advertising upcoming special events sponsored by the organization which are not installed more than thirty (30) days prior to the event and provided such signs are non-illuminated and do not exceed sixty-four (64) square feet in area. Said signs may be located off-premises (with written consent of the property owner), shall not be

located in any public right-of-way or road easement and shall be removed within ten (10) days after the event.

- B. Permanent off-premises directional signs (with written consent of property owner) giving direction to the special event or location of the organization, provided such signs are non-illuminated and do not exceed thirty-two (32) square feet in area. Said signs shall not be located in any public right-of-way or road easement and shall not be located in such a manner as to constitute a traffic hazards as determined by the County Engineer.
- C. Permanent off-premises identification signs identify the various organizations, provided said signs identify two (2) or more related organizations and do not exceed more than six (6) square feet in area of each organization being identified.
- D. Permanent on-premises signs as permitted by the requirements of the zoning district where said organization is located.

### **Section 22-5. Classification of Signs**

#### **22-5.01 Functional Types:**

- a. *Off-Premise Advertising (Billboard) Signs:* A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
- b. *Bulletin Board Sign:* A sign that indicates the name of an institution or organization on whose premises it is located and which may contain the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
- c. *Business Signs:* A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
- d. *Construction Signs:* A temporary sign indicating the names of the architects, engineers, landscape architects, contractors, similar artisans and lending institutions involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
- e. *Identification Signs:* A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
- f. *Name Plate Signs:* A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.
- g. *Temporary Signs:* A sign intended for temporary display, not to exceed ninety (90) days including "For Sale" or "For Rent" signs, political signs, commercial window signs, special event signs, "Auction" and "Open House" directional signs.

#### **22-5.02 Structural Types:**

- a. *Awning, Canopy or Marquee Sign:* A sign that is mounted or painted on, or attached to an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee.

- b. *Ground Sign*: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property, where the bottom edge of the sign is under six feet.
- c. *Pole Sign*: Any sign placed upon, or supported by, the ground independently of the principal building or structure on the property where the bottom edge of the sign is six feet or more above the ground level.
- d. *Projecting Sign*: Any sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
- e. *Wall Sign*: A sign fastened to or painted on a wall of a building or structure in such manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.
- f. *Roof Sign*: A sign totally supported on the roof of a structure. Roof signs shall not project more than 12 inches beyond the face of the building nor more than 10 feet above the highest point of the roof.

**Section 22-6. Sign Regulations**

**22-6.01** The following sign regulations shall apply in addition to any requirements set forth in the individual zoning districts:

- 1. “A-1” and “A-2” Agricultural Districts: (See Agricultural Districts)
- 2. Residential Districts: (See Residential Districts)
- 3. Commercial Districts:
  - a. *Functional Types Permitted*:
    - 1) Off-Premise Advertising Signs
    - 2) Bulletin Board Signs
    - 3) Business Signs
    - 4) Construction Signs
    - 5) Identification Signs
    - 6) Name Plate Signs
    - 7) Temporary Signs
  - b. *Structural Types Permitted*
    - 1) Awning, canopy or marquee signs
    - 2) Ground Signs
    - 3) Pole Signs
    - 4) Projecting Signs
    - 5) Roof Signs
    - 6) Wall Signs
  - c. *Number of Signs Permitted*:
    - 1) Awning, canopy or marquee signs and wall signs: One per business or occupancy.
    - 2) Ground Signs and Pole Signs: One per zoning lot.
    - 3) Projecting Signs: One per zoning lot.
    - 4) Roof Signs: One per zoning lot.

- d. *Maximum Gross Surface Area:* Two square feet for each lineal foot of street frontage provided no single sign shall exceed a gross surface area of 400 square feet.
  - e. *Maximum Height:* 30 feet.
  - f. *Required Setback:* Advertising signs shall maintain the same setback that is required for principal structures.
  - g. *Illumination:* Illuminated signs shall be permitted.
4. Industrial Districts:
- a. *Functional Types Permitted:*
    - 1) Off-Premise Advertising Signs
    - 2) Bulletin Board Signs
    - 3) Business Signs
    - 4) Construction Signs
    - 5) Identification Signs
    - 6) Temporary Signs
  - b. *Structural Types Permitted:*
    - 1) Awning, canopy or marquee signs
    - 2) Ground Signs
    - 3) Pole Signs
    - 4) Projecting Signs
    - 5) Wall Signs
    - 6) Roof Signs
  - c. *Number of Signs Permitted:* Two per zoning lot.
  - d. *Maximum Gross Surface Area:* Two square feet per lineal foot of street frontage, provided no single sign exceeds a gross surface area of 400 square feet.
  - e. *Maximum Height:*
    - 1) Roof Signs: 10 feet above the highest point of the structure on which the sign is located.
    - 2) All other signs: 30 feet.
  - f. *Required Setback:* None, except that advertising signs shall maintain the same setback that is required for principal structures.
  - g. *Illumination:* Illuminated signs shall be permitted.
5. Billboard Signs: (Off-Premise Outdoor) Off-premise outdoor billboard signs shall be permitted in the C-2, I-1 and I-2 Districts.
- a. *Location:*
    - 1) Billboard Signs shall not be located within three hundred (300) feet of any residential district or within three hundred (300) feet

- of any structure occupied as a residential, institutional or other non-commercial or non-industrial use, except agriculture.
  - 2) Billboard signs shall not be located within fifty (50) feet of any State or federal highway to be measured from the edge of the right-of-way.
  - 3) Billboard signs shall not be attached to the roof or wall of any building.
- b. *Maximum Height:* The top edge of any one billboard sign shall not exceed fifty (50) feet above the average grade measured from the base of the sign.
- c. *Maximum Sign Area:*
- 1) The maximum sign area of any billboard sign shall not exceed a total of one thousand two hundred (1,200) square feet and shall comply with the following:
    - a) Shall not exceed a maximum height or vertical dimension of twenty (20) feet.
    - b) Shall not exceed a width or horizontal dimension of sixty (60) feet.
    - c) For purpose of this subsection, each face of a billboard sign, whether back-to-back, V-shaped, or other configuration, shall be considered a separate sign.
- d. *Lighting:* Billboard signs may be indirectly illuminated but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic.
- e. *Minimum Spacing Requirements:* No billboard sign hereafter erected shall be less than on thousand (1,000) feet from any other existing billboard sign on the same side of the road or highway. Such minimum spacing distance shall be measured along the center line of the frontage road, traffic way or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, traffic way or interstate highway.

**Section 22-7. Nonconforming Signs**

**22-7.01** Every sign in existence at the time these Zoning Regulations become effective may continue in existence subject to the following:

- 1. Shall not be altered structurally or moved unless it is made to comply with the provisions of these Zoning Regulations. However, the changing of the moveable parts of an existing sign that is designed for such changes, or the repainting of display matter shall not be deemed a structural alteration.
- 2. The lawful use of a sign existing on the effective date of these Zoning Regulations, although such sign does not conform to the provisions hereof, may continue; but if such nonconforming use is discontinued for a period of six (6) months, any future use of such sign shall be in conformity with the provisions of these Regulations.

3. No sign which has been damaged by fire, wind, explosion, or other act of God to the extent that fifty percent (50%) or more of the sign is destroyed, shall be restored except in conformity with these Zoning Regulations. Any nonconforming sign which has been damaged to an extent less than fifty percent (50%) may be restored to its condition which existed prior to its damage.

## Article 23

### AMENDMENT PROCEDURES

#### Sections:

- 23-1. General Authority and Procedure**
- 23-2. Fees for Rezoning**
- 23-3. Conceptual Plans**
- 23-4. Receipt of Rezoning Applications**
- 23-5. Public Hearing Before Planning Commission**
- 23-6. Action by Planning Commission and Board of County Commissioners**
- 23-7. Limitations on Reapplication for Amendments**
- 23-8. Procedure for Amendment of Floodplain Zoning Regulations**

#### *Section 23-1. General Authority and Procedure*

- 23-1.01** The Board of County Commissioners may, from time to time, amend, supplement or change, by resolution, the boundaries of the districts or the regulations herein established. The resolution shall become effective upon publication thereof in the official County newspaper.
- 23-1.02** A proposal for an amendment or change in zoning may be initiated by the Board of County Commissioners, the Planning Commission, and, if the proposed amendment is not a general revision of the existing Regulations and affects specific property, upon application of the owner of the property affected or the owner's duly authorized agent.
- 23-1.03** An application for an amendment or change in zoning initiated by a property owner, shall be made to the Planning Commission upon appropriate forms available from the Planning and Building Office. Such application shall be made at least thirty (30) days prior to a regularly scheduled Planning Commission meeting.
- 23-1.04** All proposed amendments to the Zoning Regulations or change of zoning shall first be submitted to the Planning Commission for recommendations and report, and no amendment or change shall be approved without a hearing before the Planning Commission. If an application or proposal for an amendment to the Zoning Regulations or a change in zoning affects lands within the Highway Corridor Overlay District has been filed, notice of such request shall be submitted to KDOT at least twenty (20) days prior to the Planning Commission hearing.

#### *Section 23-2. Fees for Rezoning*

- 23-2.01** A fee, in the amount adopted by resolution of the Board of County Commissioners, shall accompany an application for rezoning, and in addition thereto, the applicant shall pay the cost of publication notice.
- 23-2.02** No fee shall be required if the zoning change is requested by the Planning Commission or the Board of County Commissioners.



***Section 23-3. Conceptual Plans***

- 23-3.01** A conceptual plan must be submitted with any application for rezoning, except for Single-Family Residential, which is filed by any property owner. The conceptual plan shall include such information as may be necessary to describe the purpose and intent of the rezoning and shall be submitted on forms available at the Planning and Building Office.

***Section 23-4. Receipt of Rezoning Applications***

- 23-4.01** Rezoning applications shall be submitted to the Planning Director together with the legal description and conceptual plan (if required).
- 23-4.02** The Planning Director shall have the authority to determine if a rezoning application is complete or incomplete. If a rezoning application is determined to be complete, then the Planning Director shall prepare the required legal notice pursuant to K.S.A. 12-757 and place said application on the next available Planning Commission agenda for consideration. If a rezoning application is certified as incomplete, then the Planning Director shall return the application to the applicant with a written explanation for his determination.

***Section 23-5. Public Hearing Before Planning Commission***

- 23-5.01** All proposed changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.
- 23-5.02** Public notice of such hearing shall be published by the Planning Director not less than twenty (20) days prior to the date of said hearing in the official County newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place of the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning regulation and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.
- 23-5.03** If the proposed amendment is not a general revision to the Zoning Regulations and would affect surrounding properties, a separate written notice shall be sent by mail, at least twenty (20) days prior to the scheduled Planning Commission meeting, to all property owners within one thousand (1,000) feet of the boundaries of the land being considered for the rezoning where the surrounding properties are unincorporated or two hundred (200) feet where the surrounding properties are within the corporate limits of a city. Said written notice shall include the requirements as set forth in Section 22-5.02. Property owners notified of the public hearing shall have the opportunity to be heard or to submit a protest petition as provided in K.S.A. 12-757(e) to be filed in the office of the County Clerk and to be considered by the Board of County Commissioners in considering the proposed rezoning.
- 23-5.04** All such rezoning applications shall be set for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, with the consent of the applicant, be continued. At such hearing, the Planning Commission shall consider the appropriate issues contained in a staff report, including but not limited to the following factors:

1. Character of the neighborhood;
2. The zoning and uses of properties nearby;
3. The suitability of the subject property to its present use;
4. The extent to which removal of the present zoning will detrimentally affect nearby property;
5. The length of time the subject property has remained vacant;
6. The relative gain to the public health, safety and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individual landowner;
7. Whether the proposed rezoning would be consistent with the intent and purpose of these Regulations;
8. The recommendations of the County's permanent or professional staff;
9. The conformance of the requested zoning change to the adopted Franklin County Comprehensive Plan; and
10. Such additional matters as may apply in individual circumstance.

**23-5.05** Table of Lesser Change: The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates what zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the least intense zoning district to the most intense zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser intensity, as determined by the Table of Lesser Change. Where a Planned Development Overlay District has been combined with any basic zoning district, such combination shall be deemed to be a lesser zoning district for purposes of this table.

A-1	Agricultural District
A-2	Transitional Agricultural District
R-E	Residential Estate District
R-3A	Single-Family Residential Three-Acre
R-1	Single-Family Residential
MH-P	Mobile Home Park District
C-1	Neighborhood Commercial District
C-2	Commercial District
B-P	Business Park
I-1	Light Industrial District
I-2	Heavy Industrial District

***Section 23-6. Action by Planning Commission and Board of County Commissioners***

**23-6.01** Planning Commission Actions: For action on zoning amendments, a quorum of the Planning Commission shall be more than one half (1/2) of all voting members. A vote for an amendment by a majority of the Planning Commission members present and voting at the hearing shall constitute a "recommendation for approval", and a vote against an amendment by a majority of the Planning Commission present and voting shall constitute a "recommendation of disapproval". If the Planning Commission fails to make recommendation on a rezoning request, the Planning Commission shall be deemed to have made a "recommendation of disapproval".

- 23-6.02** County Commission Actions: After receiving the recommendation of the Planning Commission, such amendment, together with the reasons therefore, the Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission's recommendation by a ¾ majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners' failure to approve or disapprove.
- 23-6.03** If the Board of County Commissioners returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new or amended recommendation. Upon receipt of such recommendation, the Board of County Commissioners, by a simple majority, may adopt, may revise or amend and adopt such recommendation by resolution, or it may deny the zoning amendment.
- 23-6.04** If the Planning Commission fails to deliver a recommendation to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioners' report, the Board of County Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- 23-6.05** Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending resolution of the Board of County Commissioners shall define the change of boundary as amended, shall order the zoning district to be changed to reflect the amendment and shall amend the Official County Zoning Map accordingly.
- 23-6.06** Protest Petition: Regardless of whether the Planning Commission approves or disapproves a proposed zoning amendment, if within fourteen (14) days after the date of the conclusion of the Planning Commission's hearing, a petition signed by the owners of twenty percent (20%) or more of any property proposed to be rezoned, or by owners of twenty percent (20%) or more of the total area required to be notified by this Article of the proposed rezoning of a specific property, excluding streets and public ways, is filed in the office of the County Clerk, the amendment shall not be passed except by a 4/5 vote of all of the members of the Board of County Commissioners.
- 23-6.07** Conditions Attached to Rezonings: The Planning Commission may recommend, and the Board of County Commissioners may adopt, a zoning amendment with conditions attached. These conditions may include, but are not limited to, the following:

That existing sanitation facilities shall be brought into compliance with the County Sanitation Code within one (1) year from the date of rezoning approval. If sanitation facilities have not been brought into compliance within that time, the Planning Commission or Board of County Commissioners may instigate procedures to rezone the property to its previous zoning. Said action shall not be taken without notification of the applicant by the County and a public hearing.

***Section 23-7. Limitations on Reapplication for Amendments***

**23-7.01** Whenever an application has been made under this Article and the application has been denied by the Board of County Commissioners, such application, or one substantially similar shall not be considered sooner than one (1) year after the previous denial.

***Section 23-8. Procedure for Amendment of Floodplain Zoning Regulations***

**23-8.01** In addition to the requirement of this Article, the procedure for amending Article 16 of these Zoning Regulations (Floodplain Overlay District F-P) is presented in Section 16-11.

## Article 24

# BOARD OF ZONING APPEALS

### Sections:

- 24-1. Formation
- 24-2. Powers and Jurisdictions
- 24-3. Application
- 24-4. Performance
- 24-5. Appeals of the Board's Decision

### *Section 24-1. Formation*

- 24-1.01** A Board of Zoning Appeals is hereby created in accordance with State Statutes governing such creation. The word "Board" when used in this Article shall mean Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, ordinances or resolutions. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Board immediately and shall be a public record.

### *Section 24-2. Powers and Jurisdictions*

- 24-2.01** The Board shall have the following powers and jurisdictions:

1. **Appeals:** To hear and decide appeals where it is alleged there is an error to any order, requirement, decision or determination made by the Planning Director in the enforcement of these regulations.
  - a. Appeals to the Board may be submitted by the person aggrieved, or by any officer, department, or Bureau of the government affected by any decision or action of the Planning Director. Such appeal shall be filed within a reasonable time, as shall be prescribed by general rule of the Board and shall be submitted to the Planning Director together with a statement specifying the grounds for the appeal. The Planning Director shall transmit to said Board, all papers constituting the record for which the action or decision is being appealed.
  - b. An appeal stays all proceedings in furtherance of the action appealed from, unless the Planning Director certifies to the Board, after the Notice of Appeals shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause eminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board, or by a court of record on application or notice to the Planning Commission on good cause shown.
2. **Variance:** To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where,

owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.

- a. The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific of property at the time of the effective date of the District Zoning Regulations or where by reason of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of his property in the manner similar to that of other property in the zoning district where it is located.
- b. Variances may include intensity of use, yard and height regulations only and are limited to the following:
  - 1) A yard regulation variance shall not encroach upon the required setback for adjacent buildings.
  - 2) One foot in height may be allowed for each one foot of additional building setback in addition to that required by the district regulation in which the property is located.
  - 3) No variance to any yard or height requirements shall be granted which would allow for an encroachment into the setbacks necessary to preserve the projected right-of-way and improvements as shown in the Highway Corridor Management Plan.
- c. A request for a variance may be granted, upon a finding of the Board that all of the following conditions have been met. The Board shall make a determination on each condition and the finding shall be entered in the record.
  - 1) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district and is not created by an action or actions of the property owner or applicant.
  - 2) The granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
  - 3) The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
  - 4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.
  - 5) The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

**Section 24-3. Application**

**24-3.01** The procedure for requesting a hearing before the Board shall be as follows:

- a. All applications to the Board shall be in writing on forms provided by the Planning Director.
- b. The Board shall fix a reasonable time for the hearing of an application and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the governing body) at least 20 days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest and to the Planning Commission.
- c. An application shall be accompanied by a filing fee as established by Resolution of the Board of County Commissioners. A separate filing fee shall be required for each request.

**24-3.02** In addition to the above requirements, certain applications require additional information as follows:

- a. Appeals:
  - 1) An application for an appeal shall be filed within 60 days after a ruling has been made by the Planning Director.
  - 2) A copy of the order, requirement, decision or determination of the Planning Director in which the appellant believes to be in error.
  - 3) A clear and accurate, written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
  - 4) Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.
- b. Variances:
  - 1) The applicant shall submit a statement, in writing, justifying the variance requested; indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner which it is believed that his application will meet each of the five conditions as set out in Section 24-2.02.c of this Article.
  - 2) The applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimension, parking spaces, points of ingress and egress, driveways and any other information which would be helpful to the Board in consideration of the application.

**Section 24-4. Performance**

**24-4.01** In making any decision varying or modifying any provisions of the Zoning Regulations, the Board may impose such restrictions, terms, time limitations, landscaping and other appropriate safeguards to protect adjoining property.

**24-4.02** In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and in the event the improvements are

not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvement as determined by the Board, and shall be enforceable by or payable to the Governing Body in the sum equal to the cost of constructing the required improvements.

***Section 24-5. Appeals of the Board's Decision***

**24-5.01** Any person, persons, official, department or departments of government jointly or separately aggrieved by any order or decision of the Board may bring an action in the District Court to determine the legality of such order or decision within thirty (30) days after the date that the decision of the Board has been rendered.



## Article 25

# PERMITS

### Sections:

- 25-1. Building Permits
- 25-2. Sign Permits
- 25-3. Floodplain Overlay Zoning District Development Permits

### *Section 25-1. Building Permits*

- 25-1.01** Authority: Except for agricultural purposes, no building or structure shall be constructed, altered or remodeled nor shall any work be commenced upon any lands zoned within the unincorporated territory of Franklin County unless the owner, contractor or duly authorized agent shall have first applied for and received a building permit, as provided in this Article. For purposes of this Article, the terms “altered” or “remodeled” shall refer to an increase in the overall size of a structure and/or to any modification affecting any load bearing wall or supporting structure.
- 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.
- 25-1.03** Filing Procedure: Applications for building permits shall be filed with the Building Official, on forms provided, setting forth the legal description of the lot, tract or parcel of land, a general description of the building or structure to be constructed, erected or altered, including the size and shape, square footage type of construction, intended use and the location of the building or structure.
- 25-1.04** Vested Rights: Any building permit lawfully issued prior to the effective date of these Zoning Regulations, which permit, is in full force and effect at said date, shall remain a valid and subsisting permit subject only to the terms and provisions in effect at the time of the issuance of said permit. All such permits shall expire not later than one-hundred eighty (180) days from the effective date of these Zoning Regulations unless actual construction shall have begun and continued pursuant to the terms of said permit.
- 25-1.05** One Dwelling Unit Per Lot or Tract: Unless otherwise provided for in these Zoning Regulations, the County shall not issue more than one (1) building permit for a single-family dwelling on each unplatted lot or tract of record, each platted lot created as part of a subdivision, or each tract or lot created by a lot split, except that a building permit may be issued for a new single family dwelling where a single family dwelling unit currently exists provided the new unit:
1. Is intended solely for the purpose of upgrading the housing; and
  2. The owner/builder has provided a notarized affidavit to the Planning/Building Department agreeing to remove the previously existing dwelling unit within thirty (30) days of completing the new dwelling unit. The affidavit shall state

that the owner/builder understands and agrees that failure to remove the previously existing dwelling unit as provided in the affidavit constitutes a violation of these Zoning Regulations.

- 25-1.06** Number of Building Permits: There shall be a separate building permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances which maybe included in the building permit for the principal building when construction is simultaneous.
- 25-1.07** Building Official's Authority: The Building Official is empowered to act within the provisions of these Regulations upon all applications for building permits, and the same shall be approved or denied not later than the fifth business day succeeding the day the complete application is received.
- 25-1.08** Appeals: In the event of refusal to issue a building permit upon application, the applicant shall have the right to a hearing by the Building Code Board of Appeals, as provided by law.
- 25-1.09** Filing Fees: Fees for building permits shall be set by Resolution of the Board of County Commissioners.
- 25-1.10** Enforcement: In addition to any other method of enforcement of these Regulations, the following enforcement procedures may be invoked:
1. A permit may be revoked and/or a "stop construction" order posted on the building or structure by the Building Official at any time prior to the completion of a building or structure when it is determined that the permit was procured by false representation, or that any of the provisions of these Regulations are being violated. Provided, however, twenty-four (24) hour written notice of such revocation shall be served upon the owner, his or her agent or contractor. No further construction shall proceed until the violation(s) or omission has been corrected.
  2. Upon failure, refusal or neglect of any owner, his or her agent, contractor or duly authorized representative to secure any permit required by these Regulations, the Building Official shall post a "stop construction" order on any and all buildings or structure involved. No further construction shall proceed until said owner, his or her agent, contractor or duly authorized representative has secured such permit as required by these Regulations.
- 25-1.11** Building Permit Validity: Building permits shall be granted for a period of one (1) year, provided that construction must be initiated within six (6) months and continuing progress on the construction can be demonstrated.

***Section 25-2. Sign Permits***

**25-2.01** Sign permits shall follow the same permitting procedures generally required for building permits and, in addition, shall conform to the requirements of Section 21-2.01 of these Zoning Regulations.

***Section 25-3. Floodplain Overlay Zoning District Development Permits***

**25-3.01** Building development permit procedures for construction within the Floodplain Overlay District are set forth in Section 16-6 of these Zoning Regulations.

## Article 26

### TEMPORARY USES/ACCESSORY USES

#### Sections:

- 26-1. Temporary Use Permit Requirements**
- 26-2. Temporary Uses Authorized**
- 26-3. Accessory Uses Authorized**

#### *Section 26-1. Temporary Use Permit Requirements*

**26-1.01** Temporary use permits shall be issued by the Planning Director unless otherwise specified by these Zoning Regulations. Said permit shall be issued only if the Planning Director finds that all of the following criteria have been met:

1. Where applicable, adequate off-street parking shall be provided for customer vehicles outside the roadway area.
2. Signs shall not be larger than ten (10) square feet and must comply with the sign regulation provisions of these Zoning Regulations.
3. Structures or product displays shall not be placed within the visual sight triangle at intersections.
4. Adequate sight distances and adequate access driveways shall be available for vehicles entering and leaving the temporary use site.
5. Noise, odor or light emissions from the site shall not interfere with the enjoyment or use of the property or create a nuisance or a hazard to adjoining properties or public ways. Artificial lighting shall not illuminate any nearby property.
6. Where applicable, adequate provision for sanitary waste and trash disposal shall be provided by the applicant. Trash, rubbish and debris shall be collected and temporarily stored in closed containers or shall be removed from the premises daily.
7. Any utility services provided shall comply with applicable building, electrical, plumbing, fire, safety, sanitation, public health and other codes, laws or regulations applicable to the use and shall be installed only under permits obtained as required by such codes.
8. Upon expiration of the temporary use permit, the site shall be cleaned up and restored to its condition before the temporary use began.
9. Any and all applicable provisions of any County or State Regulations.

**26-1.02** Applications for a temporary use permit shall be made to the Planning Director at least five (5) working days prior to the starting date of the temporary use requested, and shall contain the following:

1. Legal description of the property to be used, rented or leased for the temporary use.
2. A site plan accurately showing the location, access, parking and other related functions for the temporary use.
3. The name, address and phone number of the applicant and the property owner, if different than the applicant, including authorization by the property owners.

**Section 26-2. Temporary Uses Authorized.**

**26-2.01** The following temporary uses are permitted within the zoning districts specifically identified and subject to the regulations and time limits prescribed for such uses:

1. **Christmas Tree Sales:** A temporary use permit shall be permitted in any Commercial and Industrial Zoning District for the display and open-lot sales of Christmas trees not grown or produced on the premises for a period not to exceed forty-five (45) days. Display of Christmas trees need not comply with the yard and setback requirements of the Zoning District Regulations provided that no structure or trees shall be placed within the visual sight triangle of intersecting streets.
2. **Contractor's Office:** A temporary use permit shall be permitted in any zoning district for a contractor's temporary office, and equipment storage incidental to a construction project. The permit shall be valid while construction work is in progress for no more than one (1) year, but may be renewed. The office or equipment shall be removed upon completion of the construction project.
3. **Real Estate Project Sales Office:** A temporary use permit shall be permitted in any zoning district for a temporary real estate sales office in any new subdivision which has been approved by the Board. The permit shall be valid for not more than one (1) year, but is renewable. The office shall be closed upon completion of the development in the subdivision. The office shall contain no sleeping or cooking accommodations unless located in a model home.
4. **Garage or Yard Sales:** A temporary use permit shall be permitted in any residential or agricultural zoning district. A temporary use permit shall only be required when such sales are conducted for a period of more than two (2) days or more than three (3) times at the same site during any calendar year.
5. **Seasonal Sales or Farm Produce:** A temporary use permit shall be permitted in any residential district for the sale of produce grown on the premises. The permit shall not exceed a period of six (6) months.
6. **Promotional Display and Sales:** A temporary use permit shall be permitted in any commercial or industrial zoning district for periodic promotion and display and sales of goods, including grand openings, going out of business and special seasonal sales. Goods may be displayed outside of an enclosed building and in parking areas provided vehicle access is not impaired. The permit shall not exceed a period of ten (10) days.
7. **Temporary Hardship Mobile Home:** A temporary use permit shall be permitted in any residential or agricultural zoning district containing a minimum of three (3) acres for a hardship mobile home or manufactured home in addition to an existing residence under extreme hardship and subject to the following conditions:
  - A. The applicant shall clearly state the reason(s) for the hardship.

- B. The temporary hardship residence shall be permitted only in a zoning district wherein the minimum lot size for single-family residential units is three (3) acres or greater.
  - C. All requirements of the Franklin County Sanitation codes shall be met.
  - D. The applicant shall sign an affidavit for the placement of a temporary hardship mobile home or manufactured home for a period of one (1) year with acknowledgement that failure to remove the temporary hardship home constitutes a zoning violation punishable by a fine not to exceed five hundred dollars (\$500.00) for each day of violation.
  - E. The application for the placement of a temporary hardship mobile home or manufactured home shall include a performance bond in the amount of five thousand dollars (\$5,000.00) to ensure the removal of the temporary hardship mobile home or manufactured home within the specified time frame.
  - F. A hardship residence shall be limited solely for the use of the tenants of the verified hardship and shall not be rented, leased or otherwise occupied, if for any reason, the hardship or reason of necessity shall cease to exist, said hardship residence shall be removed within thirty (30) days.
  - G. The temporary placement and use of a hardship residence may be renewed or extended upon verification by the Planning Director that the hardship continues to exist. Each application for a renewal or time extension may be approved for a period of one (1) year and shall be submitted to the Planning Department fifteen (15) days prior to the expiration date of the previously approved hardship residence.
8. Temporary Use of Camping Trailers, Recreation Vehicles, Mobile Homes: A temporary use permit shall be permitted in any residential or agricultural zoning district for the use of a camping trailer, recreational vehicle, mobile home or manufactured home as a temporary residence during the construction of a new residence or the rebuilding of an existing residence subject to the following conditions:
- A. A building permit has been issued for the permanent residence.
  - B. The temporary residence shall provide sanitation facilities subject to the approval of the County Sanitarian.
  - C. The applicant shall sign an affidavit for the placement of the temporary mobile home, manufactured home, recreational vehicle, camping trailer or any previously existing residence assuring the removal of said temporary use within thirty (30) days and acknowledging that failure to remove such use constitutes a zoning violation punishable by a fine not to exceed five hundred dollars (\$500.00) for each day of violation.
  - D. The application for the placement and use of a temporary mobile home, manufactured home, recreational trailer or camping trailer shall include a

performance bond in the amount of five thousand dollars (\$5,000.00) to ensure the removal of the temporary housing within the specified time frame.

9. Temporary Concrete/Asphalt Batch Plants: A temporary use permit shall be permitted in any agricultural, commercial or industrial zoning district for the temporary placement and use of a concrete or asphalt batch plant when being used as a part of a local construction project. The permit shall be granted for a period of one (1) year or the duration of the construction project, whichever is less but may be renewed for a period not to exceed one (1) year.
10. Fireworks Sales: A temporary use permit shall be permitted for the sales of fireworks in any agricultural, commercial or industrial zoning district. Such permit may include temporary stands, tents, display tables and similar facilities provided any such facility complies with the provisions of Section 25-1.01 of these Zoning Regulations. The permit shall not exceed a period of fourteen (14) days.
11. Jackpot Rodeos/Roping Events/Outdoor Concerts or Music Festivals: A temporary use permit shall be permitted in any agricultural zoning district for jackpot rodeos, roping events, outdoor concerts or music festivals and similar activities. Such facilities shall comply with the provisions of Section 25-1.01 of these Zoning Regulations. The permit shall not exceed a period of more than two (2) days at any one event and not more than six (6) events at any site during any calendar year.
12. Auctions: A temporary use permit shall be permitted in any zoning district for outdoor auctions and estate sales. The permit shall not exceed a period of more than three (3) days.

***Section 26-3. Accessory Uses Authorized.***

**26-3.01** The following accessory uses are permitted within the zoning districts specifically identified and subject to the regulations prescribed for such uses:

1. Off-street parking and loading spaces as regulated by Article 21 of these regulations, including detached garages.
2. Signs, when permitted by Article 22 of these regulations.
3. Structures for storage incidental to a permitted use; provided, no such structure that is an accessory to a dwelling shall exceed 400 square feet in floor area in a R-3A, R-1, or MH-P District.
4. Storage of major recreational equipment such as boats, camping, trailers or recreational vehicles provided that they shall not be utilized for living purposes, and when stored on a residential lot as personal property of the occupant. Any such storage shall comply with the building setbacks for the zoning district in which it is located.
5. Fallout shelters provided that they shall not be used for any principal or accessory use not permitted in the district.

6. Private swimming pools and bathhouses, children's playhouses, statuary, arbors, trellises, barbecue pits, flagpoles, fences, walls and hedges.
7. Restaurants, drugstores, gift shops, clubs, lounges and newsstands when located in a permitted hotel or motel.
8. Employee restaurants and cafeterias when located in a permitted commercial or industrial building.
9. Outdoor storage shall not be permitted as an accessory use in residential districts except as temporary or seasonal activity.



## Article 27

### USES PROHIBITED

#### Sections:

- 27-1. Application
- 27-2. Prohibited Use Designated

#### *Section 27-1. Application*

- 27-1.01 These Zoning Regulations shall not prohibit the use of land for agricultural purposes nor for the erection, use or maintenance of buildings, provided that such use of land or buildings is solely for agricultural purposes and not otherwise.

#### *Section 27-2. Prohibited Use Designated*

- 27-2.01 Any manufactured home, as defined in these Zoning Regulations, shall be limited to use as a single-family dwelling unit and shall not be altered or modified nor converted or used for other purposes.
- 27-2.02 A recreational vehicle, as defined in these Zoning Regulations, shall not be considered to be a single-family dwelling unit and shall not be converted or used for purposes other than for camping, vacation, travel and recreational use.
- 27-2.03 No temporary or outwardly incomplete structure, building, open excavation for a basement or foundation and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained or allowed to remain in such conditions within the unincorporated areas for a period of more than six (6) months, except by approval of the Planning Commission.
- 27-2.04 No owner or resident of any land in the unincorporated areas of the County shall store or permit to be stored, on the premises, more than two (2) inoperable and/or unlicensed motor vehicles, boats or recreational vehicles except within a totally enclosed building or as otherwise provided in these Zoning Regulations.
- 27-2.05 No owner or resident of any land in the unincorporated areas of the County shall maintain or permit a public nuisance as defined in Article 2, Section 2-1.01 of these Zoning Regulations.
- 27-2.06 No building or premises located within the unincorporated areas of the County shall be used for the following purposes:
  1. Storage or dumping of construction or demolition waste materials except that concrete, rock, block, brick or asphalt may be buried if reduced to no more than one (1) square foot in size and containing no structural steel or hazardous materials.
  2. Storage, dumping or burning of construction or demolition materials (except as previously noted), garbage, trash, hazardous or toxic materials or other solid waste except as authorized by a Special Use Permit approved by the Board of County Commissioners.
  3. The construction, placement or use of a second dwelling unit, guest house, mobile home or apartment on the same lot, parcel or tract upon which a residential dwelling exists, regardless of whether such second dwelling unit,

guest house, mobile home or apartment is being used for habitation, except as otherwise permitted by these Zoning Regulations.

## Article 28

### MISCELLANEOUS

#### Sections:

- 28-1. Interpretation and Conflict**
- 28-2. Validity**
- 28-3. Repeal of Existing Regulations and Accrued Rights and Liabilities**
- 28-4. Penalties for Violations; Actions for Enforcement**
- 28-5. Effective Date**

#### *Section 28-1. Interpretation and Conflict*

- 28-1.01** Interpreting and applying the provisions of these Zoning Regulations, shall be held to be the minimum requirements necessary for the promotion of the public safety, health, convenience, comfort, prosperity and general welfare. It is not the intent of the Zoning Regulations to interfere with, abrogate or annul any easements, covenants or other agreements between parties. However, where these Zoning Regulations impose a greater restriction upon the use of buildings or premises or upon height of buildings or greater open spaces than are imposed or required by other rules, regulations, easements, covenants, or agreements, the provisions of these Zoning Regulations shall govern.

#### *Section 28-2. Validity*

- 28-2.01** Should any section, clause or provision of these Zoning Regulations be declared invalid or unconstitutional by any court of record, the same shall not affect the validity of these Regulations as whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

#### *Section 28-3. Repeal of Existing Regulations and Accrued Rights and Liabilities*

- 28-3.01** The adoption of these Zoning Regulations repeals the zoning regulations in effect January 11, 1993 and any amendments thereto as a result of the adoption of these Zoning Regulations.
- 28-3.02** Despite the repeal of regulations existing at the time of adoption of these Zoning Regulations as provided in Section 27-3.01 herein, nothing contained in these Zoning Regulations shall affect any rights accrued or liabilities incurred under said previously existing regulations.

#### *Section 28-4. Penalties for Violations; Actions for Enforcement*

- 28-4.01** Any person, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of Franklin County, Kansas Zoning Regulations shall be guilty of a Class "B" Misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or imprisonment in the County Jail for a period not to exceed six (6) months, or both. Each day shall be considered a separate and continuing Violation.
- 28-4.02** The Board of County Commissioners or any person, the value or use of whose property is or may be affected by such violations, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these Zoning Regulations, and to abate nuisances maintained in violation thereof.

**28-4.03** Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained or any building, structure or land is or is proposed to be, used in violation of any zoning regulation, the Board of County Commissioners, in addition to other remedies, may institute an injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violation or to prevent the occupancy of such building or land.

**28-4.04** Any person, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of Franklin County, Kansas Zoning Regulations shall be guilty of a Class "B" Misdemeanor and upon conviction shall be punishable by a fine not to exceed five hundred dollars (\$500.00), or imprisonment in the County Jail for a period not to exceed six (6) months, or both. Each day shall be considered a separate and continuing Violation.

***Section 28-5. Effective Date***

**28-5.01** These Zoning Regulations take full force and effect upon publication of the adopting resolution as provided in K.S.A. 12-756(b).