

**ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS**

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**1-101 TITLE**

These regulations, including the Zoning District maps and overlays made a part thereof, shall be known and may be cited as the "Zoning Regulations of Wabaunsee County, Kansas", and shall hereinafter be referred to as "these Regulations."

**1-102 PURPOSE**

These Regulations are intended to serve the following purposes:

- A. To promote the health, safety, morals, comfort and general welfare of all the citizens of Wabaunsee 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.
- C. To conserve good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the primary use of land for agricultural uses.
- D. To regulate and restrict the height, number of stories, and size of buildings; the percentage of lots 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 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 and an opportunity for interested parties to be heard.
- H. To provide information regarding possible flood hazards.
- 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 and the Comprehensive Plan for Wabaunsee County, Kansas.

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J. To promote the achievement of the Future Land Use Plan for Wabaunsee County, Kansas.

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K. To inform the public regarding future development in Wabaunsee County, Kansas, thereby providing a basis for wise decisions with respect to such development.

### ***1-103 JURISDICTION***

Except as otherwise provided herein, these Regulations shall apply to all of the lands within Wabaunsee County, including the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland, and Paxico. Certain provisions shall apply only to the unincorporated portion of Wabaunsee County, or parts thereof; while certain other provisions shall apply only to the incorporated cities within Wabaunsee County.

### ***1-104 DEFINITIONS***

For the purpose of these Regulations, certain terms and words are hereby defined. Words used in the present tense shall include both the past and the future, and words used 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 "building" shall include the word "structure"; 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". Words or terms not herein defined shall have their ordinary and customary meaning in relation to the context.

1. **ABANDONED VEHICLE:** Any inoperable motor vehicle to which the last registered owner of record thereof has relinquished all further dominion and control.
2. **ABUTTING:** Adjoining or bordering.
3. **ACCESS:** The right to cross between public and private property allowing pedestrians and vehicles to enter and leave property.
4. **ACCESSORY BUILDING:** A subordinate building or portion of the main building, located on the same lot, the use of which is clearly incidental to that of the main building or to the use of the land on which it is located. Customary accessory buildings include, but are not limited to, garages, carports, garden houses, small storage sheds and children's playhouses. On properties zoned other than Agricultural, and especially on properties zoned Rural Residential and Suburban Residential, agricultural buildings shall be considered an accessory building.
5. **ACCESSORY USE:** A subordinate use which serves an incidental function to that of the principal use of the premises. Customary accessory uses include, but are not

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limited to, tennis courts, swimming pools, air conditioners, barbecue grills, fireplaces, and satellite dish antennas. On properties zoned other than Agricultural, and especially on properties zoned Rural Residential and Suburban Residential, agricultural uses shall be considered an accessory use.

- 6. ADMINISTRATIVE OFFICER:** See Zoning Administrator.
- 7. AGRICULTURAL PURPOSES, LAND USED FOR:** The use of a tract of land by a family farm for the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; cattle, sheep, poultry, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, floral, ornamental or greenhouse products. Land used for agricultural purposes shall not include the following:
  - a. Lands which are used for recreational purposes; suburban residential acreages; rural residential home sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
  - b. The operation of a corporate hog, dairy and/or poultry farm.
  - c. The operation or maintenance of greenhouses, nurseries or hydroponic farms operated at retail.
  - d. Wholesale or retail sales as an accessory use unless the same are permitted by these Regulations.
  - e. The keeping of exotic birds and/or animals.
  - f. The operation of a riding stable as defined in these Regulations.
  - g. The operation or maintenance of a commercial stockyard or feedlot.
  - h. The operation of an auction sales yard.
- 8. AIRCRAFT:** A weight-carrying structure for navigation of the air that is supported either by its own buoyancy or by the dynamic action of the air against its surfaces. Aircraft includes, but is not limited to, airplanes, helicopters, gliders, ultra-light airplanes, hot-air balloons, and the like.
- 9. AIRPORT OR AIRCRAFT LANDING FIELD:** Any landing area, runway or other facility designed, used, or intended to be used either publicly or by any person or persons for the landing and taking off of aircraft, including all necessary taxiways,

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aircraft storage, and tiedown areas, hangars, and other necessary buildings and open spaces.

10. **ALLEY:** A public or private thoroughfare which provides only a secondary means of access to abutting property.
11. **ALTERATION:** A change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing the height, or the moving from one location or position to another, shall be considered as an alteration.
12. **AMENDMENT:** The process of change or alteration to the Zoning Regulations in one of the following forms:
  - a. A comprehensive revision or modification of the zoning text and/or maps.
  - b. A text change in the zone requirements.
  - c. The approval of a Conditional Use Permit as provided within these Regulations.
  - d. A change in the maps, i.e., the zoning designation of a particular parcel or parcels. This form is also known as "rezoning."
13. **ANIMAL HOSPITAL OR CLINIC:** An establishment where animals are admitted principally for examination, treatment, board or care by a Doctor of Veterinary Medicine. This does not include open kennels or runs.
14. **APARTMENT:** A room or a suite of rooms within an apartment house or complex arranged, intended or designed for a place of residence of a family.
15. **APARTMENT HOUSE:** A building or buildings containing apartments used as a place of residence for more than two (2) families.
16. **APPLICANT:** The owner of a tract of land, or his duly designated representative, for which an amendment has been requested.
17. **AUCTION SALES YARD:** A tract of land and accompanying buildings and/or other structures, if any, arranged or designed to be used for the sale by auction of merchandise offered on consignment.
18. **AUTOMOTIVE AND MACHINERY REPAIR SHOPS:** A building used for the repair of motor vehicles or machinery. This shall include, but not be limited to, body and paint shops, glass service shops and auto service centers.

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- 19. AUTOMOTIVE SALES AREA:** An open area, other than a street, used for display or sale of new or used motor vehicles, and where no repair work is done except minor incidental repair of motor vehicles to be displayed and sold on the premises.
- 20. AUTOMOTIVE SERVICE STATION:** Any building, structure or land used for the dispensing, sale or offering for sale at retail any motor vehicle fuels, oils, or accessories, including lubrication of motor vehicles and replacement or installation of minor parts and accessories, but not including tire recapping, major repair work such as motor replacement, body and fender repair or spray painting, provision of rental equipment, or open motor vehicle sales lots.
- 21. BASEMENT:** A space wholly or partly underground and having more than one-half of its total usable space below building grade. Underground homes constructed with berms on top and on three sides, as well as walkout construction shall not be considered as basements.
- 22. BOARD OF ZONING APPEALS:** That board created herein which has the statutory authority to hear and determine appeals, exceptions and variances to these Regulations.
- 23. BOARDING OR ROOMING HOUSE:** A dwelling in which roomers, lodgers and/or boarders are housed but individual cooking facilities are not provided.
- 24. BUFFER AREA:** Open and unobstructed ground area of a plot in addition to any required yards or road widenings around the perimeter of any plot.
- 25. BUILDABLE WIDTH:** The width of that part of a lot not included within any required open space.
- 26. BUILDING:** Any site-built structure built for the support, shelter, or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to the land, exclusive of fences.
- 27. BUILDING, COMMUNITY:** A building used for noncommercial social, educational, or recreational activities of a neighborhood or community.
- 28. BUILDING, COMPLETELY ENCLOSED:** Any building having no outside openings other than ordinary doors, windows and ventilators.
- 29. BUILDING HEIGHT:** The vertical distance from the established grade to the highest point on the roof or parapet wall.
- 30. BUILDING LINE:** A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of these Regulations. The building line is equivalent to the setback or yard line.

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- 31. BUILDING, PRINCIPAL:** A building in which is conducted the main or principal use of the plot on which said building is situated. In any residential district, any dwelling shall be deemed to be a principal building on the plot on which it is located.
- 32. BUILDING, PUBLIC:** A publicly-owned building used or occupied for a public purpose. Public buildings include, but are not limited to: fire stations, police stations, auditoriums, gymnasiums, natatoriums, community halls, maintenance buildings, park shelters, jails or penal institutions, and schools. This shall include privately owned buildings used for the same public-type purposes.
- 33. BULKY WASTE:** Discarded or stored inoperative household appliances, disused furniture, disused equipment, junk lumber and other building debris, parts of machinery and equipment, and similar waste not ordinarily collected with compactor equipment; provided that bulky waste shall not mean abandoned or inoperable vehicles in whole or in part.
- 34. CAMP:** Any plot, including its area of land and/or water, on which are located cabins, shelters, houseboats or other accommodations of the design or character suitable for seasonal or other more or less temporary living purposes; but not including a day camp, trailer camp, rooming house, tourist home, hotel, summer colony, hospital, place of detention, school of general instruction, or nursery school.
- 35. CANOPY:** Any structure, movable or stationary, attached to and deriving its support from framework, posts or other means independent of a connected structure for the purpose of shielding a platform, stoop or sidewalk from the elements; or a roof-like structure of a permanent nature which projects from the wall of a structure and overhangs the public way.
- 36. CAR WASH:** An establishment having facilities designed or used exclusively for washing or cleaning motor vehicles.
- 37. CEMETERY:** Land used for burial and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such cemetery.
- 38. CHILD CARE CENTER:** A facility licensed by the State of Kansas to provide for the care of thirteen (13) or more children from two (2) weeks to sixteen (16) years of age, and which is maintained for less than twenty-four (24) hours per day.
- 39. CHURCH:** An establishment, the principal purpose of which is religious worship, but which may include such accessory uses in the main structure or in separate buildings, as Sunday School rooms, assembly rooms, kitchen, recreational facilities and/or library.

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- 40. CIRCUS AND/OR CARNIVAL:** A temporary outdoor amusement center, bazaar or fair, either involving use of special purpose equipment or conducted by professional operators, or both, and where activities include such things as rides, exhibitions, food services, sales, or small scale games.
- 41. CITY:** The governing body of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, Kansas, or the delegated staff, boards or agencies thereof. City also means the lands within the corporate limits of each of above named cities.
- 42. CITY ENGINEER:** The City Engineer, or such licensed engineer designated by the City Engineer or Governing Body, to provide engineering assistance in administering these and other Regulations and Ordinances governing areas of normal responsibilities assigned to the City Engineer.
- 43. CLINIC:** A building designed and used for the medical, dental or surgical diagnosis or treatment of patients under the care of doctors and/or nurses, with no overnight boarding.
- 44. CLUB:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational, or recreational purposes, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily carried on as a business.
- 45. CLUB, MEMBERSHIP:** Membership clubs, including private clubs, as defined by K.S.A. 41-2601 et seq and succeeding amendments, including but not limited to such clubs as the American Legion, VFW, and the Elks.
- 46. CLUSTER HOUSING:** The site planning technique of grouping dwelling units around courts, parking areas, common open spaces and private drives as opposed to fronting all on a public street.
- 47. COMMERCIAL SOLAR ENERGY CONVERSION SYSTEM:** A Solar Energy Conversion System, or more than one solar energy conversion system, of any size proposed and / or constructed by the same person or group of persons on the same adjoining parcels or as unified or single generating system, which exceeds 100 kilowatts or exceeds an area of 1 acre.
- 48. COMMON OPEN SPACE:** An area of land, water or combination thereof, planned for active or passive recreation, but not including areas utilized for streets, alleys, driveways or private roads, off-street parking or loading areas, or required yards. The area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

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- 49. COMPREHENSIVE PLAN:** The currently adopted Comprehensive Plan for the unincorporated portion of Wabaunsee County, Kansas, and amendments thereto.
- 50. CONDITIONAL USE:** A use of any building, structure or parcel of land that, by its nature, is perceived to require special care and attention in siting so as to assure compatibility with surrounding properties and uses. Conditional uses are allowed only after public notice, hearing, and approval as prescribed in these Regulations and may have special conditions and safeguards attached to assure that the public interest is served.
- 51. CONDITIONAL USE PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or establishment of a Conditional Use.
- 52. CONDOMINIUM:** A building containing two (2) or more dwelling units which are designed and intended to be separately owned in fee under the Townhouse Ownership Act (K.S.A. 58-3710 et seq) of the State of Kansas.
- 53. CONSTRUCTION/DEMOLITION LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of construction and/or demolition waste.
- 54. CONSTRUCTION/DEMOLITION WASTE:** Waste building materials and rubble resulting from construction, remodeling, repair or demolition operations on houses, commercial buildings, other structures, pavements, curbing, bridges, and trees and brush; but not asbestos.
- 55. CORPORATE FARM(ING):** A commercial farming operation conducted by a corporate entity as defined in Kansas statutes and that is not a family farm and/or a family farming corporation.
- 56. COUNTY:** The Board of County Commissioners of Wabaunsee County, Kansas, or its delegated staff, boards or agencies. County also means all of the land in the unincorporated portion of Wabaunsee County, Kansas.
- 57. COUNTY ATTORNEY:** The County Attorney, or such licensed attorney designated by the County Attorney, responsible for the prosecution of all violations of these Regulations in accordance with the provisions contained herein, and as established by law.
- 58. COUNTY COUNSELOR:** The County Counselor, or such licensed attorney designated by the County Counselor or Governing Body, to furnish legal assistance for the administration of these Regulations.
- 59. COUNTY ENGINEER:** The County Engineer, or such licensed engineer designated by the County Engineer or Governing Body, to provide engineering assistance in



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administering these and other Regulations governing areas of normal responsibilities assigned to the County Engineer.

- 60. COUNTY HEALTH OFFICER:** The Director of the County Health Department, or such person designated to administer the Health Regulations of the County.
- 61. COURT:** An unobstructed open area bounded on three or more sides by the walls of a building or buildings; an **OUTER COURT** extends to a street or yard, and an **INNER COURT** does not.
- 62. DAY CARE HOME:** A facility licensed by the State of Kansas to provide for the care of not more than ten (10) children under fourteen (14) years of ages, not more than six (6) of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names.
- 63. DENSITY:** The average number of dwelling units per acre of land, expressed in terms of "per acre." (Example: 300 dwelling units occupying 40 acres of land is 7.5 units per acre.)
- 64. DETENTION CENTER:** A secure residential facility licensed by the State of Kansas, designed specifically for children who require secure custody and which provides temporary living accommodations for alleged delinquent, miscreant, wayward, truant or deprived children pending court disposition or placement in an appropriate program.
- 65. DISTANCE:** Horizontal distances unless otherwise designated.
- 66. DISTRICT:** A section or sections of the zoning jurisdiction for which the regulations governing permitted use of buildings and land, the height of buildings, the size of yards, and the intensity of use are uniform.
- 67. DOG:** Any canine specie over six (6) months of age.
- 68. DRINKING ESTABLISHMENT:** A premises, which may be open to the general public, where alcoholic liquor by the individual drink is served.
- 69. DRIVE-IN ESTABLISHMENT:** An enterprise which accommodates the patrons automobile and from which occupants of the automobile may make purchases, transact business or view motion pictures or other entertainment.
- 70. DRIVE-THROUGH ESTABLISHMENT:** Any restaurant, financial institution, or product vending enterprise where the patron does not necessarily enter and remain within a building during the transaction of his business. Food vending establishments

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where the food is not normally consumed within a building or where facilities are provided for eating outside a building are included in this definition.

- 71. DWELLING:** Any building, or portion thereof, designed or used primarily for residential purposes, including residential-design manufactured homes and modular homes.
- 72. DWELLING, MULTI-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by three or more families.
- 73. DWELLING, SEASONAL:** A residence intended for occasional, but not permanent, occupancy.
- 74. DWELLING, SINGLE-FAMILY:** A building having accommodations for and occupied exclusively by one family. A residential-design manufactured home shall be considered a single-family dwelling.
- 75. DWELLING, TWO-FAMILY:** A building, or portion thereof, arranged, intended or designed for occupancy by two families.
- 76. DWELLING UNIT:** A building, or part thereof, containing complete housekeeping facilities for one family.
- 77. EASEMENT:** A grant by a property owner to specific persons or to the public to use land for a specific purpose or purposes. Also, a right acquired by prescription.
- 78. EFFICIENCY UNIT:** A dwelling unit, constructed as a part of a residential complex, having a living room of at least 220 square feet; an additional 100 square feet of living area for each occupant of such unit in excess of two (2); a separate closet; a separate bathroom containing a water closet, lavatory and bathtub or shower; and, a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches in front.
- 79. ESTABLISHED SETBACK:** The average setback on each street on which a lot fronts established by three (3) or more buildings; provided, only those properties that are within the same district and within 300 feet on each side of said lot along the same side of the street, but not beyond any intersecting street, are used in determining the established setback.
- 80. EXOTIC BIRDS OR ANIMALS:** Birds or animals not commonly kept domestically or that are not native to Wabaunsee County and/or the United States. Exotic birds or animals includes, but are not limited to, bears, lions, and snakes. Birds in the ratite family and llamas shall not be considered as exotic birds or animals.

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- 81. FAMILY:** One (1) or more persons related by blood or marriage or adoption, living together as a single housekeeping unit plus usual domestic servants; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.
- 82. FAMILY DAY CARE HOME:** A facility licensed by the State of Kansas to provide children under eighteen (18) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.
- 83. FAMILY FARM:** A farming operation conducted by a person or persons, including a family farm corporation as defined by Kansas statutes, but not a corporate farm.
- 84. FARMERS MARKET:** The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce, or have taken the same on consignment for retail sale.
- 85. FEED LOT, COMMERCIAL:** A livestock feedlot or feedyard as defined by K.S.A. 47-1501 et seq, licensed by and operated under standards set forth by the Kansas Livestock Commission.
- 86. FENCE:** An unroofed barrier or unroofed enclosing structure, including retaining walls.
- 87. FLOOD PLAIN:** That area of land subject to inundation of water as a result of what is commonly known as the 100-year flood.
- 88. FLOOR AREA:** The square foot area of all space within the outside line of a wall, including the total area of all floor levels, but excluding porches, garages, or unfinished space in a basement or cellar.
- 89. FOSTER HOME:** A facility licensed by the State of Kansas for the care of four (4) or less persons unrelated to the operator(s).
- 90. FRONT:** The 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.
- 91. FRONTAGE:**
- a. **Street Frontage:** All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street; or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

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- b. **Lot Frontage:** The distance for which the front boundary line of the lot and the right-of-way are coincident.
  
- 92. **GARAGE, PRIVATE:** An accessory building designed or used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory.
  
- 93. **GARAGE, PUBLIC:** A building, or portion thereof, other than a private garage, designed or used for equipping, repairing, hiring, servicing, selling or storing motor vehicles.
  
- 94. **GARAGE, STORAGE:** A building, or portion thereof, designed or used exclusively for housing motor vehicles, other than trucks and commercial vehicles, pursuant to previous contract or arrangement.
  
- 95. **GARDEN APARTMENT BUILDING:** An apartment building located on a lot either singly or together with other similar apartment buildings, such buildings generally being one or two stories in height and having grounds completely landscaped.
  
- 96. **GOVERNING BODY:** The Board of County Commissioners of Wabaunsee County, Kansas, for the County, and the City Commission or City Council of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, Kansas.
  
- 97. **GREENHOUSE:** A translucent enclosure used for the cultivation or protection of tender plants.
  
- 98. **GROUP HOME:** 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 the State of Kansas. For purposes of this definition, disability shall mean:
  - a. **DISABILITY:** A condition, with respect to a person, which means:
    - 1. A physical or mental impairment which substantially limits one or more of such persons major life activities;
    - 2. A record of having such an impairment; or,
    - 3. Being regarded as having such an impairment.

Such terms do not include current, illegal use or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802).

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- 99. GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of seven (7) to twelve (12) children under fourteen (14) years of age, and which is maintained for less than twenty-four (24) hours per day.
- 100. GUEST HOUSE:** Living quarters within a detached accessory building located on the same premises with the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utilities and not rented or otherwise used as a separate dwelling.
- 101. HAZARDOUS WASTE:** Any waste meeting the definition of K.S.A. 65-3430 and amendments thereto.
- 102. HAZARDOUS WASTE DISPOSAL FACILITY:** Any facility which meets the requirements as defined in K.S.A. 65-3430, as amended.
- 103. HIGHWAY:** A street designated as a highway by an appropriate local, state or federal agency.
- 104. HIGHWAY, LIMITED ACCESS:** A freeway or expressway providing for through traffic in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points and in such manner as may be determined by the public authority having jurisdiction over such trafficway.
- 105. HOME OCCUPATION:** An occupation or business activity which is clearly incidental and secondary to the use of the premises for dwelling.
- 106. HOSPITAL:** A building or group of buildings having room facilities for one or more abiding patients, used for providing services for the in-patient medical and surgical care of sick or injured humans, and which may include related facilities such as laboratories, out-patient department, training facilities, central service facilities, and staff offices; provided, however, that such related facilities must be incidental and subordinate to the main use and must be an integral part of the hospital operation.
- 107. HOTEL:** Building, or portion thereof, or a group of buildings, which provides sleeping accommodations for transients with or without meals, whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, short-term rental, tourist cabin, tourist court, or otherwise.
- 108. HYDROPONIC FARM:** A farming operation devoted to the growing of plants in nutrient solutions with or without inert medium to provide mechanical support.
- 109. INDUSTRIAL LANDFILL:** A permitted solid waste disposal area used exclusively for the disposal on land of industrial solid waste.

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- 110. INDUSTRIAL PARK:** A special or exclusive type of planned industrial area designated and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or governmental organizations.
- 111. INDUSTRIAL SOLID WASTE:** Non-toxic, non-hazardous solid waste generated from industrial processing and acceptable as material for disposal in an industrial landfill as determined by the Kansas Department of Health and Environment.
- 112. INTENSITY:** The degree or level of concentration to which land is used for commercial, industrial or any other nonresidential purpose.
- 113. JUNK:** Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste, or junked, dismantled, or wrecked motor vehicles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
- 114. JUNKYARD:** An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of a motor vehicle graveyard. This term shall include salvage yards.
- 115. KENNEL, BOARDING:** Any place, area, building or structure where dogs (including those under one year of age) are boarded, housed, cared for, fed or trained by other than the owner.
- 116. KENNEL, BREEDER:** Any place, area, lot, building or structure where more than four dogs are kept for any purposes.
- 117. KINDERGARTEN:** A facility licensed by the State of Kansas to provide educational programs for children during the school year immediately preceding their entrance into First Grade, and connected with a public, private or parochial elementary school system.
- 118. LABORATORY, MEDICAL:** An establishment which provides bacteriological, biological, medical, x-ray, pathological and other similar analytical or diagnostic services.
- 119. LANDSCAPING:** The improvement of a lot, parcel or tract of land with grass, shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental features such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.
- 120. LAUNDRY:** An establishment where commercial laundry and dry cleaning work is undertaken.

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- 121. LAUNDRY, SELF-SERVICE:** An establishment equipped with individual coin-operated washing, drying and/or dry cleaning machines.
- 122. LIVESTOCK SALES YARD:** An enclosure or structure designed or used for holding livestock for purpose of sale or transfer by auction, consignment, or other means.
- 123. LOADING SPACE OR LOADING BERTH:** A space within the main building or on the same lot as the main building providing for the standing, loading, or unloading of motor vehicles.
- 124. LOT:** A parcel of land occupied or intended for occupancy by a use permitted in these regulations, including one (1) main building or unit group of buildings together with permitted accessory buildings and required yard areas and parking spaces, having its principal frontage upon a public street. A lot may include one (1) or more platted lots or metes and bounds described tracts, but must be under single ownership and, when more than one (1) parcel, be contiguous.
- 125. LOT AREA:** The area of a horizontal plane bounded by the front, side and rear lot lines, excluding any road right-of-way or road easements.
- 126. LOT, CORNER:** A lot abutting upon two or more streets at their intersection.
- 127. LOT COVERAGE:** The 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.
- 128. LOT, DEPTH OF:** The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.
- 129. LOT, DOUBLE FRONTAGE:** A lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.
- 130. LOT INTERIOR:** A lot whose side line or lines do not abut upon any street.
- 131. LOT LINES:** The lines bounding a lot as defined herein.
- 132. 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, the deed of which was recorded prior to the adoption of these Regulations.
- 133. LOT, WIDTH OF:** The distance, measured on a horizontal plane, between the side lot lines, measured at right angles to the lot depth at the established front building line.

## **ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS**

- 134. LOT, ZONING:** A parcel or tract of land used, developed, or built as a unit under single ownership or control. Said zoning lot may consist of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof.
- 135. MANUFACTURE:** Any method of processing, developing, fabricating or assembling either raw material, semi-finished materials or parts into semi-finished or finished products.
- 136. MANUFACTURED HOME:** A dwelling unit substantially assembled in an off-site manufacturing facility for installation or assembly at the dwelling site, bearing a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development.
- 137. MANUFACTURED HOME ACCESSORY BUILDING OR STRUCTURE:** A subordinate building or structure which is an addition to or supplements the facilities provided by a manufactured home, such as awnings, cabanas, storage structures, carports, porches, fences, skirting, or windbreaks.
- 138. MANUFACTURED HOME LOT:** A plot of ground within a manufactured home park for the placement of one manufactured home for single-family occupancy and the exclusive use of its occupants, and which provides the necessary utility services for water, sewage and electricity.
- 139. MANUFACTURED HOME PAD:** That portion of the manufactured home lot on which the manufactured home unit, and any attached awning, is placed.
- 140. MANUFACTURED HOME PARK:** An area, parcel, tract, or plot of ground equipped as required for support of manufactured homes and used or intended to be used by two or more occupied manufactured homes, provided the manufactured home spaces shall not be sold or offered for sale individually. The term "manufactured home park" does not include sale lots on which unoccupied manufactured homes, whether new or used, are parked for the purpose of storage, inspection or sale.
- 141. MANUFACTURED HOME PARK PERMIT:** A written document of certification issued by the Zoning Administrator permitting the construction, alteration or extension of a Manufactured Home Park.
- 142. MANUFACTURED HOME SALES AREA:** An open space, other than a street, used for display or sale of new or used manufactured homes and where no repair work is done except minor incidental repair of manufactured homes to be displayed and sold on the premises.
- 143. MANUFACTURED HOME SKIRTING:** The enclosing of the area between the manufactured home and the ground with a material designed to obscure from view the chassis of a manufactured home.



## ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS

- 144. MANUFACTURED HOME SUBDIVISION:** Any area, piece, parcel, tract or plot of ground used or intended to be used for the purpose of selling lots for occupancy by manufactured homes.
- 145. MANUFACTURED HOME, RESIDENTIAL-DESIGN:** A manufactured home on a permanent foundation which has (A) minimum dimensions of 22 body feet in width, (B) a pitched roof, and (C) siding and roofing materials which are customarily used on site-built homes.
- 146. MOBILE HOME:** A transportable, factory-built structure designed to be used as a year-round residential dwelling, built prior to enactment of the National Manufactured Home Construction and Safety Standards Act, which became effective June 15, 1976, or which fails to meet this standard.
- 147. MODULAR HOME:** A dwelling structure located on a permanent foundation and connected to public utilities consisting of preselected, prefabricated units or modules, and transported to and/or assembled on the site of its foundation; in contradistinction to a dwelling structure which is custom-built on the site of its permanent location, and also in contradistinction to a manufactured home or a residential-design manufactured home.
- 148. MOTOR HOME:** A portable dwelling designed and constructed as an integral part of a self-propelled vehicle used for recreation.
- 149. MOTOR VEHICLE:** A motorized vehicle with rubber tires for use on highways, including passenger cars, pick-ups and trucks.
- 150. MOTOR VEHICLE GRAVEYARD:** Any establishment which is maintained, used, or operated for storing, keeping, buying, or selling three (3) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles; provided, however, such term shall not include any location where motor vehicle bodies are placed along stream banks for purposes of bank stabilization and soil erosion control, if such placement conforms with guidelines established by the Chief Engineer of the Division of Water Resources of the State Board of Agriculture and has been permitted accordingly.
- 151. MULTI-FAMILY LAND USE:** The use of any lot or tract of land for two-family and/or multi-family dwellings.
- 152. NONCONFORMING BUILDINGS, LAND AND/OR USE:** The use of a building or land which was lawful at the time these Regulations became effective but which, because of the passage of these Regulations, does not conform to the regulations of the district in which it exists.

## **ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS**

- 153. NONCONFORMING LOT:** An unimproved lot which does not comply with the lot size requirements for any permitted use in the district in which it is located.
- 154. NOXIOUS MATTER:** Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.
- 155. NURSERY:** Any land used to raise trees, shrubs, flowers and other plants for sale or for transporting.
- 156. NURSING OR CONVALESCENT HOME:** An institution or agency licensed by the State for the reception, board, care or treatment of five (5) or more unrelated individuals, but not including group boarding homes for minors or group homes for adults.
- 157. OPEN SPACE:** Useable open space designed and intended for use by all residents of a residential area, including publicly dedicated space.
- 158. OUTDOOR STORAGE:** The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.
- 159. OVERLAY DISTRICT:** A district which acts in conjunction with the underlying zoning district or districts.
- 160. OWNER:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to a tract of land.
- 161. PACKAGE LIQUOR STORE:** An establishment in which alcoholic beverages are sold for consumption off the premises.
- 162. PARKING LOT:** An area, other than a private parking area, street or alley, used for parking of motor vehicles and available for public or semi-public use.
- 163. PARKING SPACE:** Any area surfaced for all-weather use, including gravel, sand, or comparable materials, used for the purpose of storing one parked motor vehicle.
- 164. PERSON:** Any individual, partnership, joint venture, corporation, or other business or legal entity.
- 165. PLANNING COMMISSION:** The Planning Commission of Wabaunsee County, Kansas.
- 166. PRESCHOOL:** A facility licensed by the State of Kansas to provide daytime care and instruction for children between the age of thirty (30) months and the age at which

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the children are eligible to attend kindergarten. This term is further construed to include "Day Nursery School" and other similar uses.

- 167. RECREATIONAL EQUIPMENT:** That which an occupant or owner may desire for convenience to store on his lot, but which item is normally and principally transported for use off the lot on a trailer or other vehicle and which is not used by the very nature and utility of the item in connection with customary accessory residential uses on the lot. Included in the meaning of recreational equipment are such large items as slide-in campers, boat trailers, hang gliders, ski jets, houseboats, pontoons, and boats over fourteen (14) feet in length which require a trailer for transportation.
- 168. RECREATIONAL OR SPORTS-RELATED ACTIVITIES OR FACILITIES:** Any lot, plot, parcel or tract of land and/or water; and/or any building or structure, or combination thereof; planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, miniature golf courses, swimming pools, natatoriums, tennis courts, racquetball courts, recreational lakes, marinas, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.
- 169. RECREATIONAL VEHICLE:** A vehicular-type unit built on or for use on a chassis and designed as living quarters, both permanent and temporary, for recreational, camping or travel use, and which has its own motive power, or is mounted on, or which can be drawn by another vehicle. The term recreational vehicle shall include, but not be limited to, motor homes, travel trailers, camper trailers, pickup truck campers, hauling trailers, and camper buses.
- 170. RECREATIONAL VEHICLE CAMPGROUND:** A lot or tract of land designed for occupancy by recreational vehicles for temporary or transient living purposes, including the use of camping spaces for tents.
- 171. RESIDENTIAL CENTER:** A non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons unrelated to the operator(s).
- 172. RESTAURANT:** A building wherein food is prepared and sold to the public for human consumption. Restaurant includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steak house.
- 173. RIDING STABLES:** Structures in which saddle horses are kept, maintained and/or boarded, and in connection with which saddle horses may be rented to the general public or made available to members of a private club. Exercise rings and show rings shall be considered uses accessory to the use of the premises for a riding stable.
- 174. RIGHT-OF-WAY:** A strip of land dedicated or reserved for use as a public way which normally includes streets, sidewalks, or other public utility or service area.

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- 175. RURAL RESIDENTIAL:** A lot of more than ten (10) but less than forty (40) acres in size created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot either prior to or after the construction of the residential dwelling.
- 176. SALE, RETAIL:** The sale of goods, merchandise and/or commodities to the ultimate consumer.
- 177. SALE, WHOLESALE:** The sale of goods for resale, or the sale of goods produced or processed from raw materials which require bulk delivery of the product.
- 178. SANITARY LANDFILL:** A disposal site in which the method of disposing of solid waste and/or industrial solid waste is by landfill, dump or pit and which has a solid waste disposal permit issued under K.S.A. 65-3401 et seq., and amendments thereto.
- 179. SCHOOL:** Any building or buildings housing public or private elementary, junior high, high school, college, university, post-graduate, technical or vocational school, offering courses in general instruction at least five days per week and seven months per year.
- 180. SCREENING:** Fencing or vegetation maintained for the purpose of concealing from view.
- 181. SETBACK:** The distance between a building and the lot line, or road easement line, whichever provides the desired minimum distance.
- 182. SHORT-TERM RENTAL:** Any dwelling unit or portion thereof, including a hotel, offered or provided to a guest (person, family or group) for occupancy for dwelling, sleeping, or lodging purpose by an owner or operator for twenty-eight (28) consecutive days or less.
- 183. SIGN:** See Article 21.
- 184. SLIDE-IN CAMPER:** A structure designed to be mounted temporarily or permanently in the bed of a pickup or light truck to provide enclosed storage space for transportation of property or quarters for recreational camping, including shells and truck cabs.
- 185. SOLID WASTE:** Garbage, refuse and other discarded materials including, but not limited to solid, semisolid, sludge, liquid and contained gaseous waste materials resulting from commercial, agricultural and domestic activities. Such term shall not include hazardous wastes.

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- 186. STOCKYARD, COMMERCIAL:** A penned enclosure, or structure, where livestock are maintained temporarily for the purpose of slaughtering, marketing or shipping.
- 187. STORE OR STORAGE:** As related to waste tires, means the placing of waste tires in a manner that does not constitute disposal of the waste tires. Storage includes the beneficial use of waste tires as fences, silo covers and erosion control, and such other beneficial uses determined not to create health or environmental risks by the Secretary of Health and Environment of the State of Kansas.
- 188. STORY:** That portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.
- 189. STORY, HALF:** A story under a gable, hip or gambrel roof of which the wall plates on at least two opposite exterior walls are not more than 2 feet above the floor of such story.
- 190. STREET:** An easement or right-of-way, other than an alley, which provides principal access to adjacent properties.
- 191. STRUCTURE:** Anything constructed or erected which requires location on the ground, or attached to something having a location on the ground.
- 192. SUBURBAN RESIDENTIAL:** A lot equal to or greater than one (1) acre but less than ten (10) acres in size created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot either prior to or after the construction of the residential dwelling.
- 193. SWIMMING CLUB:** A pool and accessory building operated for members and their guests, whether or not operated for gain.
- 194. SWIMMING POOL, PRIVATE:** A pool which is an accessory use to a residence and for the exclusive use of the occupants of the residential building and their guests.
- 195. SWIMMING POOL, PUBLIC:** A pool and accessory buildings, generally owned and operated by a governmental entity, whether open or enclosed, and for use by the general public.
- 196. TAVERN:** An establishment in which cereal malt beverages are sold or served to customers.
- 197. TOWNHOUSE:** A single-family dwelling constructed as part of a series of dwellings, all of which are either attached to the adjacent dwelling or dwellings by

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party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

- 198. TRAVEL TRAILER:** A structure, not to exceed nine feet in width, designed to provide temporary living quarters for recreational, camping or travel use, constructed with integral wheels to make it mobile and/or towable by a motor vehicle.
- 199. TRAILER PARK:** A tract, lot, or parcel of land upon which temporary accommodations are provided for two or more trailers; such park being open to the public either free or for a fee.
- 200. USE:** The specific purpose for which land or a building is used.
- 201. USEABLE OPEN SPACE:** Land or water which is free of buildings, structures and/or other substantial improvements and which is readily accessible by the public or residents of a residential development. Useable open space does not include streets, alleys, off-street parking or loading areas, roofs, or slopes in excess of 50 percent.
- 202. VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.
- 203. WASTE TIRE:** A whole tire that is no longer suitable for its original intended purpose because of wear, damage or defect, as defined in K.S.A. 65-3424, et seq, and amendments thereto.
- 204. WASTE TIRE ABATEMENT:** The processing or removing to an approved storage site of waste tires which are creating a danger or nuisance.
- 205. WASTE TIRE BENEFICIAL USE:** The use or storage of waste tires in a way that creates an on-site economic benefit, other than from processing or recycling, to the owner of the tires. This shall not include the disposal of waste tires on the owners land simply to avoid proper disposal as prescribed by these Regulations and/or state law.
- 206. WASTE TIRE COLLECTION CENTER:** A site where used or waste tires are collected from the public prior to being offered for recycling or disposal.
- 207. WASTE TIRE PROCESSING FACILITY:** A site where equipment is used to cut, burn or otherwise alter whole waste tires so that they are no longer whole.
- 208. WASTE TIRE SITE:** A site at which 1,000 or more whole tires are accumulated.
- 209. WIND ENERGY CONVERSION SYSTEM (WECS):** The combination of mechanical and structural elements used to produce electricity by converting the kinetic energy of wind to electrical energy. Wind Energy Conversion Systems consist

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of the turbine apparatus and any buildings roads, interconnect facilities, measurement devices, transmission lines, support structures and other related improvements necessary for the generation of electric power from wind.

- 210. COMMERCIAL WIND ENERGY CONVERSION SYSTEM:** A Wind Energy Conversion System Exceeding 100 kilowatt or exceeding 120 feet in height above grade, or more than one Wind Energy Conversion System of any size proposed and/or constructed by the same person or group of persons on the same or adjoining parcels or as a unified or single generating system. (Commercial Wind Energy Conversion Systems are specifically prohibited as a use in Wabaunsee County.)
- 211. WIND ENERGY CONVERSION SYSTEM HEIGHT:** The distance measured from the ground level at the base of the tower structure to the highest point on the Wind Energy Conversion System, including the rotor blades.
- 212. SMALL WIND ENERGY CONVERSION SYSTEM:** A wind energy conversion system consisting of wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 100 kilowatt, which is less than 120 feet in height and which is intended solely to reduce on-site consumption of purchased utility power.
- 213. YARD:** A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the general ground level of the graded lot upward; provided, however, that fences, walls, 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.
- 214. YARD, FRONT:** A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line and the front building line.
- 215. 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.
- 216. YARD, SIDE:** A yard between the side building line and the side line of the lot 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.
- 217. ZONE OR 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.
- 218. ZONING ADMINISTRATOR:** The person or persons authorized and empowered by the Governing Body to administer the requirements of these Regulations.

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- 219. SEXUALLY ORIENTED BUSINESS:** means an adult bookstore / adult video store, an adult cabaret, an adult motel, an adult motion picture theater, a semi-nude model studio, and a sexual encounter center, which are defined as follows:
- a. "*Adult Bookstore / Adult Video Store*" means a commercial establishment which has a significant or substantial portion of its stock-in trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising, or maintains a substantial section of its sales or display space to the sale or rental, for any form of consideration, of any one or more of the following:
    - Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, slides, or other visual representations which are characterized by their emphasis upon the exhibition or description of "specified sexual activities" or "specified anatomical areas." The term "Adult Bookstore / Adult Video Store" shall also include a commercial establishment which regularly maintains one or more "Adult Arcades." "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 distinguished or characterized by their emphasis upon matter exhibiting or describing "specified sexual activities" or "specified anatomical areas."
  - b. "*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 who appear "semi-nude."
  - c. "*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 depiction or description 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-premises or offpremises 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 tenant or occupant of a sleeping room to subrent the room for a period of time that is less than 10 hours.
  - d. "*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 exhibition of "specified sexual activities" or "specified anatomical areas" are regularly featured and shown for any form of consideration. "Adult Motion Picture Theater" shall also include an "Adult movie house." "Adult movie house" means any movie theater which on a regular, continuing basis shows films rated "X" by any national or international motion



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picture rating association, or any movie theater which on a regular, continuing basis shows films characterized by an emphasis upon the exhibition of “specified sexual activities” or “specified anatomical areas.”

e. “*Semi-Nude Model Studio*” means a commercial establishment which regularly features a person or persons who appears semi-nude and is provided to be observed, sketched, drawn, painted, sculptured or photographed by other persons who pay money or any form of consideration, but shall not include a college, community college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, community college or university supported entirely or partly by taxation; or in a structure: 1) that has no sign visible from the exterior of the structure and no other advertising that indicates that a person will be displaying “specified anatomical areas”, or 2) where in order to participate in a class a student must enroll at least three days in advance of the class.

f. “*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:

(1) physical contact in the form of wrestling or tumbling between persons of the opposite sex; or (2) physical contact between male and female persons and/or persons of the same sex when one or more of the persons is semi-nude.

Other definitions are as follows:

g. “*Distinguished or Characterized by an Emphasis Upon*” means the dominant or principal theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon the exhibition or description of specified sexual activities or specified anatomical areas,” the films so described are those whose dominant or principal character and theme are the exhibition or description of “specified anatomical areas” or “specified sexual activities.”

h. “*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.

i. “*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 persons on the premises of a sexually oriented business who is authorized to exercise overall operational control of the business or who causes to function or who puts or keeps in operation the business. 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.

j. “*Person*” shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.

k. “*Regularly Features, Regularly Maintains, or Regularly Shown*” means a consistent or substantial course of conduct, such that the films or performances exhibited constitute a substantial portion of the films or performances offered or held out to the public as a part of the ongoing business carried on within the premises.

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l. “*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 entire 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, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or in part.

m. “*Specified Anatomical Areas*” means and includes:

(1) Less than completely and opaquely covered: human genitals; pubic region; buttock; and 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.

n. “*Specified Sexual Activity*” means any of the following:

(1) sex acts, normal or perverted, including intercourse, oral copulation, masturbation or sodomy; or

(2) excretory functions as a part of or in connection with any of the activities described in (1) above.

**220. Major or Minor Trafficway:** Interstate 70, Highway 99, Highway 177, Highway 4, Highway 18, Highway 31, Highway 185, Highway 138, Highway 30, and Interstate 335.

### ***1-105 DISTRICTS***

The following districts are created in order to regulate and restrict the use of land and the location of buildings erected or altered for specific uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit population density and the intensity of the use of lot areas, and to regulate and determine the areas of yards, courts, and other open spaces surrounding such buildings. The unincorporated portion of Wabaunsee County, Kansas, is hereby divided into districts of which they shall be in number, known as:

"AG" Agricultural District

"RR" Rural Residential District

"SR" Suburban Residential District

"R-1" Single-Family Residential District

"V-1" Village District

"LW" Lake Wabaunsee District

"AO" Airport Overlay District

"FRD" Floodwater Retarding Dam Breach Impact Overlay District

The incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, Kansas, are hereby divided into districts of which they shall be in number, known as:

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"R-1A" Single-Family Residential District  
"R-1B" Single-Family Residential District  
"R-1C" Single-Family Residential District  
"R-2" Two-Family Residential District  
"RP-3" Planned Medium Density Residential District  
"RP-4" Planned Apartment House District  
"CP-O" Planned Commercial Office District  
"CP-1" Planned Neighborhood Commercial District  
"CP-2" Planned General Commercial District  
"CP-3" Planned Highway Service Commercial District  
"CP-4" Planned Central Business District  
"IP-1" Planned Light Industrial District  
"IP-2" Planned Medium Industrial District  
"IP-3" Planned Heavy Industrial District  
"FP" Floodplain Overlay District

In both cases, the lists given above shall be considered as listing the districts in their respective order from most restrictive to least restrictive. Requests for "rezoning" may be approved for a more restrictive classification than that requested based on the above listing. Further, the districts identified above shall have applicability in the respective areas only (i.e. the districts referenced for the unincorporated portion of Wabaunsee County shall apply there only and the districts referenced for the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico shall apply in those cities only.)

1. Such land, and the district classification thereof, shall be shown on the official maps designated as the "Zoning District Boundary Maps of Wabaunsee County, Kansas." Such Zoning District Boundary Maps, and all symbols, notations, dimensions, and references shown thereon pertaining to such districts shall be as much a part of these Regulations as if fully they were described herein, and shall be filed as part of these Regulations with the Zoning Administrator of Wabaunsee County. Said Maps shall be available for inspection in the office of the Zoning Administrator as well as in the offices of the City Clerk's of all the incorporated cities within Wabaunsee County, and any later alterations of these Maps, adopted by amendment as provided by these Regulations, shall be filed and made available for public reference. The above stated maps shall hereinafter be referred to as the "maps" in this document.
2. When uncertainty exists with respect to the boundaries of the various districts as shown on the maps accompanying and made a part of these Regulations, the following rules shall apply:
  - a. In cases where a boundary line is given a position within a street or alley, or navigable or non-navigable stream, it shall be deemed to be in the center of the street, alley, or stream; and if the actual location of such street, alley, or stream

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varies slightly from the location as shown on the maps, then the actual location shall control.

- b. In cases where a boundary line is shown as being located a specific distance from a street line or other physical feature, this distance shall control.
  - c. In cases where a boundary line is shown adjoining or coincident with a railroad, it shall be deemed to be in the center of the railroad right-of-way and distances measured from a railroad shall be measured from the center of such right-of-way.
  - d. Where the district boundaries are not otherwise indicated and where the property has been, or may hereafter be, divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the maps accompanying and made a part of these Regulations are bounded approximately by lot lines, said lot lines shall be construed to be the boundary of such districts unless said boundaries are otherwise indicated on the maps or by Resolution of the Governing Body.
  - e. In unsubdivided property, unless otherwise indicated, the district boundary line on the maps accompanying and made a part of these Regulations shall be determined by the use of the scale contained on such maps.
  - f. When a lot held in one ownership on the effective date of these Regulations is divided by a district boundary line, the entire lot shall be construed to be within the less restrictive district; unless otherwise indicated on the maps or by Resolution of the Governing Body.
3. Where a district boundary follows a street, alley, watercourse or other right-of-way, in case of the vacation of said street, alley, watercourse or other right-of-way, the abutting zoning classification of each side thereof shall automatically be extended to the center line of said vacated street, alley, watercourse or right-of-way. Two districts shall be deemed to adjoin even though separated by a public way or portion thereof.

### ***1-106 GENERAL REGULATIONS GOVERNING ALL ZONING DISTRICTS***

1. Except as hereinafter provided:
  - A. No land may be used except for a purpose permitted in the district in which it is located.
  - B. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for a use permitted in the district in which the building is located.

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- C. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height, area and bulk regulations, the parking regulations, or the off-street loading regulations herein established for the district in which the building is located.
  - D. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of these Regulations.
  - E. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for each and every building existing at the time of the passage of these Regulations, or of any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any other building, nor shall any lot area be reduced below the requirements of these Regulations.
  - F. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
  - G. 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 loading spaces required by Articles 25 and 26 are provided. No structure or use already established on the effective date of these Regulations shall be enlarged unless the minimum off-street parking and loading spaces which would be required by Articles 25 and 26 are provided for the whole structure or use as enlarged.
  - H. Nothing contained in these Regulations shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.
2. All lands used for agricultural purposes as defined within these Regulations, including those agricultural activities that are designated as accessory uses to rural residential and suburban residential uses, are located within an area where land is used for commercial agricultural production. Owners, residents, and other users of this property or neighboring properties may be subjected to inconvenience, discomfort, and the possibility of injury to property and health arising from normal and accepted agricultural practices and operations, including but not limited to, noise, odors, dust, the operation of machinery of any kind, including aircraft, the storage and disposal of manure, the burning of pasture lands, and the application of fertilizers, soil amendments, herbicides and pesticides. Owners, occupants, and users of this property and neighboring properties should be prepared to accept such inconveniences, discomfort, and possibility of injury from normal agricultural operations, and are hereby put on official notice that K.S.A. 2-3201 et seq, the "right-to-farm law", may bar them from obtaining a legal judgment against such normal agricultural operations.

## **ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS**

3. Zoning of Annexed Lands: Unless land is rezoned at the time of its annexation into the City, the land shall retain its zoning status under county zoning until such time as the property is rezoned pursuant to the provisions of these Regulations. The City shall have the authority to secure civil remedies for violations of such county zoning regulations to the same extent that it may secure civil remedies for violations of these Regulations pursuant to Section 39-102, herein.

### ***1-107 VESTING OF DEVELOPMENT RIGHTS***

In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

- A. The rights of landowners of properties platted or subdivided for residential purposes prior to the adoption of these Regulations, including lots for rural residential or suburban residential development as defined in these Regulations, shall be protected from the requirements of these Regulations for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:
  1. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, whether [sic] dated or dated and recorded with the Register of Deeds; recorded Restrictive of Protective Covenants for the development; recorded deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
  2. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  3. The division of land was legally done in conformance with the then Wabaunsee County Subdivision Regulations
- B. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of [the] five (5) year period shall be considered an unplatted lot, as defined in these Regulations, and subsequent divisions of said lot shall be in conformance with the Subdivision Regulations then in effect.
- C. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Wabaunsee County Subdivision Regulations. Persons who obtained a validly issued permit under the previous Wabaunsee County Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Wabaunsee County Zoning Regulations does not expire. Failure to start construction under said permit before the expiration of the permit shall not

## **ARTICLE 1: TITLE, PURPOSE, DEFINITIONS, DISTRICT AND GENERAL REGULATIONS**

protect the owner from the provisions of these Regulations or the Wabaunsee County Subdivision Regulations then in effect.

- D. At the time of the initial adoption of these regulations in 1995, all lots of record within unincorporated portion of Wabaunsee County, Kansas, shall be granted zoning consistent with the appropriated zoning district they fit based upon their size according to the requirements of the zoning districts. (Example: A lot of record of 5 acres would be zoned “SR” Suburban Residential. In addition, certain properties are hereby granted “Conditional Use” without the benefit of an approved development plan as specified within these Regulations. Those properties granted Conditional Uses shall be those properties which have a legally established land use activity at the time of the adoption of these Regulations which would require Conditional Use in order to be established new under the terms of these Regulations. Further, said uses granted a Conditional Use upon the initial adoption of these Regulations shall be permitted to expand, enlarge or otherwise enhance said use on that land contiguous to and owned by the same person at the time of the establishment of this rule. (Example: A landowner operating a cattle feeding operation that would require a Conditional Use under these Regulations if it were proposed new shall be granted a Conditional Use at the time of the adoption of these Regulations. In addition, that Landowner may expand that operation on any portion of the contiguous land owned at the time the Regulations were first adopted.)

## **ARTICLE 2: "AG" AGRICULTURE DISTRICT REGULATIONS**

### **SECTIONS:**

#### **2-101 APPLICATION**

#### **2-102 USE REGULATIONS**

#### **2-103 PERFORMANCE STANDARDS**

#### **2-104 SIGN REGULATIONS**

#### **2-105 HEIGHT, AREA AND BULK REGULATIONS**

#### **2-106 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **2-107 SUPPLEMENTARY USE REGULATIONS**

#### **2-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "AG" Agricultural District. The purpose of this 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; and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses. The District is also intended to protect watersheds and water supplies; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of suburban residential, rural residential, and/or more dense urban development. In this regard, all lands used for agricultural purposes, as defined in these regulations, are and shall be exempt from any and all restrictions or limitations. No administrative interpretation shall be made that results in any restriction or stipulation on land used for agricultural purposes as herein defined; provided, however that consistent with state law, new agricultural buildings shall be subject to floodplain regulations and to setback requirements on that part of agricultural lands fronting on designated major roads and highways. Any proposal for change of land used for agricultural purposes to nonagricultural uses shall be subject to the requirements of these Regulations.

#### **2-102 USE REGULATIONS**

In District "AG", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Agricultural purposes.
2. Grain storage structures.
3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
4. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.



## ARTICLE 2: "AG" AGRICULTURE DISTRICT REGULATIONS

5. Single-family dwellings.
6. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.
7. The creation of additional lots on lands used for agricultural purposes shall be permitted without requiring a rezoning, including those divisions of agricultural lands because of mortgage or lending requirements, provided said additional lots are created in conformance with the requirements of the Wabaunsee County Subdivision Regulations.

### **2-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### **2-104 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **2-105 HEIGHT, AREA AND BULK REGULATIONS**

In the "AG" Agricultural District, the minimum dimensions of yards required along all roads and highways in Wabaunsee County shall be as follows:

1. **Lot Area:** Every lot shall be a minimum of 40 acres. A lot described as a quarter/quarter (i.e. 1/4 of 1/4 of a section) shall be deemed to meet the lot size requirements even though said lot may net less than a full 40 acres.
2. **Lot Dimensions:** The minimum width of a lot shall be 660 feet. The minimum depth of a lot shall be 660 feet. There shall not be a lot width to lot depth ratio greater than 4:1 (i.e. the depth of the lot cannot be greater than 4 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
3. **Front Yard:** The depth of the front yard shall be at least 75 feet.
4. **Side Yard:** The depth of the side yard shall be at least 50 feet.
5. **Rear Yard:** The depth of the rear yard shall be at least 50 feet.

The Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein. However, in the situation of a lot split allowed by section 2-102(7) single-family dwellings shall be permitted at

**ARTICLE 2: “AG” AGRICULTURE DISTRICT REGULATIONS**

densities no greater than two residences per 40 acres (subject to a potential variance in accordance with section 35-103) but no dwelling can be on a parcel of less than 3 acres.

***2-106 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

***2-107 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 3: "RR" RURAL RESIDENTIAL DISTRICT REGULATIONS**

**SECTIONS:**

**3-101 APPLICATION**

**3-102 USE REGULATIONS**

**3-103 PERFORMANCE STANDARDS**

**3-104 PARKING REGULATIONS**

**3-105 OFF-STREET LOADING REGULATIONS**

**3-106 SIGN REGULATIONS**

**3-107 HEIGHT, AREA AND BULK REGULATIONS**

**3-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**3-109 SUPPLEMENTARY USE REGULATIONS**

**3-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RR" Rural Residential District. The purpose of this District is to provide for platted rural, low-density developments that retain the character of a rural area with very limited residential development. This District is intended to accommodate low-density rural residential development and to serve as a transition from agricultural lands to more dense, suburban development. Hence, it is suitable in rural locations where adequate public roads and public services are available, but it is not suitable in all rural locations. It is inappropriate in areas predominately agricultural in character where public services are adequate only to meet the needs of farm residences and farm operations.

**3-102 USE REGULATIONS**

In District "RR," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for distribution, transmission or temporary storage of oil or natural gas.
3. Oil and/or gas well drilling operations, and temporary on-site storage of oil and gas field-related equipment and supplies, but not a junk yard.
4. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classification yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.

## **ARTICLE 3: "RR" RURAL RESIDENTIAL DISTRICT REGULATIONS**

### **3-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### **3-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### **3-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### **3-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **3-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "RR" Rural Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Nonagricultural buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 75 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 50 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 50 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 330 feet. The minimum depth of a lot shall be 330 feet. There shall not be a lot width to lot depth ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 435,600 square feet or 10 acres per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**ARTICLE 3: “RR” RURAL RESIDENTIAL DISTRICT REGULATIONS**

**3-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

**3-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 4: "SR" SUBURBAN RESIDENTIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **4-101 APPLICATION**

#### **4-102 USE REGULATIONS**

#### **4-103 PERFORMANCE STANDARDS**

#### **4-104 PARKING REGULATIONS**

#### **4-105 OFF-STREET LOADING REGULATIONS**

#### **4-106 SIGN REGULATIONS**

#### **4-107 HEIGHT, AREA AND BULK REGULATIONS**

#### **4-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **4-109 SUPPLEMENTARY USE REGULATIONS**

#### **4-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "SR" Suburban Residential District. The purpose of this District is to provide for the platted development of low-density residential neighborhoods that retain the character of the basically rural area and yet allow an influx of residential development. This district is limited to those areas of Wabaunsee County where adequate water, sewage disposal and other infrastructure, as well as the delivery of support services can be demonstrated and proved to the satisfaction of the County. It is anticipated that the development that would occur under this district will rely upon on-site wastewater disposal systems and may have either on-site water wells or public water service. As such, the density of any individual proposed development shall be determined by the adequacy of the site to meet the development standards and policies of these and all other Wabaunsee County rules and regulations, including but not limited to the Subdivision Regulations, Environmental/Sanitary Code, soil suitability classification, and other such factors that will justify and support such proposed density. The burden of proof for such proposed density shall be on the person proposing the development and the County may require any and all such proof deemed necessary before any approval of the project may be granted.

#### **4-102 USE REGULATIONS**

In District "SR," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the more of the following uses:

1. Single-family dwellings.
2. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding and watering stations.
3. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon

## ARTICLE 4: "SR" SUBURBAN RESIDENTIAL DISTRICT REGULATIONS

completion or abandonment of such construction, or upon the expiration of a period of one year from the time of erection of such temporary buildings, whichever is sooner.

### **4-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### **4-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### **4-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### **4-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **4-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "SR" Rural Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 50 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 30 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 50 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 165 feet. The minimum depth of a lot shall be 250 feet. There shall not be a lot width to lot depth ratio greater than 3:1 (i.e. the depth of the lot cannot be greater than 3 times the width of the lot). In the event of unusual lot configurations, the Zoning Administrator shall determine whether the lot dimensions meet the spirit and intent of this requirement.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 43,560 square feet or 1 acre per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**ARTICLE 4: “SR” SUBURBAN RESIDENTIAL DISTRICT REGULATIONS**

***4-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

***4-109 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.



## **ARTICLE 5: "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **5-101 APPLICATION**

#### **5-102 USE REGULATIONS**

#### **5-103 PERFORMANCE STANDARDS**

#### **5-104 PARKING REGULATIONS**

#### **5-105 OFF-STREET LOADING REGULATIONS**

#### **5-106 SIGN REGULATIONS**

#### **5-107 HEIGHT, AREA AND BULK REGULATIONS**

#### **5-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **5-109 SUPPLEMENTARY USE REGULATIONS**

#### **5-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article are the regulations in the "R-1" Single-Family Residential District. The purpose of this District is to provide for platted single-family residential development in the unincorporated portion of Wabaunsee County of a more urban character where sanitary sewers, adequate water and other necessary public utilities and services are present to support the development. As such, it is intended to be used only where such public utilities and services are present to serve such development. The District is also designed to protect and preserve existing development of a similar character.

#### **5-102 USE REGULATIONS**

In District "R-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Railroad rights-of-way, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
3. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of one year from the time of erection of such temporary buildings, whichever is sooner.

#### **5-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

## **ARTICLE 5: "R-1" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **5-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### **5-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### **5-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **5-107 HEIGHT, AREA AND BULK REGULATIONS**

In the "R-1" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

- 1. Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
- 2. Front Yard:** The depth of the front yard shall be at least 30 feet.
- 3. Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 15 feet.
- 4. Rear Yard:** The depth of the rear yard shall be at least 20 feet.
- 5. Lot Dimensions:** The minimum width of a lot shall be 100 feet. The minimum depth of a lot shall be 150 feet.
- 6. Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 20,000 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **5-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### **5-109 SUPPLEMENTARY USE REGULATIONS**

Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 6: "V-1" VILLAGE DISTRICT REGULATIONS**

### **SECTIONS:**

#### **6-101 APPLICATION**

#### **6-102 USE REGULATIONS**

#### **6-103 PERFORMANCE STANDARDS**

#### **6-104 PARKING REGULATIONS**

#### **6-105 OFF-STREET LOADING REGULATIONS**

#### **6-106 SIGN REGULATIONS**

#### **6-107 HEIGHT, AREA AND BULK REGULATIONS**

#### **6-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **6-109 SUPPLEMENTARY USE REGULATIONS**

#### **6-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "V-1" Village District. This District is designed to encourage the continued existence of small unincorporated "villages" (i.e. townsites platted many years ago and intended to become cities, but which never incorporated or became cities) by placing very narrow restrictions on their use and further development. No development of new "villages" is contemplated under these provisions and only fill-in type development of existing "villages" with low intensity uses is intended.

#### **6-102 USE REGULATIONS**

In District "V-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "R-1C" Single-Family Residential District.
2. All other uses, including any proposed commercial and industrial uses, shall require a Conditional Use Permit.

#### **6-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

#### **6-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

#### **6-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

#### **6-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

## **ARTICLE 6: "V-1" VILLAGE DISTRICT REGULATIONS**

### ***6-107 HEIGHT, AREA AND BULK REGULATIONS***

In the "V-1" Village District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area permitted on any lot shall be as follows:

1. **Height:** Buildings and structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** No minimum lot dimensions are established, however, it is anticipated that every lot shall provide sufficient setbacks as specified herein and still provide adequate building area.
6. **Lot Area:** No minimum lot area is established, however, it is expected that sufficient area will be provided to meet the requirements established herein and provide for the proper provision for safe water and the sanitary disposal of sewage in accordance with the Wabaunsee County Sanitary Code.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### ***6-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### ***6-109 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 6A: “LW” LAKE WABAUNSEE DISTRICT REGULATIONS**

**SECTIONS:**

**6A-101 APPLICATION**

**6A-102 USE REGULATIONS**

**6A-103 PERFORMANCE STANDARDS**

**6A-104 PARKING REGULATIONS**

**6A-105 OFF-STREET LOADING REGULATIONS**

**6A-106 SIGN REGULATIONS**

**6A-107 HEIGHT, AREA AND BULK REGULATIONS**

**6A-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**6A-109 SUPPLEMENTARY USE REGULATIONS**

**6A-101 APPLICATION**

The regulations set forth in this article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the “LW” Lake Wabaunsee District. The purpose of this District is to provide development standards tailored to the unique environment found within the Lake Wabaunsee development.

The “Lake Wabaunsee Development” area, for the purpose of this Article, is more specifically defined as all properties lying within the metes and bounds description of the Lake Wabaunsee Improvement District as found in the Articles of Incorporation of the Lake Wabaunsee Improvement District dated October 16, 1978.

Creation of new developments of density not allowed elsewhere in Wabaunsee County may be allowed within this district.

All applications for permits within the “LW” District shall contain a site plan and building plans and shall be submitted to the County Zoning Administrator and upon receipt thereof shall submit said plans to the Lake Wabaunsee Improvement District Board of Directors through their representative superintendent for review and comment.

A period of 10 working days, upon the receipt of an application for a building permit, shall be allowed for the review process by the Lake Wabaunsee Improvement District Board, and any objection or comments by the Board relating to the application shall be submitted to the zoning administrator. Objections to an application for a building permit, by the Board, must be in relation to written regulation restrictions.

**6A-102 USE REGULATIONS**

In District “LW” no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Proposed accessory buildings, detached garages, sheds, lean-to’s, and storage Buildings in excess of the standards set out in these regulations shall require a Conditional Use Permit. Buildings or uses that are within these regulations shall not require a Conditional Use permit.
3. All other uses including proposed commercial and industrial uses shall require a Conditional Use Permit.

## **ARTICLE 6A: “LW” LAKE WABAUNSEE DISTRICT REGULATIONS**

### **6A-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### **6A-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### **6A-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### **6A-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **6A-107 HEIGHT, AREA AND BULK REGULATIONS**

In the “LW” District, the height of primary residences and accessory buildings, the minimum dimensions of lots and yards, and the minimum lot area permitted on any lot shall be as follows:

1. **Height-Primary residence-** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height; provided, however, that for lake-front lots buildings or structures shall not exceed 30 feet and/or 2-1/2 stories in height on the street side on the lot.
2. **Height- Accessory building-** Accessory buildings, detached garages, sheds, lean-to's and storage buildings shall not exceed 16 feet in height at the ridge and 10 feet in height at the eave as measured from the floor height.
3. **Area-Accessory building-** Accessory buildings shall not exceed 900 square feet of floor area.
4. **Front Yard-** The depth of the front yard shall be at least 20 feet.
5. **Side Yard-** There shall be a side yard on both sides of a dwelling. No side yard shall be less than 5 feet.
6. **Rear Yard-** The depth of the rear yard shall be at least 20 feet.
7. **Lot Dimensions-** Minimum lot size is 50 feet in width and 100 feet in depth.
8. **Lot Area-** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 5000 square feet per family.

The Height, Area, and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **6A-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

## ARTICLE 6A: “LW” LAKE WABAUNSEE DISTRICT REGULATIONS

### 6A-109 SUPPLEMENTARY USE REGULATIONS

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses are contained in Article 31 of these Regulations and supplemented as follows:

1. Any accessory building constructed in the “LW” Lake Wabaunsee District that exceeds 144 square feet shall be built on a concrete slab with adequate footings to support the building.
2. No accessory building shall be occupied as a primary or “weekend” residence on property that does not have a primary residence.
3. Storage sheds occupying 144 square feet or less shall be exempt from these regulations.
4. Fencing. The following regulations shall apply to fencing within the “LW” Lake Wabaunsee District:
  - (A) No fence, except those constructed around parks, golf courses, or other recreational areas, shall be of a height greater than six feet.
  - (B) No fence shall be constructed closer to any street than the street yard setback of 10 feet.
  - (C) No fence shall be constructed closer to the shoreline of Lake Wabaunsee than the property line of said property.
  - (D) No fence shall be constructed that will constitute a traffic hazard
  - (E) No fence shall be constructed in a manner of such design or materials as to be hazardous or dangerous to persons or animals.
  - (F) No fence shall be constructed that will materially damage the adjacent properties by obstructing the view, shutting out sunlight or hindering ventilation of air.
  - (G) No fence shall be constructed past the front of said property dwelling without prior written approval from Lake Wabaunsee Improvement District Board of Directors.
  - (H) Electric charged fences are prohibited inside LWID boundaries except for electronic detector loops for animal containment.

## **ARTICLE 7: "R-1A" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **7-101 APPLICATION**

#### **7-102 USE REGULATIONS**

#### **7-103 PERFORMANCE STANDARDS**

#### **7-104 PARKING REGULATIONS**

#### **7-105 OFF-STREET LOADING REGULATIONS**

#### **7-106 SIGN REGULATIONS**

#### **7-107 HEIGHT, AREA, AND BULK REGULATIONS**

#### **7-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **7-109 SUPPLEMENTARY USE REGULATIONS**

#### **7-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1A" Single-Family Residential District. The purpose of this District is to provide for single-family residential development of a moderately spacious character inside the incorporated cities where public utilities are present to support the development. The District is also designed to protect and preserve existing development of a similar character.

#### **7-102 USE REGULATIONS**

In District "R-1A," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Manufactured homes on individual lots; provided the performance standards in Article 25 herein are met.
3. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
4. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period of one year from the time of erection of such temporary buildings, whichever is sooner.

#### **7-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.



## **ARTICLE 7: "R-1A" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **7-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### **7-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### **7-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **7-107 HEIGHT, AREA, AND BULK REGULATIONS**

In the "R-1A" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

- 1. Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
- 2. Front Yard:** The depth of the front yard shall be at least 30 feet.
- 3. Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 10 feet.
- 4. Rear Yard:** The depth of the rear yard shall be at least 20 feet.
- 5. Lot Dimensions:** The minimum width of a lot shall be 75 feet. The minimum depth of a lot shall be 100 feet.
- 6. Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 10,000 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **7-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### **7-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 8: "R-1B" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **8-101 APPLICATION**

#### **8-102 USE REGULATIONS**

#### **8-103 PERFORMANCE STANDARDS**

#### **8-104 PARKING REGULATIONS**

#### **8-105 OFF-STREET LOADING REGULATIONS**

#### **8-106 SIGN REGULATIONS**

#### **8-107 HEIGHT, AREA, AND BULK REGULATIONS**

#### **8-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **8-109 SUPPLEMENTARY USE REGULATIONS**

#### **8-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1B" Single-Family Residential District. The purpose of this District is to provide for single-family residential development inside the incorporated cities of a higher density, serviced by public utilities, and accessible to public infrastructure capable of supporting the development. The District is also designed to protect and preserve existing development of a similar character.

#### **8-102 USE REGULATIONS**

In District "R-1B," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Manufactured homes on individual lots; provided the performance standards in Article 25 herein are met.
3. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.
4. Temporary buildings, the uses of which are incidental to construction operations or sale of lots during development being conducted on the same or adjoining tract or subdivision, but not for use as a residence; and which shall be removed upon completion or abandonment of such construction, or upon the expiration of a period or one year from the time of erection of such temporary buildings, whichever is sooner.

#### **8-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

**ARTICLE 8: "R-1B" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

**8-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

**8-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

**8-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

**8-107 HEIGHT, AREA, AND BULK REGULATIONS**

In the "R-1B" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 7,000 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**8-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

**8-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 9: "R-1C" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **9-101 APPLICATION**

#### **9-102 USE REGULATIONS**

#### **9-103 PERFORMANCE STANDARDS**

#### **9-104 PARKING REGULATIONS**

#### **9-105 OFF-STREET LOADING REGULATIONS**

#### **9-106 SIGN REGULATIONS**

#### **9-107 HEIGHT, AREA, AND BULK REGULATIONS**

#### **9-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **9-109 SUPPLEMENTARY USE REGULATIONS**

#### **9-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-1C" Single-Family Residential District. The purpose of this District is to protect and preserve existing single-family development on small lots inside the incorporated cities. Creation of new developments of densities allowed within this district are prohibited. This district is not to be used except to accommodate existing development.

#### **9-102 USE REGULATIONS**

In District "R-1C," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Single-family dwellings.
2. Manufactured homes on individual lots; provided the performance standards in Article 25 herein are met.
3. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

#### **9-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

#### **9-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

#### **9-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

## **ARTICLE 9: "R-1C" SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

### **9-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

### **9-107 HEIGHT, AREA, AND BULK REGULATIONS**

In the "R-1C" Single-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 5,600 square feet per family.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### **9-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### **9-109 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 10: "R-2" TWO-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

**SECTIONS:**

**10-101 APPLICATION**

**10-102 USE REGULATIONS**

**10-103 PERFORMANCE STANDARDS**

**10-104 PARKING REGULATIONS**

**10-105 OFF-STREET LOADING REGULATIONS**

**10-106 SIGN REGULATIONS**

**10-107 HEIGHT, AREA, AND BULK REGULATIONS**

**10-108 SUPPLEMENTARY HEIGHT, AREA, AND BULK REGULATIONS**

**10-109 SUPPLEMENTARY USE REGULATIONS**

**10-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "R-2" Two-Family Residential District. The purpose of this District is to maintain a generally spacious residential environment of existing single-family neighborhoods within the incorporated cities, and at the same time permit two-family dwellings within those neighborhoods as in-fill development. Also, it is intended to accommodate new developments of two-family dwellings adjacent to, or near areas within the community planned for higher density development.

**10-102 USE REGULATIONS**

In District "R-2," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "R-1B" Single-Family Residential District.
2. Two-family dwellings.

**10-103 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

**10-104 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

**10-105 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

**10-106 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

**ARTICLE 10: "R-2" TWO-FAMILY RESIDENTIAL DISTRICT REGULATIONS**

***10-107 HEIGHT, AREA, AND BULK REGULATIONS***

In the "R-2" Two-Family Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 35 feet and/or 2-1/2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a dwelling. No side yard shall be less than 5 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be 40 feet. The minimum depth of a lot shall be 100 feet.
6. **Lot Area Per Family:** Every single-family dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 7,000 square feet per family. Every two-family dwelling hereafter erected, constructed, reconstructed, moved or altered, shall provide a minimum lot area of 3,500 square feet per family or 7,000 square feet per building.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

***10-108 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

***10-109 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 11: "RP-3" PLANNED MEDIUM DENSITY RESIDENTIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **11-101 APPLICATION**

#### **11-102 USE REGULATIONS**

#### **11-103 PLAN APPROVAL GUIDELINES**

#### **11-104 PERFORMANCE STANDARDS**

#### **11-105 PARKING REGULATIONS**

#### **11-106 OFF-STREET LOADING REGULATIONS**

#### **11-107 SIGN REGULATIONS**

#### **11-108 HEIGHT, AREA AND BULK REGULATIONS**

#### **11-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **11-110 SUPPLEMENTARY USE REGULATIONS**

#### **11-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RP-3" Planned Medium Density Residential District. The purpose of this District is to provide for medium density, residential development opportunities within the incorporated cities in areas where it is deemed necessary and appropriate according to the Comprehensive Plan.

#### **11-102 USE REGULATIONS**

In District "RP-3," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "R-2" Two-Family Residential District, except single-family dwellings or the placement of manufactured homes.
2. Condominiums.
3. Garden Apartment Buildings.
4. Townhouses.

#### **11-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 24 of these Regulations.

#### **11-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

#### **11-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.



## **ARTICLE 11: "RP-3" PLANNED MEDIUM DENSITY RESIDENTIAL DISTRICT REGULATIONS**

### ***11-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***11-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***11-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "RP-3" Planned Medium Density Residential District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 45 feet and/or 3 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be at least 65 feet. The minimum depth of a lot shall be at least 100 feet.
6. **Lot Area Per Family:** Every residential building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 3,500 square feet per family for the first two dwelling units, and 2,000 square feet per family for each additional dwelling unit over two (2).

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### ***11-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### ***11-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 12: "RP-4" PLANNED APARTMENT HOUSE DISTRICT REGULATIONS**

### **SECTIONS:**

#### **12-101 APPLICATION**

#### **12-102 USE REGULATIONS**

#### **12-103 PLAN APPROVAL GUIDELINES**

#### **12-104 PERFORMANCE STANDARDS**

#### **12-105 PARKING REGULATIONS**

#### **12-106 OFF-STREET LOADING REGULATIONS**

#### **12-107 SIGN REGULATIONS**

#### **12-108 HEIGHT, AREA AND BULK REGULATIONS**

#### **12-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **12-110 SUPPLEMENTARY USE REGULATIONS**

#### **12-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "RP-4" Planned Apartment House District. The purpose of this District is to provide for high density, residential development opportunities within the incorporated cities in areas where it is deemed necessary and appropriate according to the Comprehensive Plan.

#### **12-102 USE REGULATIONS**

In District "RP-4," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "RP-3" Planned Medium Density Residential District.
2. Apartment houses or complexes.
3. Multi-family dwellings.

#### **12-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 24 of these Regulations.

#### **12-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

#### **12-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

#### **12-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

## ARTICLE 12: "RP-4" PLANNED APARTMENT HOUSE DISTRICT REGULATIONS

### *12-107 SIGN REGULATIONS*

The Sign Regulations are contained in Article 28 of these Regulations.

### *12-108 HEIGHT, AREA AND BULK REGULATIONS*

In the "RP-4" Planned Apartment House District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 45 feet and/or 3 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be at least 65 feet. The minimum depth of a lot shall be at least 100 feet.
6. **Lot Area Per Family:** Every residential building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 3,500 square feet per family for the first two dwelling units, and 1,000 square feet per family for each additional dwelling unit over two.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### *12-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS*

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### *12-110 SUPPLEMENTARY USE REGULATIONS*

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 13: "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS**

**SECTIONS:**

**13-101 APPLICATION**

**13-102 USE REGULATIONS**

**13-103 PLAN APPROVAL GUIDELINES**

**13-104 PERFORMANCE STANDARDS**

**13-105 PARKING REGULATIONS**

**13-106 OFF-STREET LOADING REGULATIONS**

**13-107 SIGN REGULATIONS**

**13-108 HEIGHT, AREA AND BULK REGULATIONS**

**13-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**13-110 SUPPLEMENTARY USE REGULATIONS**

**13-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-O" Planned Commercial Office District. The purpose of this District is to provide for office and non-retail business developments within the incorporated cities that provide a service or support a neighborhood or the community. This District is intended to be used to transition, where deemed appropriate, from residential developments to more intensive types of commercial and/or retail business activity.

**13-102 USE REGULATIONS**

In District "CP-O," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Medical clinics, including supporting laboratories and accessory drug stores, pharmacies and optical shops.
2. Offices and office buildings for the administrative functions of companies, corporations, social or philanthropic organizations or societies, or for professional activities including, but not limited to:

Accountants  
Architects  
Consultants  
Doctors  
Engineers  
Insurance  
Lawyers

3. Photographic studios.
4. Radio and television studios, provided no broadcast towers are located on the premises.

## ARTICLE 13: "CP-0" PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS

5. Savings and loan institutions, credit union offices, and banks, including drive-through facilities.
6. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

### ***13-103 PLAN APPROVAL GUIDELINES***

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 24 of these Regulations.

### ***13-104 PERFORMANCE STANDARDS***

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### ***13-105 PARKING REGULATIONS***

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### ***13-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***13-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***13-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "CP-O" Planned Commercial Office District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 30 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be at least 65 feet. The minimum depth of a lot shall be at least 100 feet.

**ARTICLE 13: “CP-0” PLANNED COMMERCIAL OFFICE DISTRICT REGULATIONS**

6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

***13-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

***13-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 14: "CP-1" PLANNED NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS**

**SECTIONS:**

**14-101 APPLICATION**

**14-102 USE REGULATIONS**

**14-103 PLAN APPROVAL GUIDELINES**

**14-104 PERFORMANCE STANDARDS**

**14-105 PARKING REGULATIONS**

**14-106 OFF-STREET LOADING REGULATIONS**

**14-107 SIGN REGULATIONS**

**14-108 HEIGHT, AREA AND BULK REGULATIONS**

**14-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**14-110 SUPPLEMENTARY USE REGULATIONS**

**14-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-1" Planned Neighborhood Commercial District. The purpose of this District is to provide for retail shopping and personal service uses to be developed either as a unit or in individual parcels within the incorporated cities to serve the needs of nearby residential neighborhoods.

**14-102 USE REGULATIONS**

In District "CP-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-O" Planned Commercial Office District.
2. Automotive service stations, provided bulk storage of flammable liquids is underground; and further provided that no repair services are conducted on the premises.
3. Convenience food stores, provided it shall not exceed 5,000 square feet in area.
4. Retail stores and shops which supply the regular and customary needs of the residents of the neighborhood and which are primarily for their convenience, including but not limited to, the following:

- Artist materials, supply, studio
- Barber and/or beauty shop
- Book and stationery store
- Camera shop
- Cleaning, pressing, laundry collection agency
- Delicatessen and/or carry-out food (maximum seating capacity of 12)
- Florist shop
- Newspaper or magazine sales
- Optical sales or service

## ARTICLE 14: "CP-1" PLANNED NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS

Package liquor store  
Pharmacy  
Self-service laundry or dry cleaning  
Shoe store or repair shop  
Tailor shop

### ***14-103 PLAN APPROVAL GUIDELINES***

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 24 of these Regulations.

### ***14-104 PERFORMANCE STANDARDS***

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### ***14-105 PARKING REGULATIONS***

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### ***14-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***14-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***14-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "CP-1" Planned Neighborhood Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 30 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 30 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.
5. **Lot Dimensions:** The minimum width of a lot shall be at least 65 feet. The minimum depth of a lot shall be at least 100 feet.
6. **Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.



## **ARTICLE 14: “CP-1” PLANNED NEIGHBORHOOD BUSINESS DISTRICT REGULATIONS**

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### ***14-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### ***14-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 15: "CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **15-101 APPLICATION**

#### **15-102 USE REGULATIONS**

#### **15-103 PLAN APPROVAL GUIDELINES**

#### **15-104 PERFORMANCE STANDARDS**

#### **15-105 PARKING REGULATIONS**

#### **15-106 OFF-STREET LOADING REGULATIONS**

#### **15-107 SIGN REGULATIONS**

#### **15-108 HEIGHT, AREA AND BULK REGULATIONS**

#### **15-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **15-110 SUPPLEMENTARY USE REGULATIONS**

#### **15-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-2" Planned General Commercial District. The purpose of this District is to provide sufficient space in appropriate locations within the incorporated cities for certain commercial and service activities while at the same time affording protection of surrounding properties from heavier types of commercial activity.

#### **15-102 USE REGULATIONS**

In District "CP-2", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-1" Planned Neighborhood Commercial District.
2. Auditorium or theater, but no open-air drive-in theaters.
3. Bowling alleys and amusement arcades.
4. Drive-in and drive-through establishments, except as otherwise prohibited herein.
5. Food storage lockers.
6. Hotels, motels, and motor hotels.
7. Lawn and garden supply sales and service, including storage yards.
8. Membership clubs, including private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments.
9. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.
10. Reupholstering.

## **ARTICLE 15: “CP-2” PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS**

11. Warehousing, not exceeding 20,000 square feet in any single building.
12. All other commercial or retail stores and activities not otherwise prohibited or restricted by these Regulations, including but not limited to, the following:
  - Antique shop
  - Appliance store and/or repair shops
  - Art school, gallery or museum
  - Auto supply store
  - Building materials sales
  - Car wash
  - Catering establishment
  - Clothing and apparel store
  - Curio or gift shop
  - Department store
  - Drinking establishment
  - Dry goods store
  - Dyeing and cleaning works
  - Furniture store
  - General service and repair establishment
  - Grocery store or supermarket
  - Hardware store
  - Lumber yard
  - Meat market, including processing facilities
  - Motor vehicle sales, service and/or repair
  - Painting and/or decorating shop
  - Parking lots operated as a business
  - Plumbing and heating shop
  - Radio and television sales and/or service
  - Restaurant
  - Sewing machines sales, service and/or instruction
  - Sporting goods sales
  - Taverns
  - Tire sales and service including vulcanizing, but not manufacture
  - Toy store
  - Used car sales
  - Variety store

### ***15-103 PLAN APPROVAL GUIDELINES***

The Plan Approval Guidelines for permitted uses are contained in Article 24 of these Regulations.

## **ARTICLE 15: "CP-2" PLANNED GENERAL COMMERCIAL DISTRICT REGULATIONS**

### ***15-104 PERFORMANCE STANDARDS***

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### ***15-105 PARKING REGULATIONS***

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### ***15-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***15-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***15-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "CP-2" Planned General Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

- 1. Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
- 2. Front Yard:** The depth of the front yard shall be at least 30 feet.
- 3. Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 10 feet.
- 4. Rear Yard:** The depth of the rear yard shall be at least 20 feet.
- 5. Lot Dimensions:** The minimum width of a lot shall be 65 feet. The minimum depth of a lot shall be 100 feet.
- 6. Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 7,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### ***15-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### ***15-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 16: "CP-3" PLANNED HIGHWAY SERVICE DISTRICT REGULATIONS**

**SECTIONS:**

**16-101 APPLICATION**

**16-102 USE REGULATIONS**

**16-103 PLAN APPROVAL GUIDELINES**

**16-104 PERFORMANCE STANDARDS**

**16-105 PARKING REGULATIONS**

**16-106 OFF-STREET LOADING REGULATIONS**

**16-107 SIGN REGULATIONS**

**16-108 HEIGHT, AREA AND BULK REGULATIONS**

**16-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**16-110 SUPPLEMENTARY USE REGULATIONS**

**16-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-3" Planned Highway Service Commercial District. The purpose of this District is to provide space in appropriate locations within the incorporated cities, particularly along the existing major highways where a general mixture of commercial and service activity now exists, for those uses of a more intensive nature that are clearly commercial in nature but which require more land area to function efficiently.

**16-102 USE REGULATIONS**

In District "CP-3", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses or similar uses requiring supporting services:

1. Any use permitted in the "CP-2" Planned Neighborhood Commercial District.
2. Boat sales and service, including storage yard.
3. Farm machinery sales and service, including storage yard.
4. Manufactured home and trailer sales and service, including display yard.

**16-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 24 of these Regulations.

**16-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

**16-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

## **ARTICLE 16: "CP-3" PLANNED HIGHWAY SERVICE DISTRICT REGULATIONS**

### ***16-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***16-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***16-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "CP-3" Planned Highway Service Commercial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

- 1. Height:** Buildings or structures shall not exceed 35 feet and/or 3 stories in height.
- 2. Front Yard:** The depth of the front yard shall be at least 30 feet.
- 3. Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 20 feet.
- 4. Rear Yard:** The depth of the rear yard shall be at least 20 feet.
- 5. Lot Dimensions:** The minimum width of a lot shall be 150 feet. The minimum depth of a lot shall be 150 feet.
- 6. Lot Area:** Every building hereafter erected, constructed, reconstructed, moved or altered shall provide a minimum lot area of 25,000 square feet.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### ***16-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

### ***16-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 17: "CP-4" PLANNED CENTRAL BUSINESS DISTRICT REGULATIONS**

**SECTIONS:**

**17-101 APPLICATION**

**17-102 USE REGULATIONS**

**17-103 PLAN APPROVAL GUIDELINES**

**17-104 PERFORMANCE STANDARDS**

**17-105 PARKING REGULATIONS**

**17-106 OFF-STREET LOADING REGULATIONS**

**17-107 SIGN REGULATIONS**

**17-108 HEIGHT, AREA AND BULK REGULATIONS**

**17-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**17-110 SUPPLEMENTARY USE REGULATIONS**

**17-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "CP-4" Planned Central Business District. This District encompasses the shopping and office core of the central business district of the incorporated cities. Appropriate uses are the same as for the "CP-2" General Commercial District, but with altered off-street parking and off-street loading requirements in recognition of the practical difficulty of providing off-street parking and loading spaces in the core district, and in recognition of the collective responsibility to provide other parking and loading for the district.

**17-102 USE REGULATIONS**

In District "CP-3", no building, structure, land or premises shall be used and no building or structure shall be hereafter erected constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in the "CP-2" Planned General Commercial District.
2. Residential uses.

**17-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 24 of these Regulations.

**17-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

**17-105 PARKING REGULATIONS**

None required.

**17-106 OFF-STREET LOADING REGULATIONS**

None required.

**ARTICLE 17: "CP-4" PLANNED CENTRAL BUSINESS DISTRICT REGULATIONS**

***17-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

***17-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "CP-4" Planned Central Business District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area on any lot shall be as follows:

1. **Height:** None.
2. **Front Yard:** None.
3. **Side Yard:** None.
4. **Rear Yard:** None.
5. **Lot Dimensions:** None.
6. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

***17-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

***17-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.



**ARTICLE 18: "IP-1" PLANNED LIGHT INDUSTRIAL DISTRICT REGULATIONS**

**SECTIONS:**

**18-101 APPLICATION**

**18-102 USE REGULATIONS**

**18-103 PLAN APPROVAL GUIDELINES**

**18-104 PERFORMANCE STANDARDS**

**18-105 PARKING REGULATIONS**

**18-106 OFF-STREET LOADING REGULATIONS**

**18-107 SIGN REGULATIONS**

**18-108 HEIGHT, AREA AND BULK REGULATIONS**

**18-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**18-110 SUPPLEMENTARY USE REGULATIONS**

**18-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-1" Planned Light Industrial District. This District is for locations within the incorporated cities intended primarily for light manufacturing, fabricating, warehousing, and wholesale distributing in low buildings with off-street loading and off-street parking for employees, and with access by major streets and/or railroads. This district is intended to be established mainly as an Industrial Park and not for use on individual lots or tracts.

**18-102 USE REGULATIONS**

In District "IP-1," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Manufacturing, processing, fabrication and assembling of any commodity except junk or salvage and except the uses enumerated as permitted in Districts "IP-2" and "IP-3".
2. Warehousing, wholesaling and storage of any commodity except junk or salvage and except the uses enumerated as permitted in District "IP-2" and "IP-3".
3. Dwellings for resident night watchmen and caretakers employed on the premises.
4. Laboratories, research, experimental, or testing.
5. Offices and office buildings.
6. Restaurants and automatic food and beverage vending machines.
7. Railroad right-of-ways, including a strip of land with tracks and auxiliary facilities for track operations, but not including passenger stations, freight terminals, switching and classifications yards, repair shops, roundhouses, powerhouses, interlocking towers, and fueling, sanding, and watering stations.

## **ARTICLE 18: "IP-1" PLANNED LIGHT INDUSTRIAL DISTRICT REGULATIONS**

### ***18-103 PLAN APPROVAL GUIDELINES***

The Plan Approval Guidelines for permitted uses are contained in Article 24 of these Regulations.

### ***18-104 PERFORMANCE STANDARDS***

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### ***18-105 PARKING REGULATIONS***

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### ***18-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***18-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***18-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "IP-1" Planned Light Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

- 1. Height:** Buildings and structures shall not exceed 30 feet and/or 2 stories in height.
- 2. Front Yard:** The depth of the front yard shall be at least 40 feet.
- 3. Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 15 feet.
- 4. Rear Yard:** The depth of the rear yard shall be at least 20 feet.
- 5. Lot Dimensions:** None.
- 6. Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

### ***18-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

**ARTICLE 18: "IP-1" PLANNED LIGHT INDUSTRIAL DISTRICT REGULATIONS**

***18-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

## **ARTICLE 19: "IP-2" PLANNED MEDIUM INDUSTRIAL DISTRICT REGULATIONS**

### **SECTIONS:**

#### **19-101 APPLICATION**

#### **19-102 USE REGULATIONS**

#### **19-103 PLAN APPROVAL GUIDELINES**

#### **19-104 PERFORMANCE STANDARDS**

#### **19-105 PARKING REGULATIONS**

#### **19-106 OFF-STREET LOADING REGULATIONS**

#### **19-107 SIGN REGULATIONS**

#### **19-108 HEIGHT, AREA AND BULK REGULATIONS**

#### **19-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

#### **19-110 SUPPLEMENTARY USE REGULATIONS**

#### **19-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-2" Planned Medium Industrial District. This District provides for industrial operations within the incorporated cities that are more intensive in nature and, as a result, require more consideration in siting, and greater access to major facilities and services such as highways, railroads, utilities, etc.

#### **19-102 USE REGULATIONS**

In District "IP-2," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in "IP-1" Light Industrial District.
2. Book or publishing plants.
3. Bus barns or lots.
4. Cold storage and ice plants.
5. Creameries and dairy product processing.
6. Food and beverage products, canning and preserving, processing and packaging of products.
7. Furniture refinishing.
8. Industrial machinery sales and service.
9. Machine shops.
10. Metal fabrication.

## **ARTICLE 19: "IP-2" PLANNED MEDIUM INDUSTRIAL DISTRICT REGULATIONS**

11. Physical processing of chemicals, (i.e., mixing), but not including processing involving chemical reactions.
12. Plastic extrusion.

### ***19-103 PLAN APPROVAL GUIDELINES***

The Plan Approval Guidelines for permitted uses are contained in Article 24 of these Regulations.

### ***19-104 PERFORMANCE STANDARDS***

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

### ***19-105 PARKING REGULATIONS***

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

### ***19-106 OFF-STREET LOADING REGULATIONS***

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

### ***19-107 SIGN REGULATIONS***

The Sign Regulations are contained in Article 28 of these Regulations.

### ***19-108 HEIGHT, AREA AND BULK REGULATIONS***

In the "IP-2" Planned Medium Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 30 feet and/or 2 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 40 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 15 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 25 feet.
5. **Lot Dimensions:** None
6. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**ARTICLE 19: "IP-2" PLANNED MEDIUM INDUSTRIAL DISTRICT REGULATIONS**

***19-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS***

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

***19-110 SUPPLEMENTARY USE REGULATIONS***

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 20: "AP" AIRPORT OVERLAY DISTRICT REGULATIONS**

**SECTIONS:**

**20-101 APPLICATION**

**20-102 USE REGULATIONS**

**20-103 PLAN APPROVAL GUIDELINES**

**20-104 PERFORMANCE STANDARDS**

**20-105 PARKING REGULATIONS**

**20-106 OFF-STREET LOADING REGULATIONS**

**20-107 SIGN REGULATIONS**

**20-108 HEIGHT, AREA AND BULK REGULATIONS**

**20-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**20-110 SUPPLEMENTARY USE REGULATIONS**

**20-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "IP-3" Planned Heavy Industrial District. This District provides for those industrial operations that have certain potentially hazardous characteristics and are allowed within the incorporated cities only after special consideration to assure protection of public interest and surrounding property and persons.

**20-102 USE REGULATIONS**

In District "IP-3," no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

1. Any use permitted in "IP-2" Planned Medium Industrial District.
2. The manufacture, compounding, processing, packaging or treatment of the following uses:

Chemical, Petroleum, Coal or Allied Products:

Acids and derivatives  
Acetylene, generation or storage  
Alcohol, industrial  
Ammonia  
Caustic soda  
Cellulose and cellulose storage  
Chlorine  
Coke oven products (including fuel gas) and coke oven products storage  
Creosote  
Distillation, manufacture, or refining of coal, tar or bones  
Fertilizer (organic or non-organic)  
Fish oils or meal  
Fuel briquettes  
Glue, gelatin, or size  
Hydrogen or oxygen

**ARTICLE 20: “AP” AIRPORT OVERLAY DISTRICT REGULATIONS**

Nylon  
Petroleum, gasoline, and lubricating oil refining, and wholesale storage  
Plastic materials and synthetic resins  
Potash  
Pyroxylin  
Rayon  
Rendering and storage of dead animals, offal, garbage, or waste products

Food and Beverage:

Casin  
Cider and vinegar  
Distilleries, breweries and alcoholic spirits (non-industrial)  
Fat rendering  
Fish curing  
Slaughtering of animals  
Starch manufacture

Metals and Metal Products:

Aircraft and aircraft parts  
Automobile, truck trailer, mobile home, motorcycle and bicycle assembly  
Blast furnace, cupolas  
Blooming mill  
Metal and metal ores, reduction, refining, smelting and alloying  
Scrap metal reduction  
Steelworks and rolling mill (ferrous)

Wood and Paper Products:

Match manufacture  
Wood preserving treatment  
Wood pulp and fiber, reduction and processing

Unclassified Industries and Uses:

Bag cleaning  
Cotton seed oil refining  
Hair, hide, and raw fur curing, tanning, dressing, dyeing and storage  
Leather tanning and curing  
Natural or synthetic rubber, gutta perchas, and balata processing  
Rubber tire and tube  
Storage battery (wet cell)



**ARTICLE 20: “AP” AIRPORT OVERLAY DISTRICT REGULATIONS**

**20-103 PLAN APPROVAL GUIDELINES**

The Plan Approval Guidelines for permitted uses are contained in Article 24 of these Regulations.

**20-104 PERFORMANCE STANDARDS**

The Performance Standards for permitted uses are contained in Article 25 of these Regulations.

**20-105 PARKING REGULATIONS**

The Parking Regulations for permitted uses are contained in Article 26 of these Regulations.

**20-106 OFF-STREET LOADING REGULATIONS**

The Off-Street Loading Regulations for permitted uses are contained in Article 27 of these Regulations.

**20-107 SIGN REGULATIONS**

The Sign Regulations are contained in Article 28 of these Regulations.

**20-108 HEIGHT, AREA AND BULK REGULATIONS**

In the "IP-3" Planned Heavy Industrial District, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area of any lot shall be as follows:

1. **Height:** Buildings or structures shall not exceed 45 feet and/or 4 stories in height.
2. **Front Yard:** The depth of the front yard shall be at least 40 feet.
3. **Side Yard:** There shall be a side yard on each side of a building. No side yard shall be less than 15 feet.
4. **Rear Yard:** The depth of the rear yard shall be at least 25 feet.
5. **Lot Dimensions:** None.
6. **Lot Area:** None.

The Height, Area and Bulk Regulations are also set forth in the chart of Article 29. Said chart, and all notations and requirements shown therein, shall have the same force and effect as if all the notations and requirements were fully set forth or described herein.

**20-109 SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

The Supplementary Height, Area and Bulk Regulations are contained in Article 30 of these Regulations.

**20-110 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Use Regulations, including permitted Conditional Uses and Accessory Uses, are contained in Article 31 of these Regulations.

**ARTICLE 21: "AP" AIRPORT OVERLAY DISTRICT REGULATIONS**

**SECTIONS:**

- 21-101 PURPOSE**
- 21-102 DEFINITIONS**
- 21-103 ESTABLISHMENT OF AIRPORT ZONES**
- 21-104 AIRPORT ZONE HEIGHT LIMITATIONS**
- 21-105 USE RESTRICTIONS**
- 21-106 PLAN APPROVAL GUIDELINES**
- 21-107 NONCONFORMING USES**
- 21-108 PERMITS**
- 21-109 ENFORCEMENT**
- 21-110 CONFLICTING REGULATIONS**

**21-101 APPLICATION**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the "AO" Airport Overlay District. The Airport Overlay District is designed to establish an airport zone for the Wamego Airport in Pottawatomie County for that portion of the Wamego Airport Approach Zone that extends into Wabaunsee County and to protect those using the airport from hazards that might be erected or constructed on surrounding properties. To this end, the District establishes additional restrictions on uses of property that may be more strict than those of the underlying district. When this occurs, the more strict requirements apply.

**21-102 DEFINITIONS**

As used in this Article, unless the context otherwise requires, the following words or phrases shall have the meanings herein defined:

- 1. AIRPORT:** Wamego Airport.
- 2. AIRPORT ELEVATION:** An elevation of \_\_\_\_\_ feet above mean sea level for Wamego Airport.
- 3. AIRPORT HAZARD:** Any structure, tree, or use of land which obstructs the airspace required for the flight of aircraft in landing and taking off at any airport, or is otherwise hazardous to such landing or taking off of aircraft.
- 4. APPROACH SURFACE:** 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 21-104 hereof. The perimeter of the approach surface coincides with the perimeter of the approach zone.
- 5. APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL ZONES:** The zones established in this article.

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6. **CONICAL SURFACE:** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
7. **HAZARD TO AIR NAVIGATION:** An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
8. **HEIGHT:** For the purpose of determining the height limits in all zones set forth in this Article and shown on the Airport Zoning Maps, the datum shall be mean sea level elevation unless otherwise specified.
9. **HORIZONTAL SURFACE:** A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.
10. **LARGER THAN UTILITY RUNWAY:** 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.
11. **NONCONFORMING USE:** Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article, or any amendment thereto.
12. **NONPRECISION INSTRUMENT RUNWAY:** 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 nonprecision instrument approach procedure has been approved or planned.
13. **OBSTRUCTION:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 21-104 hereof.
14. **PERSON:** Any individual, firm, copartnership, company, association, joint stock association, or government entity, and includes any trustee, receiver, assignee, or other similar representative thereof.
15. **PRECISION INSTRUMENT RUNWAY:** A runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
16. **PRIMARY SURFACE:** 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 21-103 hereof. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
17. **RUNWAY:** A defined area on an airport prepared for landing and taking off of aircraft along its length.

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18. **STRUCTURE:** Any object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, tanks, cranes, smokestacks, earth formation, and overhead transmission lines.
19. **TRANSITIONAL SURFACES:** These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of 7 feet horizontally for each 1 foot vertically 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.
20. **TREE:** Any object of natural growth.
21. **UTILITY RUNWAY:** A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
22. **VISUAL RUNWAY:** A runway intended solely for the operation of aircraft using visual approach procedures.

### 21-103 ESTABLISHMENT OF AIRPORT ZONES

In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to Wamego Airport. Such zones are shown on the Wabaunsee County Airport Zoning Maps which are hereby made a part of these Regulations. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. **Utility Runway Visual Approach Zone:** 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 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway. (This zone applies to Runway \_\_ at Wamego Airport.)
2. **Utility Runway Nonprecision 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. (This zone applies to Runway \_\_ at Wamego Airport.)
3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision 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

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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. (This zone applies to Runway \_\_ at Wamego Airport.)

4. **Transitional Zones:** 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 drawing 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.

**21-104 AIRPORT ZONE HEIGHT LIMITATIONS**

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 this Article to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. **Utility Runway Visual Approach Zone:** Slopes 20 feet outward for each 1 foot upward 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.
2. **Utility Runway Nonprecision Instrument Approach Zone:** Slopes 20 feet outward for each 1 foot upward 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.
3. **Runway Larger than Utility with a Visibility Minimum Greater than 3/4 Mile Nonprecision Instrument Approach Zone:** Slopes 34 feet outward for each 1 foot upward 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 runway centerline.
4. **Transitional Zones:** Slopes 7 feet outward for each 1 foot upward 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 airport elevation. In addition to the foregoing, there are established height limits sloping 7 feet outward for each 1 foot upward beginning at the sides of, and the same elevation as, the approach surface and extending to where they intersect the conical surface or horizontal surface.
5. **Horizontal Zone:** Established at 150 feet above the airport elevation.
6. **Conical Zone:** Slopes 20 feet outward for each 1 foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation, and extending to a height of 350 feet above the airport elevation.

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7. **Excepted Height Limitations:** Except in the Approach Zones, nothing in this Article shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree, to a height up to 50 feet above the surface of the land. 21-105 use restrictions

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 bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. No sanitary landfill may be established, operated, or maintained within 2 miles of any airport boundary.

***21-105 USE RESTRICTIONS***

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 bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. No sanitary landfill may be established, operated, or maintained within 2 miles of any airport boundary.

***21-106 PLAN APPROVAL GUIDELINES***

The Plan Approval Guidelines, including site plan submission and content requirements, are contained in Article 24 of these Regulations.

***21-107 NONCONFORMING USES***

1. **Regulations Not Retroactive:** 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 at the effective date of these Regulations, or otherwise interfere with the continuation of a nonconforming use. 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 these Regulations and is diligently pursued.
2. **Marking and Lighting:** Notwithstanding the preceding provision of this Article, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Zoning Administrator to indicate the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner. 21-108 permits
1. **Future Uses:** Except as specifically provided in a., b., and c. hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise

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established, and no tree shall be planted in any zone herein created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 21-107(4.) hereof.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article, except as set forth in Section 21-104(4.).

- a. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when, because of terrain, land contour, or topographical features, such tree or structure would extend above the height limits prescribed for such zones.
  - b. In areas lying within the limits of the approach zones but a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 75 feet height above the ground; except when such tree or structure would extend above the height limit prescribed for such approach zone.
  - c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
2. **Existing Uses:** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these Regulations or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. **Nonconforming Uses Abandoned or Destroyed:** Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Zoning Regulations.
4. **Variances:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in the Article, may apply to the Board of Zoning Appeals for a variance from such regulations.

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Each application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will 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 airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within 30 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.

- 5. **Obstruction Marking and Lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals and approved by the Governing Body, this condition may be modified to require the owner to permit the Airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

**21-108 PERMITS**

- 1. **Future Uses:** Except as specifically provided in a., b., and c. hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone herein created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article shall be granted unless a variance has been approved in accordance with Section 21-107(4.) hereof.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Article, except as set forth in Section 21-104(4.).

- a. In the area lying within the limits of the horizontal zone and the conical zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when, because of terrain, land contour, or topographical features, such tree or structure would extend above the height limits prescribed for such zones.
- b. In areas lying within the limits of the approach zones but a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required



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for any tree or structure less than 75 feet height above the ground; except when such tree or structure would extend above the height limit prescribed for such approach zone.

- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 75 feet of vertical height above the ground; except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
2. **Existing Uses:** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of these Regulations or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. **Nonconforming Uses Abandoned or Destroyed:** Whenever the Zoning Administrator determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the Zoning Regulations.
4. **Variances:** Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in the Article, may apply to the Board of Zoning Appeals for a variance from such regulations. Each application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship, and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will 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 airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within 30 days after receipt, the Board of Zoning Appeals may act on its own to grant or deny said application.
5. **Obstruction Marking and Lighting:** Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Article and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Zoning Appeals and approved by the Governing Body, this condition may be modified to require the owner to permit the Airport owner, at its own expense, to install, operate, and maintain the necessary markings and lights.

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***21-109 ENFORCEMENT***

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed in this Article. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this Article to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Application for action by the Board of Zoning Appeals shall be forthwith transmitted by the Zoning Administrator.

***21-110 CONFLICTING REGULATIONS***

Where there exists a conflict between any of the regulations or limitations prescribed in this Article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**ARTICLE 22: “AP” AIRPORT OVERLAY DISTRICT REGULATIONS**

**SECTIONS:**

**22-101 PURPOSE**

**22-102 FINDINGS OF FACT**

**22-103 GENERAL PROVISIONS**

**22-104 BUILDING OR LAND USE PERMIT**

**22-105 ESTABLISHMENT OF ZONING DISTRICTS**

**22-106 STANDARDS FOR THE FLOODPLAIN OVERLAY DISTRICTS**

**22-107 FLOODWAY OVERLAY DISTRICT**

**22-108 FLOODWAY FRINGE OVERLAY DISTRICT**

**22-109 CERTIFICATION OF FLOODPROOFING**

**22-110 NONCONFORMING USE AND RESTORATION**

**22-111 VARIANCES AND VARIANCE PROCEDURES**

**22-112 PENALTIES FOR VIOLATION**

**22-113 DEFINITIONS**

**22-101 PURPOSE**

It is the purpose of this Article to promote the public health, safety and general welfare of the citizens of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, and to minimize those losses described in Section 22-102 by applying provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause increased flood height beyond 1 foot rise in the 100-year surface elevation or cause increases in water velocities.
2. Require that uses vulnerable to floods, including public facilities which service such uses, be provided with flood protection at the time of initial construction.
3. Provide public information for evaluating land purchases of flood prone ground within the aforementioned cities.
4. Assure that eligibility is maintained for property owners in the aforementioned cities to purchase flood insurance in the Federal Flood Insurance Program.

**22-102 FINDING OF FACT**

1. The flood hazard areas of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, Kansas, are subject to inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are caused by:

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- a. The cumulative effect of obstruction in floodways, causing increases in flood heights and velocities.
  - b. The occupancy of flood hazard areas by uses vulnerable to floods or hazardous to others and which are inadequately elevated or otherwise protected from flood damages.
3. This Article uses a reasonable method of analyzing flood hazards which consists of a series of inter-related steps, as follows:
- a. Selection of a regulatory flood which 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 regulatory flood selected for these Regulations is representative of large floods which are reasonably characteristic of what can be expected to occur on the particular streams subject to these Regulations. It is in the general order of a flood which could be expected to have a one percent (1%) chance of occurrence in any one year, as delineated on the Federal Insurance Administration's Flood Insurance Study, and illustrative materials, which are dated \_\_\_\_\_, \_\_, as amended.
  - b. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
  - c. Computation of the floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
  - d. Delineation of floodway encroachment lines within which no obstruction is permitted which would cause any increase in flood height.
  - e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

**22-103 GENERAL PROVISIONS**

- 1. **Land to which Regulations Apply:** This Article shall apply to all lands within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland, and Paxico, Kansas, identified on the Flood Insurance Rate Maps (FIRM) as numbered and unnumbered A Zones, and within the Zoning Overlay Districts "FW" and "FF" established in Section 8-105 herein. In all areas covered by this Article, no development shall be permitted except upon a permit granted by the Zoning Administrator under the provisions established in Section 22-106 of this Article.
- 2. **The Enforcement Officer:** The Zoning Administrator of Wabaunsee County, Kansas, is designated as the enforcement officer.

## ARTICLE 22: “AP” AIRPORT OVERLAY DISTRICT REGULATIONS

3. **Rules for Interpretation of District Boundaries:** The boundaries of the Floodway and Floodway Fringe Overlay Districts shall be determined by scaling distances on the floodplain maps. Where interpretation is needed to the exact location of the boundaries of the districts as shown on the floodplain maps, as, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the Zoning Administrator shall make the necessary interpretation. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Zoning Administrator and/or Board of Zoning Appeals and to submit his own technical evidence, if he so desires.
4. **Compliance:** No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this Article and other applicable regulations, except as established under Section 22-109.
5. **Abrogation and Greater Restrictions:** It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only, except as established under Section 22-109.
6. **Interpretation:** The provisions of this Article shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by state statute.
7. **Warning and Disclaimer of Liability:** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article does not imply that areas outside boundaries or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico, Kansas, or Wabaunsee County, Kansas, or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. **Adoption of Studies:** The Flood Insurance Study dated \_\_\_\_\_, \_\_, and the accompanying Flood Boundary and Floodway Maps, and the Flood Insurance Rate Maps are hereby adopted and are incorporated by reference in this Article.

### ***22-104 BUILDING OR LAND USE PERMIT***

1. **Permit Required:** No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a separate permit as required in this Article.
2. **Application for a Permit:** To obtain a permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every application shall:

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- a. Identify and describe the work to be covered by the permit for which application is made.
- b. Describe the land on which the proposed work is to be done by legal description and house address, or similar description that will readily identify and definitely locate the proposed building or work.
- c. Indicate the use or occupancy for which the proposed work is intended.
- d. Be accompanied by plans and specifications for the proposed construction.
- e. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.
- f. Within designated floodprone areas, be accompanied by elevations of the lowest floor including basement or, in the case of floodproofed nonresidential structures, the elevation to which it has been floodproofed. Documentation or certification of such elevations will be maintained by the Zoning Administrator.
- g. Give such additional information as may be required by the Zoning Administrator, such as:
  - (1) Typical valley cross-sections and profile showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be affected by the proposed development, and the elevation of the 100-year flood.
  - (2) Plans; surface view, showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets, water supply, sanitary facilities, and other data that will assist the Zoning Administrator to make a determination of flooding. The Zoning Administrator shall review all permit applications to determine if the site of the proposed development meets the provisions of this Article and that all necessary permits have been received as required by federal or state law.

**22-105 ESTABLISHMENT OF ZONING DISTRICTS**

The mapped floodplain areas within the jurisdiction of this Article are hereby divided into the two following districts: a Floodway Overlay District "FW", and a Floodway Fringe Overlay District "FF" identified in the Flood Insurance Study (Flood Boundary and Floodway Maps). Within these districts all uses not meeting the standards of this Article and those standards of underlying zoning districts shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM and identified in the Flood Insurance Study provided by the Federal Insurance Administration.

## ARTICLE 22: “AP” AIRPORT OVERLAY DISTRICT REGULATIONS

### 22-106 STANDARDS FOR THE FLOODPLAIN OVERLAY DISTRICTS

1. **Compliance Required:** No permit shall be granted for new construction, substantial improvements and other improvements, including the placement of manufactured homes, within all numbered and unnumbered A Zones unless the conditions of this Article are satisfied.
2. **Undesignated Areas Comply:** All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this Article. If Flood Insurance Study data is not available, the Zoning Administrator shall utilize any base flood elevation or floodway data currently available from Federal, State or other sources.
3. **Standards:** New construction, substantial improvements, subdivision proposals, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - a. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  - b. New or replacement water supply systems and/or sanitary sewage systems be designed to eliminate or minimize infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment of them or contamination from beyond applicable environmental control limits during flooding.
  - c. Construction materials and utility equipment that are resistant to flood damage and use construction methods and practices that will minimize flood damage, consistent with economic practicability.
  - d. All utility and sanitary facilities shall be floodproofed up to the regulatory flood protection elevation so that any space below the regulatory flood protection elevation is water tight, with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
  - e. That until a floodway has been designated, no development, including landfill, may be permitted within Zones A1-30 and AE on the City's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than 1 foot on the average cross section of the reach in which the development or landfill is located as shown on the Flood Insurance Rate Study incorporated by reference in Section 22-103.

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- f. Any grading changes within the area estimated to be inundated by the 100-year frequency flood, or alterations, modifications or relocations of a watercourse within the jurisdiction of the Division of Water Resources, State Board of Agriculture rules and regulations, as authorized by K.S.A. 74-2611, and any subsequent revisions thereof, shall ensure that the water carrying capacity is maintained. The plans for such changes, modifications, alterations or relocations shall be submitted to and approved by the Division of Water Resources, State Board of Agriculture, concurrent with approval of the Zoning Administrator. In addition, the Zoning Administrator shall notify, in riverine situations, adjacent communities prior to the performance of the work and submit copies of such notification to the local office of the Administrator of the Federal Insurance Administration.
  
- g. Storage of Material and Equipment:
  - (1) The storage or processing of materials that are, in time of flooding, buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
  - (2) Storage of other material or equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
  
- h. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, be required to assure that:
  - (1) All such proposals are consistent with the need to minimize flood damage.
  - (2) All public utilities and facilities, such as sewer, gas, electrical, telephone and water systems are located, elevated and constructed to minimize or eliminate flood damage.
  - (3) Adequate drainage is provided so as to reduce exposure to flood hazards.
  
  - (4) All proposals for development, including new subdivisions, manufactured home parks and subdivisions, include within such proposals the regulatory flood elevation.

**22-107 FLOODWAY OVERLAY DISTRICT**

- 1. **Permitted Uses:** Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodway Overlay District to the extent they are not prohibited by any other provision of these Regulations, and provided they do not require structures or storage of materials or equipment. No use shall increase the flood level of the regulatory flood protection elevation. Permitted uses shall meet the standards established



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in Section 22-106. Subject to the requirements of these Regulations, the following uses are permitted:

- a. Agricultural uses.
- b. Nonbuilding residential accessory uses such as lawns, gardens, parking, play and yard areas.
- c. Nonresidential uses such as loading areas, parking, landing strips.
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.
- e. Placement of mobile homes and manufactured homes is prohibited in the floodway, except in existing manufactured home parks and existing manufactured home subdivisions.

**22-108 FLOODWAY FRINGE OVERLAY DISTRICT**

- 1. **Permitted Uses:** Any use permitted in Section 22-107 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of Section 22-106 are met.
- 2. **Standards for the Floodway Fringe Overlay District:**
  - a. Require new construction or substantial improvements of residential structures to have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation.
  - b. Require new construction or substantial improvements of nonresidential structures to have the lowest floor, including basement, elevated to at least one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, to be floodproofed so that below such a level the structure is water tight 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. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Zoning Administrator.
  - c. Require for all new construction or substantial improvements that fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for 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 criteria:
    - (1) 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.

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- (2) The bottom of all openings shall be no higher than one (1) foot above grade.
- (3) Openings may be equipped with screens, louvers, valves, or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.
- d. Within AH zones, adequate drainage paths around structures on slopes shall be required in order to guide floodwaters around and away from proposed structures.

**3. Manufactured Homes:**

- a. All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with manufacturers recommended anchoring requirements, local building codes or 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) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, and manufactured homes less than 50 feet long requiring one additional tie per side.
  - (2) Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, and manufactured homes less than 50 feet long requiring four additional ties per side.
  - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds.
  - (4) Any additions to the manufactured home be similarly anchored.

**22-109 CERTIFICATION OF FLOODPROOFING**

- 1. For the floodproofing of nonresidential structures, applicants shall provide certification by a licensed professional engineer or architect that the floodproofing plans are adequate to be watertight, with walls impermeable to the passage of water and can withstand the hydrostatic and hydrodynamic forces associated with the 100-year flood.
- 2. In addition, the applicant shall provide information identifying the specific elevation in relation to mean sea level to which such structures are floodproofed.
- 3. This information shall be submitted to the Zoning Administrator at the time a permit is requested and shall be maintained by that official.

**22-110 NONCONFORMING USE AND REGISTRATION**

In addition to the requirements established in Article 34, the following requirements shall apply:

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1. A structure or use of a structure or premises which was lawful before the passage of these Regulations, but which is not in conformity with the provisions of these 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 months or more, any future use of the building, structure or premises shall conform to the provisions established in these Regulations, provided this regulation shall not prevent the occupancy of a residential unit following a period of vacancy.
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 50 percent of its fair market value before the damage occurred, unless it is reconstructed in conformity with the provisions and standards established in these Regulations. This limitation does not include the cost of any alteration to comply with existing state or local health codes, sanitary, building or safety codes or regulations, or the costs of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**22-111 VARIANCES AND VARIANCE PROCEDURES**

The Board of Zoning Appeals shall hear and decide appeals and requests for variances from the requirements of this Article. All requests for appeals and variances shall follow the procedures established in Article 35.

1. **Variances for Historic Places:** Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this section.
2. **Additional Conditions for Variances:** In addition to the conditions established in Article 35 the Board of Zoning Appeals, in passing upon variance applications, shall consider all technical evaluations, all relevant factors, standards specified in the sections of this Article, and:
  - a. The danger that materials may be swept onto other lands to the injury of others.
  - b. The danger to life and property due to flooding or erosion damage.
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - d. The importance of the services provided by the proposed facility to the community.
  - e. The necessity to the facility of a waterfront location, where applicable.

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- f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
- g. The compatibility of the proposed use with existing and anticipated development.
- h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- i. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- j. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
- k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- l. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- m. Variances shall only be issued upon:
  - (1) A showing of good and sufficient cause, and that the need for the variance is not self-created.
  - (2) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  - (3) A determination that the granting of a variance will not result in increased flood heights, additional public expense, create nuisances, cause fraud or victimization of the public, or conflict with existing local laws or regulations.
- n. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- o. Upon consideration of the factors listed above and the purpose of this Article, the Board of Zoning Appeals may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Article.

**3. Reporting of Variances:**

- a. Any applicant to whom a variance is granted shall be given a written notice containing the following information: That the structure will be permitted to be built with a lowest floor elevation \_\_\_\_\_ feet below the regulatory flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

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- b. The Zoning Administrator shall maintain the records of all appeal actions and report all variances to the Federal Insurance Administration at the time the annual report is submitted.

**22-112 PENALTIES FOR VIOLATION**

Penalties shall be as established in Article 39 of these Regulations.

**22-113 DEFINITIONS**

Unless specifically defined below, or defined elsewhere in these Regulations, words or phrases used in this Article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Article its most reasonable application.

1. **Actuarial or Risk Premium Rates:** 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 Act, and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.
2. **Appeal:** A request for a review of the Zoning Administrator's interpretation of any provision of this Article or a request for a variance.
3. **Area of Shallow Flooding:** A designated AO or AH zone on a community's Flood Insurance Rate Maps (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
4. **Area of Special Flood Hazard:** The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.
5. **Base Flood:** The flood having one percent chance of being equaled or exceeded in any given year.
6. **Basement:** Any area of the building having its floor subgrade (below ground level) on all sides.
7. **Development:** Any man-made change to improved or unimproved real estate, including but limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage or equipment or materials.
8. **Existing Construction:** (For the purposes of determining rates) structures for which the "start construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRM's effective before that date. "Existing construction" may also be referred to as "existing structures".

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9. **Existing Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactures 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 these Regulations.
10. **Expansion to an Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
11. **Flood or Flooding:** A general and temporary rise in stream flow or stage that results in water overlapping its banks and inundating areas adjacent to the channel, or an unusual and rapid accumulation of runoff of surface waters from any source.
12. **Flood Elevation Determination:** A determination of the water surface elevations of the 100-year flood; that is, the level of flooding that has a one percent chance of occurrence in any given year.
13. **Flood Insurance Rate Maps (Firm):** Official maps of the County on which the Flood Insurance Study has delineated the Flood Hazard Boundaries and the zones establishing insurance rates applicable to the County.
14. **Flood Insurance Study (FIS):** The official report provided by the Federal Insurance Administration that contains flood profiles and water surface elevations for various flood frequencies, as well as the boundaries and water surface elevations of the 100-year flood.
15. **Floodplain Management:** The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to, emergency preparedness plans, flood control works and floodplain management regulations.
16. **Flood Protection System:** Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard." Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.
17. **Floodproofing:** Any combination of structural and nonstructural additions, changes or adjustments to structures, including utility and sanitary facilities which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
18. **Floodway or Regulatory Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

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19. **Floodway Fringe:** That area of the floodplain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent chance of flood occurrence in any one year).
20. **Freeboard:** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.
21. **Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. **Historic Structure:** Any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or 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 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.
23. **Lowest Floor:** The lowest floor of the lowest enclosed area including basement. An unfinished or flood resistant enclosure, usable only 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 non-elevation design requirements of this Article.
24. **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles

**ARTICLE 22: “AP” AIRPORT OVERLAY DISTRICT REGULATIONS**

placed on a site for greater than 180 consecutive days. This definition shall apply to the requirements of this Article only and shall not have a bearing on any other requirements of these Regulations.

- 25. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- 26. **New Construction:** For the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of the FIRM 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 these Regulations and includes any subsequent improvements to such structures.
- 27. **New Manufactured Home Park or Subdivision:** 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 the final site grading or the pouring of concrete pads) is completed on or after the effective date of these Regulations.
- 28. **One Hundred (100) Year Flood:** The base flood having a 1 percent chance of annual occurrence.
- 29. **Overlay District:** A district which acts in conjunction with the underlying zoning district or districts. The original zoning district designation does not change.
- 30. **Regulatory Flood Elevation:** An elevation 1 foot higher than the water surface elevation of the regulatory flood.
- 31. **Start of Construction (Including Substantial Improvements):** The date the building permit, or other authorization granted by the County, was issued, provided the actual start of construction, repair, reconstruction, placement, or other improvement was within 90 days of the permit or authorization date. The actual start means the first placement of permanent construction of a structure on a site such as the pouring of the slab or footings, the installation of piles, the construction of columns, or 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; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages, sheds or agricultural accessory buildings not occupied as dwelling units or not part of the main building or structure.



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- 32. **Structure**: A walled and roofed structure, including a gas or liquid storage tank, that is principally above the ground, including but not limited to, buildings, factories, sheds, cabins, manufactured homes, and other similar uses.
- 33. **Substantial Damage**: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- 34. **Substantial Improvement**: 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 the "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:
  - a. any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or,
  - b. any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

- 35. **Variance**: A grant of relief to a person from the requirements of this Article which permits construction in a manner otherwise prohibited by this Article where specific enforcement would result in unnecessary hardship.

**ARTICLE 23: "FRD" FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT REGULATIONS**

**SECTIONS:**

**23-101 PURPOSE**

**23-102 FINDINGS OF FACT**

**23-103 GENERAL PROVISIONS**

**23-104 ESTABLISHMENT OF ZONING DISTRICT**

**23-105 PERMITTED USES**

**23-106 PERMIT REQUIRED**

**23-101 PURPOSE**

Certain areas of Wabaunsee County below Floodwater Retarding Dams, including Lake Wabaunsee, Alma City Reservoir (the old one), Alma City Reservoir (the new one) and Harveyville City Lake, (hereinafter referred to as FRD) would be subject to substantial flooding should a FRD breach occur. This could result in significant losses due to:

1. the cumulative effect of obstructions in the FRD breach impact area district causing increases in flood heights and velocities; and,
2. the occupancy of FRD breach impact area district by uses vulnerable to floods or hazardous to others which are inadequately elevated or otherwise protected from flood damage.

The FRD breach impact area district is designed to permit the gainful use of certain lands which are considered to be in the path of potential flood waters and from which structures and other valuable property use that is subject to damage by flood water should be regulated. This would permit surface runoff through such areas in the event of a FRD breach with a minimum of structural damage or property loss, and a minimum of obligation upon governmental authorities for flood or disaster assistance.

As such, this Article is intended to promote the public health, safety, and general welfare and to minimize these losses by applying the provisions of this Article to the designated areas within Wabaunsee County. And by taking action to:

1. Restrict or prohibit uses which are dangerous to health, safety, or property in the FRD breach impact area, or which might cause undue increase in flood heights; and,
2. Protect individuals from buying lands for the purpose of building in the FRD breach impact area which is unsuited for intended purposes because of flood hazard.

**23-102 FINDINGS OF FACT**

1. The FRD breach impact area district of Wabaunsee County, Kansas, are subject to inundation which, in the event of a FRD breach, could result in potential loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
2. Such flood losses are caused by:

**ARTICLE 23: “FRD” FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT REGULATIONS**

- a. The cumulative effect of obstructions in FRD breach impact areas causing increases in flood heights and velocities.
  - b. The occupancy of FRD breach impact areas by uses vulnerable to floods or hazardous to others, and which are inadequately elevated or otherwise protected from flood damages.
3. This Article uses a reasonable method of analyzing FRD breach impact flood hazards which consists of a series of interrelated steps, as follows:
- a. The use of engineering calculations and breach impact studies which indicate the area and potential depth of inundation for each FRD.
  - b. Computation of floodway required to convey the breach flood waters without increasing flood heights more than one (1) foot at any point.
  - c. Delineation of breach impact area encroachment lines within which no obstruction is permitted which would cause any increase in flood height. 23-103 general provisions
1. **Land to which Regulations Apply:** This Article shall apply to all lands within the unincorporated portion of Wabaunsee County, Kansas, identified on the Floodwater Retarding Dam Maps as elaborated by the official Professional Engineering Breach Impact Studies. No development shall be permitted in any defined FRD breach impact area except as authorized herein.
2. **The Enforcement Officer:** The Zoning Administrator of Wabaunsee County, Kansas, is designated as the enforcement officer.
3. **Rules for Interpretation of District Boundaries:** The boundaries of the FRD breach impact area district shall be determined by scaling distances on the engineering Breach Impact Studies. The Enforcement Officer shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute.
4. **Existing Development:** No development or structures presently located within a known FRD breach impact area shall be relocated, extended, converted or structurally altered.
5. **Abrogation and Greater Restrictions:** It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
6. **Interpretation:** In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and Wabaunsee County.

## ARTICLE 23: “FRD” FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT REGULATIONS

7. **Warning and Disclaimer of Liability:** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. In the event of a FRD breach, larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. This Article does not imply that areas outside boundaries of the FRD breach impact area or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Wabaunsee County or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. **Appeal:** Where a request for a permit to develop, build, locate, extend, convert or structurally alter any structure or building is denied by the Enforcement Officer, the applicant may appeal such decision and apply for relief to the Board of Zoning Appeals in the method provided in these Regulations for appeals.

### 23-103 GENERAL PROVISIONS

1. **Land to which Regulations Apply:** This Article shall apply to all lands within the unincorporated portion of Wabaunsee County, Kansas, identified on the Floodwater Retarding Dam Maps as elaborated by the official Professional Engineering Breach Impact Studies. No development shall be permitted in any defined FRD breach impact area except as authorized herein.
2. **The Enforcement Officer:** The Zoning Administrator of Wabaunsee County, Kansas, is designated as the enforcement officer.
3. **Rules for Interpretation of District Boundaries:** The boundaries of the FRD breach impact area district shall be determined by scaling distances on the engineering Breach Impact Studies. The Enforcement Officer shall make all interpretations as to the exact location of said boundaries. In such cases where the interpretation is contested, the Board of Zoning Appeals will resolve the dispute.
4. **Existing Development:** No development or structures presently located within a known FRD breach impact area shall be relocated, extended, converted or structurally altered.
5. **Abrogation and Greater Restrictions:** It is not intended by this Article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Article imposes greater restrictions, the provisions of this Article shall prevail. All other regulations inconsistent with this Article are hereby repealed to the extent of the inconsistency only.
6. **Interpretation:** In their interpretation and application, the provisions of this Article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and Wabaunsee County.

## **ARTICLE 23: "FRD" FLOODWATER RETARDING DAM BREACH IMPACT DISTRICT REGULATIONS**

7. **Warning and Disclaimer of Liability:** The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. In the event of a FRD breach, larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. This Article does not imply that areas outside boundaries of the FRD breach impact area or land uses permitted within such districts will be free from flooding or flood damages. This Article shall not create liability on the part of Wabaunsee County or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.
8. **Appeal:** Where a request for a permit to develop, build, locate, extend, convert or structurally alter any structure or building is denied by the Enforcement Officer, the applicant may appeal such decision and apply for relief to the Board of Zoning Appeals in the method provided in these Regulations for appeals.

### ***23-104 ESTABLISHMENT OF ZONING DISTRICT***

The mapped FRD breach impact areas within the jurisdiction of this Article are hereby divided into the following district: a floodwater retarding dam breach impact overlay district "FRD" identified on the Floodwater Retarding Dam Maps and as elaborated by the official Professional Engineering Breach Impact Studies. Within this district all uses not meeting the standards of this Article and those standards of underlying zoning districts shall be prohibited.

### ***23-105 PERMITTED USES***

Only uses having a low flood damage potential and not obstructing flood flows shall be permitted within the Floodwater Retarding Dam Breach Impact Overlay District to the extent they are not prohibited by any other provision of these Regulations, and provided they do not require structures or storage of materials or equipment. Subject to the requirements of these Regulations, the following uses are permitted:

- a. Agricultural uses.
- b. Nonbuilding residential accessory uses such as lawns, gardens, parking, play and yard areas.
- c. Nonresidential uses such as loading areas, parking, landing strips.
- d. Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and nature preserves.

### ***23-106 PERMIT REQUIRED***

No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a permit as required by these Regulations.

**ARTICLE 24: PLAN APPROVAL GUIDELINES**

**SECTIONS:**

**24-101 PURPOSE**

**24-102 APPLICATION, REVIEW, APPROVAL PROCEDURE**

**24-103 DEVELOPMENT PLAN**

**24-104 DEVELOPMENT PLAN - PHASING, TIME RESTRICTIONS**

**24-105 REMEDIES FOR NONCOMPLIANCE**

**24-101 PURPOSE**

The purpose of this Article is to outline the procedures and requirements for the approval of a Development Plan. Said Development Plan is a required submission when seeking a Conditional Use Permit. Those land uses requiring a Conditional Use Permit are specifically intended to accommodate:

1. The fully planned, coordinated, and orderly development of relatively large tracts of land.
2. The conversion of relatively small parcels of land to one of the specified uses requiring a Conditional Use Permit.

The erection, construction, reconstruction, moving or altering on an individual lot or property of a single-family residential unit shall not be subject to the provisions of this Article.

The requirements and regulations herein prescribed pertaining to height, open space, setbacks, parking, loading, and signs may be adjusted or modified so that the property in question may be developed in a reasonable manner and, at the same time, will not be detrimental to the public welfare and the interests of the community, but in keeping with the general intent and spirit of these Regulations. Such adjustments or modifications may be made in the Development Plan as a part of the Conditional Use process, or may be allowed upon request of the applicant after approval by the Planning Commission and Governing Body as an amendment to a previously approved Development Plan or as a first approval of a Development Plan on properties that have never had an approved Development Plan.

**24-102 APPLICATION, REVIEW, APPROVAL PROCEDURE**

In order to assure that proposed uses requiring Conditional Use Permits meet the requirements of these Regulations and will be compatible with surrounding properties and uses, it is hereby required that all applications for a Conditional Use Permit, except those uses exempted in Section 10-101 above, include a Development Plan which must be approved as specified within this Article prior to any construction on the property.

The procedure for approval of a Development Plan shall consist of the following:

1. Application for a Conditional Use Permit, and;
2. A Development Plan.

The Development Plan may be submitted with the application, but no later than 30 days prior to the scheduled Planning Commission meeting and public hearing.

**24-103 DEVELOPMENT PLAN**

Application for a Conditional Use and Development Plan approval shall be made in accordance with the procedures outlined in these Regulations. The application shall include a Development Plan which describes the applicant's intentions for the use and development of the property. The Development Plan should be sufficient in detail and include statements as to the proposed use of the buildings.

## **ARTICLE 24: PLAN APPROVAL GUIDELINES**

A statement of intent shall accompany the Development Plan to explain the measures used to achieve compatibility of the proposed development with surrounding properties through the planning of the site and the location and design of structures.

The Planning Commission shall review the application for a Conditional Use Permit, along with the Development Plan, and shall recommend approval or denial of the Conditional Use Permit along with the Development Plan to the Governing Body, or may request modifications to the Development Plan as deemed necessary to carry out the spirit and intent of these Regulations. Approval by the Governing Body shall constitute approval and permanency of the Development Plan, thereby establishing the criteria for construction of the proposed development.

In the process of reviewing any Development Plan, the Planning Commission and/or Governing Body may provide approval of the Development Plan conditioned upon certain limitations or restrictions deemed necessary to protect the public interest and surrounding properties, including, if any, the following:

1. Limitations on the type, illumination and appearance of any signs or advertising structures.
2. Direction and location of outdoor lighting.
3. Arrangement and location of off-street parking and off-street loading spaces.
4. The type of paving, landscaping, fencing, screening and other such features.
5. Limitations on structural alterations to existing buildings and construction of new buildings.
6. Pedestrian and vehicular circulation, and their relationship to existing streets, alleys and public right-of-way as well as points of ingress and egress.
7. Prohibition of use or construction of any structure to be used for a single-family dwelling, including a manufactured home.
8. Plans for control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
9. Waiver of any standards, requirements or depiction of information required by this Article when requested by the applicant and shown to be unnecessary as applied to the specific case in question.
10. Such other conditions and/or limitations that are deemed necessary.

### ***24-104 DEVELOPMENT PLAN - PHASING, TIME RESTRICTIONS***

The applicant may proceed with construction based on the entire Development Plan, or may elect to develop the property in phases. The applicant may submit the Development Plan separately for the first and each successive phase of construction, or for all of the project with a depiction of the phasing sequence; however, all Conditional Uses approved with a Development Plan shall have construction begun within one (1) year of said approval by the Governing Body. The applicant may request a one (1) year extension of this time restriction by submitting a request in writing to the Governing Body stating the reasons construction has not begun and at what time construction is expected to begin. If the Governing Body agrees, the one (1) year extension may be granted one time but shall not be granted for any longer period.

After the Development Plan has been approved, and when in the course of carrying out the Development Plan, minor adjustments are requested by the applicant and such adjustments conform to the minimum standards established by the approved Development Plan for building coverage, parking spaces, points of ingress and/or egress, heights, setbacks and/or other requirements, such adjustments may be made by the Zoning Administrator. If the requested adjustments are deemed by the Zoning Administrator to exceed the minimum standards established by the approved Development Plan, the revised Development Plan must be submitted to and approved by the Planning Commission

## **ARTICLE 24: PLAN APPROVAL GUIDELINES**

and Governing Body before any further work can proceed. The review shall be limited to review of requested revisions.

### ***24-105 REMEDIES FOR NONCOMPLIANCE***

If the applicant fails to comply with any of the restrictions or limitations established with an approved Development Plan, including the time requirements herein established, the approved Development Plan shall be declared null and void and no permit for construction shall be issued until a new Development Plan has been approved following the procedures previously cited.



## **ARTICLE 25: PERFORMANCE STANDARDS**

### **SECTIONS:**

#### **25-101 PURPOSE**

#### **25-102 PERFORMANCE STANDARDS - DISTRICTS "AG", "RR", "SR", "R-1", "V-1" AND "LW"**

#### **25-103 PERFORMANCE STANDARDS - DISTRICTS "R-1A", "R-1B", "R-1C" AND "R-2"**

#### **25-104 PERFORMANCE STANDARDS - DISTRICTS "RP-3" AND "RP-4"**

#### **25-105 PERFORMANCE STANDARDS - DISTRICTS "CP-0" AND "CP-1"**

#### **25-106 PERFORMANCE STANDARDS - DISTRICTS "CP-2" AND "CP-3"**

#### **25-107 PERFORMANCE STANDARDS - DISTRICT "CP-4"**

#### **25-108 PERFORMANCE STANDARDS - DISTRICT "IP-1"**

#### **25-109 PERFORMANCE STANDARDS - DISTRICTS "IP-2" AND "IP-3"**

#### **25-110 PERFORMANCE STANDARDS - DISTRICT "AO"**

#### **25-111 PERFORMANCE STANDARDS - CONDITIONAL USES**

#### **25-101 PURPOSE**

The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the performance standards for uses permitted within these Regulations. The standards established herein are intended to provide guidance in the development or redevelopment of property in Wabaunsee County for the purpose of encouraging and requiring orderly development at a quality level generally equal to or exceeding that commonly found elsewhere in the community. The standards stated within this Article are the minimum required or maximum permitted, whichever the case may be, for the uses permitted in these Regulations.

#### **25-102 PERFORMANCE STANDARDS - DISTRICTS "AG", "RR", "SR", "R-1", "V-1" AND "LW"**

The following are the performance standards for the "AG" Agricultural District, "RR" Rural Residential District, the "SR" Suburban Residential District, the "R-1" Single-Family Residential District, the "V-1" Village District and the "LW" Lake Wabaunsee District in the unincorporated portion of Wabaunsee County, Kansas.

1. Where allowed by these Regulations (by right in the "AG" Agricultural District and by accessory use in other districts), agricultural uses are permitted with no restrictions as to operation of such vehicles or machinery as are customarily incidental to such uses, and with no restrictions to the sale or marketing of products raised on the premises; provided, however, there shall be no disposal of garbage, rubbish or offal, other than regular removal, except in compliance with the Wabaunsee County Sanitary Code.
2. No main or accessory building or structure shall project beyond the property line. On all streets and highways within Wabaunsee County, no main or accessory building or structure shall project beyond the setback lines established within these Regulations. Nothing shall be allowed to be placed in any public right-of-way without the express permission of the County.

## **ARTICLE 25: PERFORMANCE STANDARDS**

3. Residential real estate sales offices in the "RR" Rural Residential, "SR" Suburban Residential District, "R-1" Single-Family Residential, "V-1" Village and the "LW" Lake Wabaunsee Districts are subject to the following standards:
  - a. There shall be only one residential sales office in any one subdivision.
  - b. All sales shall be limited to the sale of new properties located within that subdivision.
  - c. Any sales office within a subdivision shall be located within a permanent residential structure. Manufactured homes, mobile homes, and construction trailers shall not be permitted to be used as a residential real estate sales office.
  - d. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
  - e. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
4. In order for residential-design manufactured homes, when installed, to have substantially the appearance of an on-site, conventionally built, single-family dwelling in Wabaunsee County, the following criteria and standards shall apply:
  - a. The pitch of the roof of the manufactured home shall have a minimum vertical rise of 2.2 inches for each 12 inches of vertical run, and the roof shall be finished with a type of shingle that is commonly used in standard residential construction in the County.
  - b. All roof structures shall provide an eave projection of no less than one (1) foot, which may include a gutter.
  - c. The exterior siding shall consist predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction in the County.
  - d. The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and/or the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations" (NCSBCS/ANSI A225.1 - 1994), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.
  - e. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground.

## **ARTICLE 25: PERFORMANCE STANDARDS**

- f. The moving hitch, wheels and axles, and transporting lights shall be removed.

### ***25-103 PERFORMANCE STANDARDS - DISTRICTS "R-1A", "R-1B", "R-1C" AND "R-2"***

The following are the performance standards for the "R-1A" Single-Family Residential District, "R-1B" Single-Family Residential District, "R-1C" Single-Family Residential District, and the "R-2" Two-Family Residential District within the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, Kansas.

1. No main or accessory building or structure shall project beyond the property line. Nothing shall be allowed to be placed in any public right-of-way without the express permission of the City.
2. Residential real estate sales offices are subject to the following standards:
  - a. There shall be only one residential sales office in any one subdivision.
  - b. All sales shall be limited to the sale of new properties located within that subdivision.
  - c. Any sales office within a subdivision shall be located within a permanent residential structure with a minimum dwelling size equal to or greater than that of the zoning district. Manufactured homes, mobile homes, and construction trailers shall not be permitted.
  - d. No additional parking facilities other than adjacent on-street parking or customary driveway parking shall be permitted.
  - e. Upon issuance of any final approval of construction for 90% of the lots within the subdivision, the sales office shall be terminated.
  - f. A model home complex operated in conjunction with a residential sales office may include a decorative fence in the front yard enclosing or defining the extent of the complex. To qualify as a decorative fence, the surface of the fence must be at least 50 percent open, the fence cannot be constructed of chain link or other wire materials, and the fence cannot exceed 4 feet in height. The front yard fence shall be removed upon the termination of the sales office.
3. In order for manufactured homes, when installed, to be compatible with an on-site, conventionally built, single-family dwelling in the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, the following criteria and standards shall apply:
  - a. The pitch of the roof of the manufactured home shall have a minimum vertical rise of 2.2 inches for each 12 inches of vertical run, and the roof shall be finished with

## **ARTICLE 25: PERFORMANCE STANDARDS**

a type of shingle that is commonly used in standard residential construction in each city.

- b. All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.
- c. The exterior siding shall consist predominantly of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in residential construction in each city.
- d. The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in "Manufactured Home Installations" (NCSBCS/ANSI A225.1 - 1994), and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access which may include walk-out basements and garages, is installed under the perimeter of the manufactured home.
- e. Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed firmly to the primary structure and anchored securely to the ground.
- f. The moving hitch, wheels and axles, and transporting lights shall be removed.

### ***25-104 PERFORMANCE STANDARDS - DISTRICTS "RP-3" AND "RP-4"***

The following are the performance standards for uses in the "RP-3" Planned Medium Density Residential District and the "RP-4" Planned Apartment House District within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

- 1. Pedestrian circulation systems (sidewalks, walkways and paths) shall be located and designed to provide separation from automobile traffic along all public and private streets, drives and parking areas.
- 2. Site drainage patterns shall be designed, graded and constructed to prevent surface drainage from collecting on or flowing across pedestrian paths, walks and sidewalks.
- 3. The maximum lot coverage shall be sixty percent (60%) for properties zoned "RP-3" and sixty-nine percent (69%) for properties zoned "RP-4".
- 4. A minimum of ten percent (10%) of landscaped open space shall be provided on each site as common or semi-common areas open for use and available to all persons who may reside on the premises.

## **ARTICLE 25: PERFORMANCE STANDARDS**

### ***25-105 PERFORMANCE STANDARDS - DISTRICTS "CP-0" AND "CP-1"***

The following are the performance standards for uses in the "CP-0" Planned Commercial Office District and the "CP-1" Planned Neighborhood Commercial District within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.

### ***25-106 PERFORMANCE STANDARDS - DISTRICTS "CP-2" AND "CP-3"***

The following are the performance standards for uses in the "CP-2" Planned General Commercial District and the "CP-3" Planned Highway Service Commercial District within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
3. Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, and shall not reduce the capacity of a parking lot below that specified in Article 25 herein. In addition, the outdoor storage or display area shall occupy an area no greater than twenty percent (20%) of the ground floor area of the building. Automobiles and trucks for sale may be stored or displayed outside a building, but must maintain a setback of at least 10 feet from a street right-of-way, or 6 feet from a side or rear lot line.
4. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.

### ***25-107 PERFORMANCE STANDARDS - DISTRICT "CP-4"***

The following are the performance standards in the "CP-4" Planned Central Business District within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

1. Only that property which is designated "CP-4" on the official zoning map shall be subject to the requirements of the "CP-4" Zoning District.

## **ARTICLE 25: PERFORMANCE STANDARDS**

2. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
3. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
4. Merchandise which may appropriately be displayed or stored outside a building shall be kept off the public sidewalks and streets, except during special promotional activities and sales approved by the Governing Body with a special event permit.

### ***25-108 PERFORMANCE STANDARDS - DISTRICT "IP-1"***

The following are the performance standards in the "IP-1" Planned Light Industrial District within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.
3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square feet.

### ***25-109 PERFORMANCE STANDARDS - DISTRICTS "IP-2" AND "IP-3"***

The following are the performance standards in the "IP-2" Planned Medium Industrial District and the "IP-3" Planned Heavy Industrial District within the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

1. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
2. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.

## **ARTICLE 25: PERFORMANCE STANDARDS**

3. No activity shall be permitted that creates any off-site electrical disturbance.
4. Areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square.

### ***25-110 PERFORMANCE STANDARDS – DISTRICT “AO”***

The following are the performance standards in the "AO" Airport Overlay District.

1. Light sources shall be controlled or hooded so that light is directed away from the flight patterns around the airport and from any adjoining residentially zoned property or public streets.
2. No activity shall be permitted that creates any off-site electrical disturbance, (especially radio transmissions to or from any aircraft).
3. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.

### ***25-111 PERFORMANCE STANDARDS – CONDITIONAL USES***

The following are the performance standards for Conditional Uses authorized by these Regulations.

1. No smoke, radiation, vibration or concussion, or heat shall be produced that is perceptible outside a building, and no dust, fly ash, or gas that is toxic, caustic or obviously injurious to humans or property shall be produced.
2. For retail commercial uses, merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, and shall not reduce the capacity of a parking lot below that specified in Article 26 herein. In addition, the outdoor storage or display area shall occupy an area no greater than twenty percent (20%) of the ground floor area of the building. Automobiles and trucks for sale may be stored or displayed outside a building, but must maintain a setback of at least 15 feet from a street right-of-way, or 6 feet from a side or rear lot line.
3. Any manufacturing or assembly of products shall be entirely within a totally enclosed building.
4. No emission of air contaminants from any source within the boundaries of any lot or tract shall exceed emission rates established by the Kansas Secretary of Health and Environment pursuant to K.S.A. 65-3001 et seq., or amendments thereto, and any administrative regulations adopted thereunder.

## **ARTICLE 25: PERFORMANCE STANDARDS**

5. No activity shall be permitted that creates any off-site electrical disturbance.
6. Light sources shall be controlled or hooded so that light is directed away from any adjoining residentially zoned property or public streets.
7. For industrial uses, areas devoted to retail sales of commodities manufactured, processed, fabricated, assembled, warehoused, or stored on the premises shall not exceed ten percent (10%) of the gross floor area of the main use, and in no event shall such areas exceed 5,000 square feet.



**ARTICLE 26: PARKING REGULATIONS**

**SECTIONS:**

**26-101 PARKING REQUIREMENTS**

**26-102 INTERPRETATION OF THE CHART**

**26-103 JOINT USE AND OFF-SITE FACILITIES**

**26-104 DESIGN STANDARDS**

**26-105 PERFORMANCE STANDARDS**

**26-101 PARKING REQUIREMENTS**

When any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by 50 percent or more, or a building or use is changed or enlarged in floor area, number of employees, number of dwelling units, seating capacity or otherwise, to create a need for an increase of 10 percent or more in the number of existing parking spaces, or any building or structure hereafter erected is converted for the uses listed in Column 1 of the chart below in any zoning district, accessory off-street parking spaces shall be provided as required in Column 2 or Column 3 or as required in subsequent sections of this Article or in these Regulations.

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>USE OR USE CATEGORY</b>	<b>SPACES REQUIRED PER BASIC MEASURING UNIT</b>	<b>ADDITIONAL REQUIREMENTS</b>
One-family and two-family dwellings	2 per dwelling unit	
Apartments	2 per dwelling unit or 1.5 per efficiency unit	
Church, temple or similar place of assembly	1 per 5 seats or bench seat spaces (Seats in main auditorium only)	
College or high school	1 per 5 seats in main auditorium or 8 per classroom whichever is greater	
Elementary or nursery school	1 per 10 seats - main assembly room or 1 per classroom whichever is greater	

**ARTICLE 26: PARKING REGULATIONS**

Country club or golf club	To be determined by the Planning Commission and Governing Body	
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>USE OR USE CATEGORY</b>	<b>SPACES REQUIRED PER BASIC MEASURING UNIT</b>	<b>ADDITIONAL REQUIREMENTS</b>
Public library, museum art gallery, or community center	5 per building	Plus 1 additional each 300 sq. ft. of floor area in excess of 1,000 square feet
Private clubs- fraternities, sororities	2 per 3 beds or 1 per active member, whichever is greater	
Sanitarium - nursing or convalescent home – home institution for the aged or similar	1 per 5 patient beds	
Hotel	1 per guest room or suite	1 per 2 employees or staff members per shift
Tourist court - motel motor hotel - motor lodge	1 per sleeping room or suite	1 per 2 employees or staff members per shift
Rooming, boarding, lodging house or group home	2 per 3 beds	
Hospital	1 per 3 patient beds	1 per 2 employees or staff members per shift
Office or office building studio, or clinic	1 per 300 square feet of floor area	3 spaces minimum
Funeral home	1 per 5 seats in auditorium or chapel	
Restaurant, tavern, drinking establishment or other establishment for consumption of food or beverage on the premises	1 per 3 seats or seating capacity	
Retail store or personal service establishment and banks	1 per 200 square feet of floor area	Retail stores over 4,000 sq. ft., 1 per 150 sq. ft. of floor area

**ARTICLE 26: PARKING REGULATIONS**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>USE OR USE CATEGORY</b>	<b>SPACES REQUIRED PER BASIC MEASURING UNIT</b>	<b>ADDITIONAL REQUIREMENTS</b>
Furniture or appliance machinery, equipment, and auto and/or boat sales and service	1 per 300 square feet of floor area	2 spaces minimum store, Auto and/or boat sales & service -10 minimum
Auditorium, theater, gymnasium, stadium, arena or convention hall	1 per 4 seats or seating spaces	
Bowling alley	5 per 1,000 sq. ft. of gross floor area	
Food storage locker	1 per 200 sq. ft. customer service area	
Amusement place, dance hall, skating rink, swimming pool, auditorium, or exhibition hall without fixed seats	1 per 100 sq. ft. of floor area	Does not apply to accessory uses
General service or repair establishment, printing, publishing, plumbing, heating	1 per 300 sq. ft. of floor area	
Manufacturing or industrial establishment, research or testing lab, wholesale warehouse or similar establishment	2 per 1,000 square feet of floor area	

**26-102 INTERPRETATION OF THE CHART:**

1. The use regulations for each District are not affected by arrangement of uses in the chart.
2. The parking requirements in this Article do not limit other requirements for parking contained in these Regulations.
3. The parking requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 31.
4. Floor area, as used in the chart, shall be as defined in Article 1, Definitions.

## **ARTICLE 26: PARKING REGULATIONS**

5. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.
6. The parking spaces required for a use not specifically listed in the chart shall be the same as for a listed use of similar characteristics with similar demands for parking as determined by the Zoning Administrator.
7. In the case of mixed uses (uses with different parking requirements occupying the same building or premises) or in the case of joint use of a building or premises by more than one use having the same parking requirements, the parking spaces required shall equal the sum of the requirements of the various uses computed separately.

### ***26-103 JOINT USE AND OFF-SITE FACILITIES***

All parking spaces required herein shall be located on the same lot with the building or use served, except that where an increase in the number of spaces is required by a change or enlargement of use or where such spaces are provided collectively or used jointly by two or more buildings or establishments, the required spaces may be located and maintained not to exceed 300 feet from the building served.

1. Up to 50 percent of the parking spaces required for (a) theatres, night clubs or cafes, and up to 100 percent of the parking spaces required for a church auditorium may be provided and used jointly by (b) banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a); provided, however, that a written agreement is properly executed and filed as specified below.
2. In any case where the required parking spaces are not located on the same lot with the building or use served, or where such spaces are collectively or jointly provided and used, a written agreement thereby assuring their retention for such purposes shall be properly drawn and executed by the parties concerned, approved as to form by the County Counselor and shall be filed with the Zoning Administrator.

### ***26-104 DESIGN STANDARDS:***

1. An off-street parking space is an all-weather area not in a street or alley, being a minimum of 9 feet by 19 feet, exclusive of driveways or access drives, permanently reserved for the temporary storage of one motor vehicle and connected with a street or alley by an all-weather driveway which affords satisfactory ingress and egress for motor vehicles.
2. Entrances or exits for all parking facilities shall comply with the requirements of the County Engineer.
3. Screening shall be erected along any property line adjacent to or adjoining any single-family residence, two-family residence or multi-family residence to eliminate the passage of light from vehicles. Screening along side yards shall not extend nearer to the street than

## **ARTICLE 26: PARKING REGULATIONS**

the front yard setback line. The installation and maintenance of required screening shall be the responsibility of the landowner whose land use necessitates the screening.

### ***26-105 PERFORMANCE STANDARDS:***

1. All off-street parking spaces and their access drives required for all commercial and industrial uses shall be paved with an asphalt or concrete surface if the adjoining road is also paved with asphalt or concrete. All required off-street parking spaces and their access drives shall be maintained in good condition and free of all weeds, dust, trash and other debris. Said paving shall be completed before the activity or use can commence.

The Planning Commission may waive this requirement at the applicant's request, provided that the applicant can provide sufficient reasons and can show that such action would be in the community's best interest and would be keeping with the spirit and intent of these Regulations.

2. All off-street parking spaces, and their access drives, shall be planned and engineered to assure proper drainage of surface water. If a storm sewer is not available, positive drainage shall be provided on such lot or parcel and discharge of the same shall be through defined drainage courses. No drainage shall be directed over adjoining lands unless approved by the County Engineer in the County or the appropriate City Engineer in one of the cities.
3. The Planning Commission or the Governing Body may require plans to be prepared and presented to assure proper design and construction of any off-street parking spaces and their access drives, if conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties, or if the proposed use will include parking needs for buses, tractor-trailer semis, or other such large vehicles. Additional spaces may be required or reserved to accommodate such vehicles and the Planning Commission or Governing Body may require that the site plan show the location of such spaces.
4. When located in a residential district, parking shall not be permitted within a front yard setback except in permitted driveways.
5. If lighting facilities are provided, they shall be so arranged as to deflect or direct light away from any adjacent single-family residence, two-family residence or multi-family residence.
6. Paved parking areas shall be adequately marked with at least two (2) inch wide stripes of traffic paint, for channelization and movement of vehicles.
7. No business shall be conducted on any parking lot except when conducted in compliance with these Regulations.

**ARTICLE 27: OFF-STREET LOADING REGULATIONS**

**SECTIONS:**

- 27-101 REQUIREMENTS**
- 27-102 INTERPRETATION OF THE CHART**
- 27-103 MIXED USES OF ONE BUILDING**
- 27-104 DESIGN STANDARDS**

**27-101 REQUIREMENTS**

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

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Use or Use Category</b>	<b>Floor Area as Defined in Article 1</b>	<b>Loading Spaces Required in Square Feet</b>
Retail Store, Department Store, Restaurant, Wholesale House, Warehouse, Repair, General Service, Manufacturing or Industrial Establishment	2,000 - 10,000 10,000 - 20,000 20,000 - 40,000 40,000 - 60,000 Each 50,000 over 60,000	One Two Three Four One Additional
Apartment Building, Motel, Offices, Office Building, Hospital or Similar Institution, Places of Public Assembly	5,000 - 10,000 10,000 - 100,000 100,000 - 200,000 Each 100,000 over 200,000	One Two Three One Additional
Funeral Home or Mortuary	2,500 - 4,000 4,000 - 6,000 Each 10,000 over 6,000	One Two One Additional

**27-102 INTERPRETATION OF THE CHART**

1. The loading space requirements apply to all Districts.
2. The loading space requirements in this Article do not limit special requirements which may be imposed in connection with Conditional Uses, Article 31.

## **ARTICLE 27: OFF-STREET LOADING REGULATIONS**

### ***27-103 MIXED USE OF ONE BUILDING***

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

### ***27-104 DESIGN STANDARDS***

1. Loading spaces shall have minimum dimensions of 12 feet by 35 feet and vertical clearance of at least 14 feet.
2. Loading spaces for a funeral home or mortuary may be reduced in size to 10 feet by 25 feet and vertical clearance reduced to 8 feet.

## **ARTICLE 28: DISTRICT SIGN REGULATIONS**

### **SECTIONS:**

#### **28-101 SCOPE, OBJECTIVES**

#### **28-102 DEFINITIONS**

#### **28-103 GENERAL SIGN REQUIREMENTS**

#### **28-104 PROCEDURAL REQUIREMENTS**

#### **28-105 DESIGN AND CONSTRUCTION STANDARDS**

#### **28-106 DISTRICT REGULATIONS**

#### **28-107 NONCONFORMING SIGNS**

#### **28-101 SCOPE, OBJECTIVES**

The provisions of this Article shall govern the placement, use and structural quality of outdoor signs and other advertising and identification devices together with their appurtenant and auxiliary apparatus. After the effective date of these Regulations, no sign shall be erected, constructed, reconstructed or otherwise altered without first obtaining a separate sign permit. Such sign permit shall be legally issued only when in compliance with the regulations set forth in this Article. The Sign Regulations are found to be necessary and proper to the following objectives:

1. To protect the general public from damage and injury which may be caused by the faulty and unregulated construction of signs.
2. To prevent the obstruction of traffic visibility and confusion with traffic control devices resulting from improperly placed and designed signs.
3. To ensure the visual quality of signs and preserve and promote aesthetic quality in Wabaunsee County, Kansas.

#### **28-102 DEFINITIONS**

For the purpose of this Article, certain terms, phrases and words used throughout this Article shall have the meaning assigned them in this section:

##### **1. General:**

- a. **ABANDONED SIGN:** Any sign, including off-site signs unless owned and operated by a bona fide billboard company, which no longer directs a potential customer to or exhorts any person, or advertises a bona fide business, project, product, service or activity.
- b. **FACADE:** The entire exterior surface of a particular side of a structure or establishment to be considered in the calculation of the maximum gross surface area of a wall, roof or projecting sign or signs.
- c. **INDIRECTLY ILLUMINATED SIGN:** Any sign which is partially or completely illuminated at any time by a light source separate from the sign housing which is so shielded as to not be visible at eye level.



## ARTICLE 28: DISTRICT SIGN REGULATIONS

- d. **MARQUEE:** A permanent roofed structure attached to and supported by the building and projecting over public property.
- e. **OFF-PREMISES SIGN:** A sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon, and shall include all billboard signs and political signs with a gross surface area of more than thirty-two (32) square feet.
- f. **ON-PREMISES SIGN:** A sign which carries only advertisement that is incidental to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, goods sold or produced on the premises, the rental or lease of products or building space, and/or name of the person, firm or corporation occupying the premises.
- g. **SEMI-ILLUMINATED SIGN:** Any sign located on a building which building face is uniformly illuminated over its entire area, including the area of the sign, by use of electricity or other artificial light. Semi-illuminated signs shall be permitted in any location where illuminated signs are permitted.
- h. **SIGN:** Any advertising device or surface placed out-of-doors, on or off premises, or placed indoors, when in view of the general public, which conveys information or identification. Included in this definition of "sign" shall be any structure used for said display and all sign supports.
- i. **SIGN, GROSS SURFACE AREA OF:** The gross surface area of a sign shall be the sum of all surface areas of the sign faces, except that ground or pole signs designed as double-faced signs, with both faces parallel and when the distance between the faces does not exceed two (2) feet, then only one face of the sign shall be considered in determining the sign area. In determining the gross surface area of a sign, each face of a sign may be broken down into not more than three (3) areas. Each surface area shall include the total area within a single continuous perimeter enclosing the extreme limits of the sign elements. Such perimeters need not include any structural elements lying outside the limits of such signs when they do not form an integral part of the display, nor shall it include architectural embellishments when such do not contain any advertising or printed copy, and are not lighted and do not exceed ten percent (10%) of the permitted sign area.
- j. **SIGN AREA, MAXIMUM TOTAL GROSS SURFACE AREA:** Maximum allowed square footage of sign area permitted per zoning lot.
- k. **SIGN, HEIGHT:** Sign height shall be measured from ground level at the foundation of the sign to the highest element of the sign.
- l. **SIGN SETBACK:** The minimum sign setback shall be the horizontal distance between a sign and a front and side lot line, as measured from that part of the sign, including its extremities and supports, nearest to any point on an imaginary vertical plane projecting from the front and side lot line.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

- m. **SIGN STRUCTURE:** An element or assemblage of elements which supports or is capable of supporting a sign. A sign structure may be free-standing, attached to a building, an integral part of the building, or combination thereof.
- n. **STRUCTURAL MEMBER:** A component part of a structural system required to carry the primary supportive stresses of the building to the ground, as opposed to members carrying little or no supportive stresses other than their own weight, and functioning as an in-fill or nonstructural enclosure.
- o. **UNIFIED SHOPPING CENTER:** A group of retail stores and/or service establishments designed to serve a community or neighborhood.
- p. **VISIBILITY TRIANGLE:** The triangular area formed by the intersecting street right-of-way lines and a straight line joining said street right-of-way lines at points which are thirty (30) feet distant from the point of intersection, measured along said right-of-way lines.

### 2. Classification of Signs:

#### a. **Functional Types of Signs:**

- (1) **ADVERTISING SIGN:** A sign which directs the attention of the public to a business, commodity, service or entertainment conducted, sold, or furnished at a location **OTHER** than the premises on which the sign is located or to which it is affixed.
- (2) **ADVERTISING DECORATION:** Any sign which has attached various sign materials used for temporary display and decoration, including streamers, banners, pennants, pinwheels, commercial flags, bunting, and similar devices.
- (3) **BILLBOARD:** An off-site sign, or portion thereof, consisting of outdoor signs which advertise, promote, or otherwise disseminate information pertaining to goods, products, or services, including charitable services, political services or appeals, not related to goods, products, or services which comprise a primary use on the premises where the sign is located. Such signs include:
  - (a) Poster panels or bulletins normally mounted on a building wall or freestanding structure with advertising copy in the form of pasted paper.
  - (b) Multi-prism signs, which are poster panels or bulletins normally mounted on a building wall or freestanding structure with

## ARTICLE 28: DISTRICT SIGN REGULATIONS

advertising copy in the form of pasted paper and alternating advertising message on the one (1) display area.

- (c) Painted bulletins, where the advertiser's message is painted directly on the background of a wall-mounted or freestanding display area.
- (4) **BULLETIN BOARD SIGN:** An on-premises sign containing the name of the institution or organization, which may include names of persons connected with it, announcing persons, events or activities occurring at the institution or organization. Such signs may also present a greeting or similar message.
- (5) **BUSINESS SIGN:** A sign which directs attention to a business or profession conducted, or to a commodity or service sold, offered or manufactured, or to an entertainment offered on the premises where the sign is located.
- (6) **CONSTRUCTION SIGN:** A temporary on-site sign indicating the names of architects, engineers, landscape architects, contractors, similar artisans, and financiers involved in the design and construction of a structure or project during the period of construction.
- (7) **DIRECTIONAL SIGN:** An on-site sign containing words or symbols indicating an entrance to, or exit from, a building as well as the location of parking, loading, restrooms, and emergency entrances which are for the convenience of the public.
- (8) **IDENTIFICATION SIGN:** A sign giving the name and address of a building, business, development or establishment.
- (9) **NAMEPLATE SIGN:** 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 title. Or in the case of a farm or ranch, or a rural residence, a sign giving the name of the owner or occupant or of the farm or ranch, or other such similar identifying name.
- (10) **POLITICAL SIGN:** A sign pertaining to the announcement of an individual being a candidate for an elective political office. Any such sign exceeding thirty-two (32) square feet of gross surface area shall be classified as an off-site sign and regulated accordingly.
- (11) **PROJECT DIRECTORY SIGN:** An on-site sign containing the names and locations, in list or map form, of the individual components making up a planned unit development, shopping center, or similar project.
- (12) **PROJECT TITLE SIGN:** An on-site sign which carries the overall name of a residential subdivision, shopping center, industrial park, medical

## ARTICLE 28: DISTRICT SIGN REGULATIONS

complex, planned unit development, mobile home park, and similar projects.

- (13) **REAL ESTATE SIGN:** An on-premises sign displayed for the purpose of offering real property for sale, lease or rent.
- (14) **TEMPORARY SIGN:** Any on-site sign, including, but not limited to, signs of lightweight cardboard, airborne, plastic or paper material, intended to be displayed for not more than sixty (60) days.

### b. Structural Types of Signs:

- (1) **ARCH SIGN:** Any sign located at the drive entrance to a farm, ranch or rural residence, either adjacent to or arched over the drive entrance.
- (2) **AWNING SIGN:** Any sign affixed directly on, painted on or attached to an awning.
- (3) **CANOPY SIGN:** Any sign affixed directly on, painted on or attached to a canopy.
- (4) **GROUND SIGN:** A sign placed upon, or supported by the ground independently of any building or structure on the property. This includes a sign supported on poles or posts, the base of the face which is less than six (6) feet above ground level.
- (5) **MARQUEE SIGN:** Any sign mounted on, painted on or supported by a marquee.
- (6) **POLE SIGN:** A sign whose base of the face of which is more than six (6) feet above ground level and is supported by poles or posts.
- (7) **PORTABLE SIGN:** An on-site sign designed in such a manner to be readily movable and not permanently attached to the property. Any non-permanent sign not classed as a temporary sign shall be deemed to be a portable sign.
- (8) **PROJECTING SIGN:** Any sign that is wholly or partially attached to and dependent upon a building for support and which projects more than 1 foot beyond the face of said building.
- (9) **ROOF SIGN:** A sign mounted and supported wholly upon or over the roof of any structure.
- (10) **WALL SIGN:** A sign attached to or painted on a wall in such a manner that the exposed face of the sign is in a plane approximately parallel to the plane of the wall.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

### 28-103 GENERAL SIGN REQUIREMENTS

1. **Traffic Safety:** No sign shall be maintained at any location where it may interfere with the view of, or where it may obstruct view of, or interfere with, mislead or confuse traffic. Nor shall any sign be placed in the visibility triangle as defined in these Regulations, or project into said area unless the bottom edge of the projecting sign is at least twelve (12) feet above the centerline grade of the intersecting streets.
2. **Clearance from Electrical Power Lines:** No metal ground sign shall be located within eight (8) feet vertically and eight (8) feet horizontally of electrical wire or conductors in free air carrying more than 48 volts, without regard to whether or not such wires or conductors are insulated or otherwise protected.
3. **Illuminated Signs:** Illuminated signs shall be shaded wherever necessary to avoid casting bright light upon property located in any residential district or upon any public street or park.
4. **Spotlights And Floodlights:** It shall be unlawful for any person to have any sign which is wholly or partially illuminated by floodlights or spotlights that interfere with the vision of pedestrians or vehicular traffic.
5. **Flashing or Moving Signs:** No flashing signs, rotating or moving signs, animated signs, signs with moving lights, or signs which create the illusion of movement shall be permitted. A sign whereon the current time and/or temperature is indicated by intermittent lighting shall not be deemed to be a flashing sign if the lighting changes are limited to the numerals indicating the time and/or temperature not more often than five (5) seconds.
6. **Signs Not To Be Located Within Public Right-of-Way:** No sign shall be erected, constructed or maintained within the right-of-way of any street, avenue, highway, alley, or upon public ground within the County.
7. **Obstruction to Exit:** No sign shall be erected so as to obstruct any fire escape, required exit, window, or door opening intended as a means of egress.
8. **Obstruction to Ventilation:** No sign shall be erected which interferes with any opening required for ventilation.
9. **Signs on Trees or Utility Poles:** No sign shall be attached to a tree or utility pole whether on public or private property.
10. **Corner and Through Lots:** On corner and through lots, each lot line that abuts a street or highway shall be considered a separate street frontage. On corner and through lots, restrictions that are phrased in terms of "signs per zoning lot" shall be deemed to permit the allowable number of signs facing each street or highway that abuts the lot.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

11. **Maintenance Required:** Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.
12. **Clearance Drop Zone for Pole Signs:** Pole signs shall be located so as to provide a clearance drop zone in all directions such that the pole sign would fall on the property on which it is located. This requires that the pole sign be setback from all property lines a minimum distance equal to the height of the pole sign.
13. **Classification of Signs:**
  - a. **Functional Types:**
    - (1) Advertising Decoration Sign
    - (2) Billboard Sign
    - (3) Bulletin Board Sign
    - (4) Business Sign
    - (5) Construction Sign
    - (6) Directional Sign
    - (7) Identification Sign
    - (8) Nameplate Sign
    - (9) Political Sign
    - (10) Project Directory Sign
    - (11) Project Title Sign
    - (12) Real Estate Sign
  - b. **Structural Types:**
    - (1) Arch Sign
    - (2) Awning Sign
    - (3) Canopy Sign
    - (4) Ground Sign
    - (5) Marquee Sign
    - (6) Pole Sign
    - (7) Portable Sign
    - (8) Projecting Sign
    - (9) Roof Sign
    - (10) Wall Sign

### ***28-104 PROCEDURAL REQUIREMENTS***

1. **Permit:** No sign, except for signs listed in section 28-104 (5) of this section, shall be painted, constructed, erected, repainted, remodeled, relocated, or expanded unless such sign complies with the requirements of these Regulations. Permits shall be obtained from the Zoning Administrator. Fees for sign permits shall be as established by resolution of the Governing Body.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

2. **Application for Permit:** Application for a permit shall be made in writing upon forms provided by the Zoning Administrator and shall contain, or have attached, the following information:
  - a. The name, address, and telephone number of the applicant.
  - b. The location and/or address of the building, structure or lot where the sign is to be located.
  - c. Position of the sign(s) in relation to nearby buildings and structures.
  - d. Two sets of prints showing the plans and specifications of the proposed sign and sign structure, along with the method of construction and attachment to the building or in the ground.
  - e. The name of the person, firm, corporation or association erecting the sign.
  - f. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected.
  - g. Additional information as the Zoning Administrator shall require to show full compliance with this and all other applicable laws and regulations of Wabaunsee County, Kansas.
  
3. **Issuance of Permit:** Upon the filing of an application for a sign permit, the Zoning Administrator or designate shall examine such plans and specifications, along with the premises upon which it is proposed to erect the sign, and other pertinent data, to determine if the provisions of the Sign Regulations of Wabaunsee County, Kansas, are complied with. If all such requirements are met, the permit shall be issued. If the work authorized by such permit is not started within 90 days from the date of its issuance, such permit shall become null and void.

The issuance of the Sign Permit as required by these Regulations shall not act in lieu of any other permits or fees required by any other provisions of these Regulations or any other rules or regulations applicable to such sign and its placement.

4. **Permit Revocation:**
  - a. If the Zoning Administrator shall find that any sign subject to the Sign Regulations is unsafe or insecure; is a menace to the public; has been constructed or erected or is being maintained in violation of the provisions of the Sign Regulations, written notice shall be given to the owner, occupant, or person-in-charge, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of the Sign Regulations within 30 days of such notice, the Zoning Administrator may cause such sign to be removed or altered to comply with these

## ARTICLE 28: DISTRICT SIGN REGULATIONS

Regulations. When in the opinion of the Zoning Administrator any sign is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, he may erect barricades or cause the sign to be taken down, repaired, shored, or otherwise made safe without delay, and such action may, under such circumstances, be taken without prior notice to or hearing of the owner, agents, leinholders, and occupants.

- b. All abandoned signs and their supports shall be removed within ninety (90) days from the date of abandonment. All signs structurally damaged shall be repaired or removed within ninety (90) days. The Zoning Administrator shall have the authority to grant a time extension not exceeding an additional ninety (90) days for an abandoned, non-damaged sign. If the owner, occupant, or person-in-charge, after due notice, fails or refuses to correct a violation of this Article, the Zoning Administrator shall cause such signs and their supports to be demolished and removed. If such sign cannot be demolished because it is painted on a building or other non-sign structure, such sign shall be painted over or removed by sandblasting.
- c. Any cost incurred by the County associated with the demolition, removal or repair of any sign under the provisions of this Article shall be levied, certified, and collected as a special assessment against the lot or tract of ground upon which the sign was located, which assessment, if not paid when due, shall be certified to the County Clerk for collection with other special assessments.

5. **Exemptions From Permits:** The following signs shall be exempt from paying fees and obtaining a sign permit; however such signs shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in these Regulations):

- a. Real estate sign advertising the sale, rental or lease of the premises on which the sign is displayed, with the following limitations: One (1) unlighted sign per street frontage per listing, provided that a maximum of four (4) real estate signs be permitted on a zoning lot.
- b. Temporary on-site signs placed in or upon windows of a commercial or industrial building, whether painted or attached.
- c. Nonelectrical nameplates not exceeding 2 square feet in area.
- d. Nonelectrical construction signs denoting the architect, engineer or contractor when placed upon work under construction, and not exceeding 32 square feet in area.
- e. Nonelectrical identification signs.
- f. Nonelectrical arch nameplate signs.



## **ARTICLE 28: DISTRICT SIGN REGULATIONS**

- g. Nonelectrical memorial signs or tablets giving names of persons or buildings and date of erection not to exceed twenty-five (25) square feet in size.
- h. Project title signs for subdivision identification, with the following limitations: The time period shall not exceed two (2) years, however, the Zoning Administrator may grant extensions every six (6) months until the subdivision is seventy percent (70%) developed. Such signs shall be unlighted, neither reflective nor fluorescent, and used solely for the purpose of advertising the subdivision. A permit shall be issued only after the final subdivision plat has been duly recorded. The sign shall be located at or near entrances to tract sections under construction and not more than two (2) sign structures shall be maintained in any one (1) subdivision less than forty (40) acres in size. For each additional forty (40) acres or fraction thereof, one (1) additional sign may be erected. The maximum area shall be 128 square feet for each sign. The maximum length of the sign shall be sixteen (16) feet.
- i. Signs of a duly constituted governmental body, including directional signs for public buildings and uses, traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazards, parking, swimming, dumping and other similar signs.
- j. Advertising decorations, temporarily displayed during special event periods only, such as grand openings, holidays, carnivals and the like, with a limit of twelve (12) such events and a total time limitation of six (6) weeks within any calendar year for any business or institution.
- k. Auction signs placed along roads and highways advertising auctions off said roads or highways; provided, said signs shall not be placed more than 30 days prior to said auction and shall be removed within 7 days of the completion of said auction or sale. Said signs shall not be more than 32 square feet in area and shall not be illuminated.
- l. Political signs, when located on private property with the permission of the owner or tenants, provided that not more than four (4) signs shall be allowed for each street frontage per zoning lot. Total area of all signs shall not exceed sixty-four (64) square feet per zoning lot. All signs shall be removed within seven (7) days following the election in which the candidate is elected to office or is eliminated from further participation in the election as a candidate.
- m. Flags or emblems of a government or of a political, civic, philanthropic, educational or religious organization, displayed on private property, but only if the flag or emblem is used solely as an identifying symbol and does not include advertising language.
- n. Address numerals and other signs required to be maintained by law or governmental order, rule or regulation, provided that the content and size of the sign do not exceed the requirements of such law, order, rule or regulation.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

- o. Such additional signs as "No Hunting," "No Fishing," "No Trespassing" and other like signs.
6. **Exemption From Fees:** The following signs shall be exempt from paying fees; however, a permit shall be obtained and they shall be subject to the Sign Regulations. (This exemption shall not be construed as relieving the owner of the sign from the responsibility for its meeting the structural and maintenance requirements as specified in these Regulations):
  - a. Nonelectrical bulletin boards not exceeding 32 square feet in area for public, educational, charitable, fraternal or religious institutions when such sign is located on the premises of such institution.
  - b. Directional signs.
7. **Prohibited Signs:** Any signs and supports which are located upon or over the public right-of-way, including streets, alleys and parkways, shall be prohibited; provided, however, the following exceptions shall be allowed:
  - a. Signs and supports required by governmental authority.
  - b. Signs on commercial vehicles or commercial trailers which denote the name and address of a bona fide business which owns or leases said vehicle when these vehicles are lawfully operated or parked and not used expressly for the purpose of advertising a product, service or activity.
  - c. A temporary sign located on public property used to announce a special event or activity when written authorization is granted by the Zoning Administrator that the sign will not constitute a traffic hazard or attractive nuisance, and the sign is located in a proper zone. The Zoning Administrator may utilize the opinions of both law enforcement officials and the appropriate City or County Engineer in making a determination under this provision.

### ***28-105 DESIGN AND CONSTRUCTION STANDARDS***

The design and construction of signs and sign structures shall be subject to the following standards:

1. **Ground Signs:**
  - a. **Letters, Materials to be Secured:** All letters, figures, characters, or representations in cutout or irregular form maintained in conjunction with, attached to, or superimposed upon any ground sign shall be safely and securely built or attached to the sign's structure.
  - b. **Premises to be Kept Free of Weeds, Etc.:** The premises surrounding all ground signs shall be maintained by the owner thereof in a sanitary and uncluttered condition, free and clear of all noxious substances, rubbish, litter and weeds.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

### 2. **Projecting Signs:**

- a. **Removable Parts to be Secured:** Any removable parts of projecting signs, such as a cover of a service opening, shall be securely fastened by safety chains or hinges.
  
- b. **Location:** The horizontal clearance between a projecting sign and the curb line shall be not less than 2 feet. A projecting sign projecting more than two-thirds of the distance from the property line to the curb line shall be not less than 12 feet above the ground or pavement below. A projecting sign projecting less than two-thirds of the distance from the property line to the curb line shall be not less than 8 feet above the ground or pavement below.
  
- c. **Awnings:** Awnings, whether used as a sign or not, may extend over public property not more than 7 feet from the face of a supporting building but no portion shall extend nearer than 2 feet to the face of the nearest curb line measured horizontally. In no case shall the awning extend over public property greater than two-thirds of the distance from the property line to the nearest curb in front of the building site.

### 28-106 *DISTRICT REGULATIONS*

1. **Agricultural and Single-Family Residential Districts:** The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned "AG", "RR", "SR", "R-1", "V-1" and "LW", are permitted:

- a. **Functional Types:**

- (1) Nameplate Sign.
- (2) Identification Sign.
- (3) Real Estate Sign.
- (4) Construction Sign.
- (5) Bulletin Board Sign, except for single-family dwellings.
- (6) Project Title Sign.
- (7) Directional Sign, except for single-family dwellings.
- (8) Advertising Decoration.
- (9) Political Sign.

- b. **Structural Types:**

- (1) Arch Sign.
- (2) Ground Sign.
- (3) Wall Sign.

- c. **Maximum Gross Surface Area:**

- (1) Nameplate Signs: Sixty-four (64) square feet.
- (2) Identification Signs: Eight (8) square feet.

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- (3) Construction Signs: Thirty-two (32) square feet.
- (4) Bulletin Board Signs: Twenty-five (25) square feet.
- (5) Real Estate Signs: Six (6) square feet.
- (6) Directional Signs: Five (5) square feet.
- (7) Project Title Signs: Thirty-two (32) square feet.

**d. Maximum Height:**

- (1) Fifteen (15) feet.

**e. Required Setback:**

- (1) All Permitted Signs: The front property line.

**f. Illumination:** No sign shall be illuminated, except that Bulletin Board and Identification signs may be lighted indirectly with incandescent or fluorescent lights.

**2. Single-Family and Two-Family Residential Districts:** The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned "R-1A", "R-1B", "R-1C" and "R-2", are permitted:

**a. Functional Types:**

- (1) Nameplate Sign.
- (2) Identification Sign.
- (3) Real Estate Sign.
- (4) Construction Sign.
- (5) Bulletin Board Sign, except for single-family and two-family dwellings.
- (6) Project Title Sign.
- (7) Directional Sign, except for single-family and two-family dwellings.
- (8) Advertising Decoration.
- (9) Political Sign.

**b. Structural Types:**

- (1) Ground Sign.
- (2) Wall Sign.

**c. Maximum Gross Surface Area:**

- (1) Nameplate Signs: One (1) square foot.

## ARTICLE 28: DISTRICT SIGN REGULATIONS

- (2) Identification Signs: Eight (8) square feet.
- (3) Construction Signs: Thirty-two (32) square feet.
- (4) Bulletin Board Signs: Twenty-five (25) square feet.
- (5) Real Estate Signs: Six (6) square feet.
- (6) Directional Signs: Five (5) square feet.
- (7) Project Title Signs: Thirty-two (32) square feet.

**d. Maximum Height:**

- (1) Fifteen (15) feet.

**e. Required Setback:**

- (1) Real Estate Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (2) Project Title Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (3) Political Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (4) Directional Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (5) Advertising Decoration Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (6) Construction Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (7) All Other Permitted Signs: One-half (1\2) the required setback for the district, but in no case shall any sign be place on or project over public property.

**f. Illumination:** No sign shall be illuminated, except that Bulletin Board and Identification signs may be lighted indirectly with incandescent or fluorescent lights.

**2. Multi-Family Residential Districts:** The following types of signs, along with applicable size, height, and setback requirements in classes of districts zoned "RP-3" and "RP-4", are permitted:

**a. Functional Types:**

- (1) Nameplate Sign.

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- (2) Identification Sign.
- (3) Real Estate Sign.
- (4) Construction Sign.
- (5) Bulletin Board Sign.
- (6) Project Directory Sign.
- (7) Project Title Sign.
- (8) Directional Sign.
- (9) Advertising Decoration.
- (10) Political Sign.

**b. Structural Types:**

- (1) Ground Sign.
- (2) Wall Sign.

**c. Maximum Gross Surface Area:**

- (1) Nameplate Signs: One (1) square foot.
- (2) Identification Signs: Sixteen (16) square feet.
- (3) Construction Signs: Thirty-two (32) square feet.
- (4) Bulletin Board Signs: Twenty-five (25) square feet.
- (5) Real Estate Signs:  
Single-family and two-family dwellings: Six (6) square feet.  
Multi-family dwellings: Thirty-two (32) square feet.
- (6) Directional Signs: Five (5) square feet.
- (7) Project Directory Signs: Fifteen (15) square feet.
- (8) Project Title Signs: Thirty-two (32) square feet.

**d. Maximum Height:**

- (1) Fifteen (15) feet.

**e. Required Setback:**

- (1) Real Estate Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.

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- (2) Project Title Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (3) Political Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (4) Directional Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (5) Advertising Decoration Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (6) Construction Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (7) All Other Permitted Signs: One-half (1\2) the required setback for the district, but in no case shall any sign be place on or project over public property.

f. **Illumination**: Signs may be illuminated indirectly or with internal illumination.

4. **Commercial Districts**: The following types of signs, along with applicable size, height and setback requirements in classes of districts zoned "CP-0", "CP-1", "CP-2" and "CP-3", are permitted:

a. **Functional Types Permitted**:

- (1) Advertising Sign.
- (2) Advertising Decoration.
- (3) Billboard, except in "CP-0" and ""CP-1" districts.
- (4) Business Sign.
- (5) Nameplate Sign.
- (6) Identification Sign.
- (7) Real Estate Sign.
- (8) Construction Sign.
- (9) Bulletin Board Sign.
- (10) Project Directory Sign.
- (11) Project Title Sign.
- (12) Political Sign.
- (13) Directional Sign.

b. **Structural Types Permitted**:

- (1) Awning, canopy and marquee signs.
- (2) Ground sign.
- (3) Roof sign.
- (4) Projecting sign.

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- (5) Pole sign.
- (6) Portable sign, subject to the restrictions of this Article.
- (7) Wall sign.

- c. **Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

- d. **Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of two hundred (200) square feet.

- e. **Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.

- f. **Required Setback:**

- (1) **Real Estate Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (2) **Project Title Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (3) **Political Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (4) **Directional Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (5) **Advertising Decoration Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (6) **Construction Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (7) **All Other Permitted Signs:** One-half (1\2) the required setback for the district, but in no case shall any sign be placed on or project over public property.



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g. **Illumination:** Illuminated signs shall be permitted.

5. **Central Business District:** The following types of signs, with applicable size, height and setback requirements, are permitted in the "CP-4" Planned Central Business district:

a. **Functional Types Permitted:**

- (1) Advertising Sign.
- (2) Advertising Decoration.
- (3) Billboard.
- (4) Business Sign.
- (5) Nameplate Sign.
- (6) Identification Sign.
- (7) Real Estate Sign.
- (8) Construction Sign.
- (9) Bulletin Board Sign.
- (10) Project Directory Sign.
- (11) Project Title Sign.
- (12) Political Sign.
- (13) Directional Sign.

b. **Structural Types Permitted:**

- (1) Awning, canopy and marquee signs.
- (2) Ground sign.
- (3) Roof sign.
- (4) Projecting sign.
- (5) Pole sign.
- (6) Portable sign, subject to the restrictions of this Article.
- (7) Wall sign.

c. **Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

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- d. **Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.
  - e. **Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.
  - f. **Required Setback:** See section 28-105(2).
  - g. **Illumination:** Illuminated signs shall be permitted.
6. **Industrial Districts:** The following types of signs, with applicable size, height and setback requirements in classes of districts zoned "IP-1", "IP-2" and "IP-3", are permitted:
- a. **Functional Types Permitted:**
    - (1) Advertising Sign.
    - (2) Advertising Decoration.
    - (3) Billboard.
    - (4) Business Sign.
    - (5) Nameplate Sign.
    - (6) Identification Sign.
    - (7) Real Estate Sign.
    - (8) Construction Sign.
    - (9) Bulletin Board Sign.
    - (10) Project Directory Sign.
    - (11) Project Title Sign.
    - (12) Political Sign.
    - (13) Directional Sign.
  - b. **Structural Types Permitted:**
    - (1) Awning, canopy and marquee signs.
    - (2) Ground sign.
    - (3) Roof sign.
    - (4) Projecting sign.
    - (5) Pole sign.
    - (6) Portable sign, subject to the restrictions of this Article.
    - (7) Wall sign.
  - c. **Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole

## ARTICLE 28: DISTRICT SIGN REGULATIONS

signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

- d. **Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.
- e. **Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.
- f. **Required Setback:**
  - (1) **Real Estate Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
  - (2) **Project Title Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
  - (3) **Political Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
  - (4) **Directional Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
  - (5) **Advertising Decoration Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
  - (6) **Construction Sign:** Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
  - (7) **All Other Permitted Signs:** One-half (1\2) the required setback for the district, but in no case shall any sign be placed on or project over public property.

EXCEPT: Temporary signs, if authorized by this Article.

- g. **Illumination:** Illuminated signs shall be permitted.
7. **Airport District:** The following types of signs, with applicable size, height and setback requirements, are permitted in the "AO" district:
- a. **Functional Types Permitted:**
    - (1) Advertising Sign.
    - (2) Advertising Decoration.

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- (3) Billboard.
- (4) Business Sign.
- (5) Nameplate Sign.
- (6) Identification Sign.
- (7) Real Estate Sign.
- (8) Construction Sign.
- (9) Bulletin Board Sign.
- (10) Project Directory Sign.
- (11) Project Title Sign.
- (12) Political Sign.
- (13) Directional Sign.

**b. Structural Types Permitted:**

- (1) Awning, canopy and marquee signs.
- (2) Ground sign.
- (3) Roof sign.
- (4) Projecting sign.
- (5) Portable sign, subject to the restrictions of this Article.
- (6) Wall sign.

**c. Number of Signs Permitted:** Any of the functional types approved for this district with no more than one ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 250 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs, plus one (1) additional ground or pole sign for every additional 200 feet of frontage; or the owner may elect to combine two (2) or more such signs, where permitted, into one (1) ground or pole sign thereby allowing a fifty percent (50%) area increase for each sign that is eliminated, with a maximum allowable sign area not to exceed the maximum gross surface area.

**d. Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal foot of lot, provided no single sign shall exceed a gross surface area of 200 square feet.

**e. Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less; provided, in no case shall a sign exceed the height restrictions in the "AO" Airport Overlay district.

**f. Required Setback:**

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- (1) Real Estate Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (2) Project Title Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (3) Political Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (4) Directional Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (5) Advertising Decoration Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (6) Construction Sign: Ten (10) feet measured from the curb or roadway line, but not in the right-of-way.
- (7) All Other Permitted Signs: One-half (1\2) the required setback for the district, but in no case shall any sign be placed on or project over public property.

EXCEPT: Temporary signs, if authorized by this Article.

**g. Illumination**: Illuminated signs shall be permitted.

**8. Portable Signs**: Portable signs shall conform to the following regulations:

- a.** Portable signs shall only be permitted in the "CP-1", "CP-2", "CP-3", "CP-4", "IP-1", "IP-2" and "IP-3" districts.
- b.** Portable signs shall be setback a minimum of ten (10) feet as measured from the curb or roadway line to the nearest extremities of the sign, and shall not be located so as to hinder visibility or the interfere with the free and safe movement of traffic.

**9. Conditional Uses**: The following types of signs, along with applicable size, height and setback requirements are permitted with any of the allowed Conditional Uses as an accessory structure, provided they are approved as part of the Conditional Use Permit and are specifically indicated by functional type on the approved Development Plan:

**a. Functional Types Permitted**:

- (1) Advertising Sign.
- (2) Advertising Decoration.
- (3) Billboard.
- (4) Business Sign.

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- (5) Nameplate Sign.
- (6) Identification Sign.
- (7) Real Estate Sign.
- (8) Construction Sign.
- (9) Bulletin Board Sign.
- (10) Project Directory Sign.
- (11) Project Title Sign.
- (12) Political Sign.
- (13) Directional Sign.

**b. Structural Types Permitted:**

- (1) Awning, canopy and marquee signs.
- (2) Ground sign.
- (3) Roof sign.
- (4) Projecting sign.
- (5) Pole sign.
- (6) Portable sign, subject to the restrictions of this Article.
- (7) Wall sign.

- c. Number of Signs Permitted:** Any of the functional types approved for this category, with no more than one (1) ground or pole sign permitted for each zoning lot having frontage on a public right-of-way. The maximum sign area of said ground or pole sign shall not exceed 200 square feet.

EXCEPTION: Where a zoning lot has a frontage greater than 330 feet along the same right-of-way, such zoning lot is permitted to have two (2) ground or pole signs.

- d. Maximum Gross Surface Area:** The combined area of all signs shall not exceed four (4) square feet of area for each lineal frontage foot of the zoning lot, provided no single sign shall exceed a gross surface area of 200 square feet.

- e. Maximum Height:** Thirty (30) feet above the highest point of the principal structure, or fifty (50) feet above ground level, whichever is less.

**f. Required Setback:**

- (1) Pole Signs: No closer to any lot line than the height of the sign.
- (2) All Other Permitted Signs: The front property line.

- g. Illumination:** Illuminated signs shall be permitted.

- 10. Billboard Signs:** Billboard signs shall conform to the following requirements:

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- a. Billboard signs shall be located a minimum of eighty (80) feet from a residential property line.
- b. The gross surface area of any billboard sign shall not exceed 200 square feet.
- c. There shall be a minimum separation of 300 feet between all billboard signs along any state or federal highway and a minimum separation of 500 feet between all billboard signs along any interstate.
- d. Billboard signs shall have a minimum setback of thirty (30) feet from the property line, measured from the closest edge of the sign structure to the closest property line.
- e. Billboard signs shall have a maximum height of thirty-five (35) feet.
- f. All lighting of billboard signs shall be so shielded as not to produce intensive or excessive light or glare on adjacent property or roadways.
- g. In addition to the requirements of subsection (10)(a, c-d and f) above, and notwithstanding the restrictions in (10)(b and e) above, billboard signs erected along or intended to be viewed from the Kansas Turnpike or Interstate 70 shall be subject to the following additional requirements:

(1) Signs shall not be erected with sign faces which exceed 30 feet in height, 60 feet in length or 900 square feet in area, per facing, including border, trim and embellishments, but not including base or apron, supports, and other structural members;

(2) the maximum size limitations shall apply to each sign facing;

(3) two sign displays not exceeding 450 square feet each may be erected in a facing, side by side or "double decked," and double-faced, back-to-back or V-type signs shall be permitted and shall be treated as one structure with a maximum area of 900 square feet permitted for each side or facing. To be classified as "back-to-back" there must not be more than 15 feet between structures or faces, to allow for crossbracing;

(4) the area of any sign structure shall be measured by the smallest square, rectangle, circle or combination thereof which will encompass the area of the sign display or displays;

(5) the height of any portion of the sign structure, excluding cutouts or extensions, as measured vertically from the adjacent edge of the road grade of the main traveled way shall not exceed 50 feet;

## **ARTICLE 28: DISTRICT SIGN REGULATIONS**

(6) cutouts or extensions shall be permitted on legal conforming signs at a size not to exceed 30% of the size of the main display area, with a maximum extension of five feet along the top edge, two feet along the sides and 1 1/2 feet along the bottom of the main display area. Cutouts or extensions shall not be permitted where the configuration and size requirements of this subsection will be exceeded.

### ***28-107 NONCONFORMING SIGNS***

Every sign in existence at the time these Sign Regulations become effective may continue in existence subject to the following:

1. It shall not be altered structurally or moved unless it is made to comply with the provisions of these Regulations. However, the changing of the movable parts of an existing sign that is designed for such changes, or the repainting or changing of display matter shall not be deemed a structural alteration.
2. The lawful use of a sign existing on the effective date of these Regulations, although such sign does not conform to the provisions hereof, may continue; but if usage of such sign 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 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 Regulations. Any sign which has been damaged to an extent less than fifty percent (50%) may be restored to its condition which existed as a nonconforming use prior to its damage



**ARTICLE 29: DISTRICT HEIGHT, AREA, AND BULK REGULATIONS**

<i>DISTRICT</i>	Maximum Height of Building		Minimum Yard Requirement in Feet			Minimum Lot Dimensions in Feet		Minimum Lot Area in Square Feet
	Feet	Stories	Front Yard	Side Yard (A)	Rear Yard	Width	Depth	
"AG" Agricultural (B)			75(C)	50(C)	50(C)	660	660	40 acres(D)
"RR" Rural Residential (B)	35	2 ½	75	50	50	330	330	10 acres
"SR" Suburban Residential (B)	35	2 ½	50	30	50	165	250	43,560 or 1acre
"R-1" Single-Family Residential (B)	35	2 ½	30	15	20	100	150	20,000
"V-1" Village District (B)	35	2 ½	30	10	20	-	-	-
"LW" Lake Wabauensee District (B)	35(E)	2 ½ (E)	20	5	20	50	100	5,000
"R-1A" Single-Family Residential	35	2 ½	30	10	20	75	100	10,000
"R-1B" Single-Family Residential	35	2 ½	30	5	20	65	100	7,000
"R-1C" Single-Family Residential	35	2 ½	30	5	20	40	100	5,600
"R-2" Two-Family Residential	35	2 ½	30	5	20	40	100	7,000/3,500 (F)
"RP-3" Planned Medium Density Residential	45	3	30	10	20	65	100	3,500/2,000 (G)
"RP-4" Planned Apartment House	45	3	30	10	20	65	100	3,500/1,000 (H)
"CP-0" Planned Commercial Office	30	2	30	10	20	65	100	7,000
"CP-1" Planned Neighborhood Commercial	30	2	30	10	20	65	100	7,000
"CP-2" Planned General Commercial	35	3	30	10	20	65	100	7,000
"CP-3" Planned Highway Service Commercial	35	3	30	20	20	150	150	25,000
"CP-4" Planned Central Business	-	-	-	-	-	-	-	-0-
"IP-1" Planned Light Industrial	30	2	40	15	20	-	-	-0-
"IP-2" Planned Medium Industrial	30	2	40	15	25	-	-	-0-
"IP-3" Planned Heavy Industrial	45	4	40	15	25	-	-	-0-

## **ARTICLE 29: DISTRICT HEIGHT, AREA, AND BULK REGULATIONS**

- (A) A side yard shall be provided on each side of the lot. The dimension given is for one side only.
- (B) Requirements apply only to property in the unincorporated portion of Wabaunsee County and not to any property within the corporate limits of any city.
- (C) Requirements apply only to properties on major roads or highways.
- (D) Property described as 1/4 of a 1/4 of a section or as a Government Lot shall be considered "AG" Agricultural even though the property may have less than a full 40 acres of land.
- (E) For lake front lots, the maximum height shall be 30 feet and/or 2 ½ stories on the street side of the lot.
- (F) 7,000 for a single-family residence; 3,500 per unit for a multi-family residence.
- (G) 3,500 per unit for the first two units; 2,000 per unit for each unit thereafter.
- (H) 3,500 per unit for the first two units, 1,000 per unit for each unit thereafter.

**ARTICLE 30: SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**SECTIONS:**

**30-101 APPLICATION**

**30-102 MODIFICATION OF HEIGHT REGULATIONS**

**30-103 MODIFICATION OF AREA REGULATIONS**

**30-101 APPLICATION**

The regulations set forth in this Article qualify or supplement the district regulations appearing elsewhere in these Regulations.

**30-102 MODIFICATION OF HEIGHT REGULATIONS**

1. The height regulations as prescribed in these Regulations shall not apply to the following:

- Agricultural Buildings and Structures
- Belfries
- Chimneys
- Church Spires
- Conveyors
- Cooling Towers
- Elevator Penthouses
- Fire Towers
- Flag Poles
- Grain Elevators
- Monuments
- Ornamental Towers and Spires
- Smoke Stacks
- Stage Towers or Scenery Lofts
- Tanks
- Water Towers
- Lighting Poles or Standards

Provided, however, that the setbacks of the structures from all lot lines are equal to the height of the structures.

2. Public or semi-public service buildings, hospitals, institutions, or schools, when permitted, may be erected to a height not exceeding 75 feet, when the required side and rear yards are increased by at least 1 foot for each 1 foot of additional building height above the height regulations for the district in which the building is located.

**30-103 MODIFICATION OF AREA REGULATIONS**

**1. Yards, generally:**

a. Except as herein provided for accessory buildings and structures, whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required yard.

**ARTICLE 30: SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

- b. Every part of a required yard shall be open to the sky, except as authorized by this Article. Ordinary projections of sills, awnings, canopies, belt courses, air conditioning units, chimneys, cornices, and ornamental features may project to a distance not to exceed 24 inches into a required yard setback.
- c. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, school, institutional, hotel, or motel purposes, there may be more than one main building on the lot where such buildings are arranged around a court having a direct street access; provided, however:
  - (1) That said court, between buildings that are parallel or within 45 degrees of being parallel, shall have a minimum width of 30 feet for 1-story buildings, 40 feet for 2-story buildings, and 50 feet for 3-story buildings, and, in no case may such buildings be closer to each other than 15 feet;
  - (2) Where a court having direct street access is more than 50 percent surrounded by a building, the minimum width of the court shall be at least 20 feet for 1-story buildings, 30 feet for 2-story buildings, and 40 feet for 3-story buildings.
- d. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements on the lot.

**2. Accessory Buildings and Structures:**

- a. Except as herein provided, no accessory building shall project into a required yard setback along any street.
- b. Filling station pumps and pump islands may occupy the required yards; provided, however, that they are not less than 15 feet from the property line, and further provided that canopies and other similar coverings over the pumps and pump islands shall have at least 14 feet of vertical clearance and shall not project beyond the property line.
- c. Accessory, open and uncovered swimming pools and permanent barbecue grills may occupy a required rear yard, provided they are not located closer than 5 feet to the side or rear lot line. No alley may be used in meeting this requirement.
- d. Accessory storm caves which are not a part of the main building may occupy a required rear yard, provided they are not located closer than 5 feet to the side or rear lot line. No alley may be used in meeting this requirement.

**ARTICLE 30: SUPPLEMENTARY HEIGHT, AREA AND BULK REGULATIONS**

**3. Front Yards:**

- a. When an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- b. On double frontage lots, the required front yard shall be provided on each street frontage.
- c. Open, unenclosed porches, platforms, or paved terraces, not covered by a roof or canopy and which extend or project into the front and side yard shall not extend or project into the required front yard more than 10 feet or into the required side yard more than 6 feet.
- d. Where 25 percent or more of the street frontage within 330 feet of the property in question is improved with buildings that have a front yard (with a variation of 6 feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established.

**4. Side Yards:**

The minimum depth of side yards for schools, colleges, libraries, churches, community houses, and other public and semi-public buildings in "SR" Suburban Residential, "R-1" Single-Family Residential, and "V-1" Village districts shall be 25 feet, except where a side yard is adjacent to a lot used for commercial or industrial purposes, in which case the depth of the yard shall be as required in the district in which the building is located.

**5. Rear Yards:**

Open or lattice-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yard for a distance of not more than 5 feet, but only where the same are so placed as not to obstruct light and ventilation.

**6. Corner Visibility:**

No sign, fence, wall, hedge, planting, or other obstruction to vision, extending to a height in excess of 3 feet above the established street grade measured from the crown of the street, shall be erected, planted, or maintained within the visibility triangle area of a corner lot.

**7. Easements:**

No building, either a main or an accessory building, shall be constructed, moved, or altered so as to encroach onto or within a platted or recorded easement.

**ARTICLE 31: SUPPLEMENTARY USE REGULATIONS CONDITIONAL USES, ACCESSORY USES, PROHIBITED USES**

**SECTIONS:**

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**31-101 CONDITIONAL USES - PURPOSE AND INTENT**

The purpose and intent of this Article is to identify those land uses that may be established by Conditional Use, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts in the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and/or Paxico or in the unincorporated portion of Wabaunsee County. There are distinctions within this Article between what is allowed within the incorporated cities and what is allowed in the unincorporated portion of the county. In either case, the procedural requirements as well as any applicable performance standards stated herein, shall apply equally to Conditional Uses in both the cities and the county. Further, it is acknowledged that any property owner may seek a Conditional Use for any of the types of land uses indicated herein for any property within the incorporated cities or the unincorporated portion of Wabaunsee County. The subsequent approval of such request by the respective Governing Body is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a Conditional Use for any use on any property.

It is also the intent of this Article to allow the issuance of Conditional Use that provides for more than one use on any property; provided the range or type of uses is clearly delineated within the Conditional Use, the other relevant facts have been evaluated, and the approval is consistent with the spirit and intent of this Article and these Regulations. (For example: a Conditional Use in the unincorporated portion of Wabaunsee County could be approved for a "strip shopping center" along a highway where transportation and adequate water and sewage disposal services are available. The Conditional Use could indicate a range of "retail and/or service businesses" as being appropriate for this location and included in the Conditional Use.).

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***31-102 APPLICATION OF CONDITIONAL USES***

Before the location or establishment of any land use requiring a Conditional Use, or before any change of use of any land use requiring a Conditional Use existing at the time of the effective date of these Regulations, a Development Plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to and approved by the Planning Commission as specified in Articles 24 and 38 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 38 of these Regulations and shall review such Development Plan and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses; provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, that the transportation and utility services to the affected property are appropriate for the level and intensity of the proposed development, and that necessary safeguards will be provided for the protection of surrounding property, persons, and of neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of such Conditional Use including, but not limited to, those items identified for special exceptions approved by the Board of Zoning Appeals in Article 35 of these Regulations.

***31-103 QUALIFICATIONS OF EXISTING CONDITIONAL AND SPECIAL USES***

Properties with land uses operating under an existing Conditional or Special Use approved prior to the adoption of these Regulations, or that were zoned and used as commercial or industrial in the unincorporated portion of Wabaunsee County under the previous Zoning Regulations, shall be permitted to continue, but with an unapproved Conditional Use Permit. Changes in the building(s), operation(s) or use(s) of said properties shall be treated as requiring an amendment to said unapproved Conditional Use Permit and considered as provided in Section 31-102 herein.

***31-104 ADDITIONS AND CHANGES TO CONDITIONAL USES***

All subsequent requests for additions and structural alterations to Conditional Uses approved by the appropriate Governing Body shall be considered in the same procedure as outlined in Section 31-102 herein.

***31-105 CONDITIONAL USES ENUMERATED***

The following are the land uses that shall require a Conditional Use in order to be established in the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico. All other similar land uses may also be permitted by Conditional Use except those specifically listed as permitted uses in the zoning districts or as prohibited uses in these Regulations.

1. Airports, aviation fields, helio-ports, and/or landing fields, either publicly or privately held.

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2. Asphalt and/or concrete batch plant, including the ancillary or accessory stockpiling of products and materials necessary for the operation of such plants; provided however this shall not include the mining, quarrying or processing of raw materials as an ancillary or accessory activity.
3. Buildings, structures or premises for public utility services or public service corporations; including but not limited to, water treatment plants, wastewater treatment plants, pump stations, filter beds, water towers, substations, electric transmission lines, reservoirs, and utility maintenance shops and yards.
4. Cemeteries, mausoleums or crematories for the disposal of the dead.
5. Churches and church-related facilities including camps, schools, retreat centers and similar facilities; publicly-owned and operated community buildings, art gallery, museums and libraries.
6. Commercial stockyards and/or feedlots and/or corporate farms, including hog, dairy and poultry, provided:
  - a. The development plan shall include an area map showing the location of all habitable structures within 1-1/2 miles of all properties proposed to be used in the operation, including lands on which facilities and structures are to be constructed as well as land used for disposal of animal wastes by any means. All facilities and structures, including waste lagoons, shall be located a minimum of one (1) mile from all habitable structures and places frequented by the public; and all lands used for effluent disposal shall be located a minimum of one half (1/2) mile from all habitable structures and places frequented by the public. The separation requirements for lands used for effluent disposal may be reduced if the occupants of any habitable structures within said area agree in writing to waive the requirement and said agreement is recorded with the Wabaunsee County Register of Deeds.
  - b. Copies of all permit documents, plans, specifications or reports required to be submitted to the KDHE or any state agency shall be submitted with the application.
  - c. A copy of the Emergency Incident Response Plan or any other such titled or referenced document that identifies the response procedures to be followed by the operators in the event of any incident necessitating an emergency response shall be submitted with the application. The Plan shall include the names, titles and all telephone numbers to be called in the event of such an emergency.
  - d. The applicant shall identify the method to be used in the handling and disposal of all dead animals that are generated from all the operations.
  - e. The applicant shall submit a traffic study as specified in Article 38-106 herein.



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- f. If the Conditional Use Permit is approved, the applicant and all successors or operators of the facilities shall submit copies of all annual reports and documents required to be submitted to all state regulatory agencies to the Wabaunsee County Zoning Administrator who shall keep them on file.
7. Construction/demolition landfills, industrial landfills, or other such similar areas not prohibited by law, but not sanitary landfills or hazardous waste disposal facilities.
8. Contractor's shop and/or yard, including construction equipment and/or material storage areas.
9. Exposition centers and/or buildings.
10. Explosives, fireworks, ammunition, black powder, or similar material wholesale sales, storage, warehousing, and/or manufacturing.
11. Fairgrounds.
12. Fire stations.
13. Grain elevators and its accessory activities including, but not limited to, bulk fuel storage facilities, ammonia storage, tire repair facilities, etc.
14. Group Boarding Home, Group Day Care Home, Child Care Center, Day Care Center, Detention Center, Family Day Care Home, or Residential Center, except as permitted by K.S.A. 12-736 as amended, provided:
  - a. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
  - b. A letter from the Wabaunsee County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
  - c. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
  - d. When operated out of an existing or proposed residential structure, the following standards shall be met:
    - (1) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
    - (2) Outside play areas shall be fenced.

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- e. A Day Care Home with six or less clients may be granted a conditional use permit, by the Zoning Administrator without a public hearing before the planning commission provided that the other procedures in this section are followed including making an application and public notice. Notice of the denial or granting of the permit shall be given by the administrator within 21 working days of the submission of the application.
15. Hospitals, nursing or convalescent homes, congregate care facilities and retirement housing.
16. Hospital or clinic for large or small animals, provided that such hospital or clinic and treatment rooms be maintained within a completely enclosed, soundproof building, and that such hospital or clinic be operated in such a way as to produce no objectionable odors outside its walls.
17. Hotels, motels, and motor hotels.
18. Judicial centers, jails, penal or correctional institutions.
19. Junkyard.
20. Keeping of exotic birds and/or animals on any tract of land, whether in a building or not.
21. Kennels, either boarding or breeding, provided:
  - a. All kennel buildings, runs and open areas shall be located at least 200 feet from property line.
  - b. All kennel runs or open areas shall be screened around such areas or at the property line. Such screening may be densely planted evergreen foliage or a solid wall or fence of masonry, wood or metal, designed so as to reduce noise and prevent the distraction or excitement of the animals.
  - c. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.
22. Laboratories; research, experimental, and/or testing.
23. Manufactured home parks, subject to the standards established in Article 32 of these Regulations.
24. Parks and playgrounds.
25. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:

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- a. The location of every tower must be such that it is at least an equal distance from all property lines as it is in height. A plot plan shall be submitted with the application.
26. Recreational or sports-related activity or facility, whether publicly or privately owned.
27. Recreational vehicle park or campground, provided:
- a. The tract to be used as a recreational vehicle park or campground shall not be less than two (2) acres in area. Under no circumstances shall a manufactured home be parked in a recreational vehicle park or campground.
  - b. The minimum area for a space for parking one trailer or recreational vehicle shall be 1,400 square feet, with minimum dimensions of 35 feet by 40 feet and with corners of each site visibly marked by a permanent marker.
  - c. The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; provided that no individual space shall be designed for direct access to a street outside the boundaries of the recreational vehicle park or campground, and that all interior access drives shall be at least 20 feet in width. All interior access drives and parking areas shall be paved with concrete or asphaltic concrete paving.
  - d. The recreational vehicle park or campground shall contain community facilities, including play space, utility rooms, parking and access roads. In addition, every recreational vehicle park or campground shall contain at least one (1) service building and shall provide one (1) additional service building for each 100 spaces. Each service building shall:
    - (1) Be located within three hundred (300) feet of the recreational vehicle park or campground;
    - (2) Be of permanent construction;
    - (3) Have one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for females; and one (1) flush-type toilet; one (1) lavatory, and one (1) shower or bathtub for males for each thirty (30) spaces. All lavatories, bathtubs, and showers shall be connected with both hot and cold running water;
    - (4) Have an accessible, adequate, safe and potable supply of cold water;
    - (5) Comply with all applicable adopted building codes regarding the construction of buildings and the installation of electrical, plumbing, heating and air-conditioning systems; and,

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- (6) Be maintained in a clean, sanitary condition and kept free of any condition that will menace the health of any occupants of the public or will constitute a menace.
  - e. The recreational vehicle park or campground shall be surrounded by an open space 50 feet wide along the street frontage with an arterial highway or section line road, and 25 feet wide along all other lot lines or street frontages. Screening at least six (6) feet in height shall be provided between the recreational vehicle park or campground and any adjoining residential area.
  - f. No recreational vehicle shall be parked closer than 25 feet to any part of any other trailer or service building and no part of a trailer or recreational vehicle shall extend closer than 5 feet to the boundaries of the individual space.
  - g. Off-street parking spaces for motor vehicles shall be provided in the ratio of one parking space per individual space; said spaces to be located in convenient location to individual spaces.
  - h. In a residential district, accessory signs, in addition to internal directional signs, shall be limited to one flat or detached sign, with sign area limited to 25 square feet. Said sign may be illuminated.
  - i. Proper provision shall be made for public water supply, sanitary sewage disposal, fire protection, refuse collection, laundry, toilet and bathing facilities. All shall be indicated on a site plan of the proposed trailer park and shall be installed and/or constructed in accordance with all other state and/or local laws and regulations. A sewage dump station shall be provided within every recreational vehicle park or campground.
  - j. The proposed recreational vehicle park or campground shall comply with all provisions of this and other federal, state and/or local laws and regulations.
- 28. Riding academies, stables and/or show arenas, indoor or outdoor rodeo arenas and/or facilities.
  - 29. Schools, preschools or kindergartens, either publicly or privately owned or operated.
  - 30. Short-Term Rental
  - 31. Truck stops and/or truck terminals.
  - 32. Zoos, commercial aquariums, or aviaries.
  - 33. Any other use not specifically listed or determined to be a permitted and/or accessory use in a district applicable to the incorporated cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico in these Regulations, or as a prohibited use.
  - 34. Sexually Oriented Business

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Provided that it shall be unlawful for any person to operate or cause to be operated any Sexually Oriented Business within one thousand (1,000) feet of the following:

- a) a church or place of worship;
- b) a school;
- c) a residential zoning district;
- d) another Sexually Oriented Business;
- e) a child care center;
- f) a public park or public building;

Or within one thousand (1,000) feet of a Major or Minor Trafficway, as Defined by these regulations.

Measurement of separation: For purposes of the above requirements, the separation distance is measured in a straight line, without regard to intervening objects or structures, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on property boundaries, or rights-of way associated with those items listed above.

One per structure: It shall be unlawful for any person to operate or cause to be operated more than one (1) Sexually Oriented Business in any building, structure, or portion thereof.

For the unincorporated portion of Wabaunsee County, the establishment of all land uses except agricultural uses and single-family uses shall require a Conditional Use. In addition to the above listed Conditional Uses, the following uses may be approved in the unincorporated portion of Wabaunsee County. Other land uses may also be permitted by Conditional Use except those specifically listed as permitted uses for those districts applicable to the unincorporated portion of Wabaunsee County or as prohibited uses in these Regulations.

- 1. Boat sales and service, including storage yard.
- 2. Bus barns or lots.
- 3. Ceramic, pottery or concrete ornament product processing, sales and/or yard.
- 4. Commercial and/or retail stores and activities not otherwise prohibited by these Regulations.
- 5. Commercial offices and office parks.
- 6. Commercial parking lots.
- 7. Convenience food stores.
- 8. Drive-in and drive-through establishments.

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9. Drive-in theatres.
10. Dwellings for resident night watchmen and caretakers employed on the premises of a business.
11. Farm machinery sales and service, including storage yard.
12. Greenhouses, nurseries and/or hydroponic farms operated as a retail business.
13. Keeping of farm animals such as horses, ponies, cows, hogs, pigs, sheep, and/or chickens on a lot or tract of less than three (3) acres.
14. Lawn and garden supply sales and service, including storage yards.
15. Manufactured home and recreational vehicle sales and service, including display yard.
16. Manufactured home as a single-family dwelling on an individual lot in the "V-1" Village District only.
17. Manufactured home subdivisions, subject to the standards established in Article 33 of these Regulations.
18. Manufacturing, processing, fabrication and assembling of any commodity except junk or salvage.
19. Membership clubs, including private clubs as defined by K.S.A. 41-2601 et seq, and subsequent amendments.
20. Mortuaries and attendant accessory activities and facilities.
21. Motor vehicle sales, service and repair.
22. Multi-family dwellings, including two-family dwellings, townhouses, garden apartments, condominiums; provided, consistent with single-family residential developments, the provision of adequate public water and sewer service, along with other public infrastructure, is necessary in order for development of said dwellings to be permitted.
23. Offices and office buildings.
24. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.
25. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, provided:
  - a. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Governing Body when the same are within 1/4 mile of any residential dwelling.

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- b. The applicant shall provide an approvable method for dust abatement on all unpaved interior roads if any part of the operation is located within 1/4 mile of any residential dwelling.
  - c. Where applicable, a maintenance agreement between the applicant and the County shall be required to maintain the roads that provide the ingress/egress to the operation.
  - d. All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of 100 horizontal feet from any road right-of-way and 30 horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface. The setback areas may be used for the erection of berms or other screening features required by the Conditional Use Permit.
  - e. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site and a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the Governing Body before reclamation work may begin. Said approval of a revised reclamation plan shall require a public hearing under the same procedure as the original Conditional Use Permit.
  - f. No building, equipment, quarry products or other materials shall be erected or stored within 100 feet of any property or right-of-way line.
  - g. A copy of the annual survey of mining operations, as required to be filed by State law with the State, shall also be filed with the Governing Body. Said annual survey applies only to underground mining activities, not to open pit mines or quarries.
26. Restaurants.
27. Sanitary landfills, hazardous waste disposal facilities, construction/demolition landfills, industrial landfills, or other such similar areas not prohibited by law.
28. Warehousing, wholesaling and storage of any commodity except junk or salvage.
29. Any other use not specifically listed or determined to be a permitted and/or accessory use in a district applicable to the unincorporated portion of Wabaunsee County in these Regulations, or as a prohibited use.
30. Commercial Wind Energy Conversion Systems are not a use that may be approved or permitted as a Conditional Use in Wabaunsee County and are specifically prohibited.

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31. Sexually Oriented Business

Provided that it shall be unlawful for any person to operate or cause to be operated any Sexually Oriented Business within one thousand (1,000) feet of the following:

- g) a church or place of worship;
- h) a school;
- i) a residential zoning district;
- j) another Sexually Oriented Business;
- k) a child care center;
- l) a public park or public building;

Or within one thousand (1,000) feet of a Major or Minor Trafficway, as Defined by these regulations.

Measurement of separation: For purposes of the above requirements, the separation distance is measured in a straight line, without regard to intervening objects or structures, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the closest point on property boundaries, or rights-of way associated with those items listed above.

One per structure: It shall be unlawful for any person to operate or cause to be operated more than one (1) Sexually Oriented Business in any building, structure, or portion thereof.

32. Commercial Solar Energy Conversion Systems are not a use that may be approved or permitted as a Conditional Use in Wabaunsee County and are specifically prohibited until June 1, 2028.

***31-106 CONTINUANCE OF A CONDITIONAL USE***

A Conditional Use shall be allowed to continue, unless specified otherwise as a condition of its original authorization, as long as all conditions placed on it are met. However, if that particular use ceases to exist for a period of six (6) months, it will forfeit its Conditional Use and will not be allowed to exist again unless a new application is made, a public hearing held, and a new Conditional Use approved in conformance with the requirements of these Regulations.

***31-107 ACCESSORY USES***

Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof, and shall be on the premises of the main use.



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**31-108 ELIGIBILITY FOR ACCESSORY USE**

The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator. If the accessory use requires an accessory structure, it shall comply with Article 31-111 and other related sections of the Regulations.

**31-109 ACCESSORY USES ALLOWED**

Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "AG" Agricultural, the following, or similar accessory uses are allowed:
  - a. Open or enclosed storage of farm materials, products or equipment; but not junk.
  - b. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.
  - c. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG" District.
  - d. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.
  - e. Wholesale or retail sales of agricultural products grown or raised on the premises or by the farm operator.
  - f. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.
  - g. Home occupations.
  - h. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:
    - Private garages
    - Guest houses
    - Home barbecue grills
    - Small storage sheds
    - Satellite dish antennas
    - Accessory off-street parking and loading spaces
  - i. **Small wind energy conversion systems.** The following conditions and restrictions shall apply to small wind energy conversion systems:

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- (1) **Minimum parcel size.** No system shall be located on a parcel of less than 20 contiguous acres.
  - (2) **Density.** No more than one (1) system shall be located on each 20 acres of parcel.
  - (3) **Spacing.** No system may be located within 300 feet of another system or a commercial wind energy conversion system.
  - (4) **Setbacks.** Every system shall meet the following minimum setbacks:
    - a. A setback from the nearest property line a distance equal to twice the height of the system, including rotor blades.
    - b. A setback from the nearest public road right-of-way a distance equal to the height of the system, including rotor blades, plus an additional 50 feet.
  - (5) **Blade height.** The lowest point of the rotor blades shall be a least 50 feet above ground level at the base of the tower.
  - (6) **Advertising.** No advertising of any kind shall be located on the system.
2. In District "RR" Rural Residential, "SR" Suburban Residential, "R-1" Single-Family Residential, "V-1" Village and "LW" Lake Wabaunsee Districts only the following accessory uses are allowed:
- a. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:
    - Accessory off-street parking and loading spaces
    - Fences or walls
    - Flag poles
    - Gates or guard houses for subdivisions
    - Guest houses
    - Home barbecue grills
    - Parabolic and satellite dish-type antennas
    - Play equipment
    - Private garages and carports
    - Servants quarters
    - Small storage sheds
    - Solar collectors
    - Swimming pools
    - Television and radio receiving antennas less than 50 feet in height

No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) Except in the "RR" Rural Residential

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and "SR" Suburban Residential Districts, the total floor area of all accessory buildings shall not exceed 1200 square feet and the sidewall height of such an accessory building shall not exceed 10 feet.

- b. The use of a manufactured home or a recreational vehicle for a temporary dwelling purposes while a site-built dwelling is being constructed on the same site.
- c. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- d. In the "RR" Rural Residential District and "SR" Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site in either of the zoning districts.
- e. Home occupations such as, but not limited to, the following:

- Accountant
- Architect
- Artist
- Attorney
- Author or writer
- Chiropractor
- Clergyman
- Cosmetologist
- Counselor
- Dentist
- Engineer
- Home crafts
- Insurance Agent
- Osteopath
- Photographer
- Physician
- Planner
- Real Estate Agent
- Seamstress/Dressmaker
- Secretary/Typist
- Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day
- Home schooling

The following conditions and restrictions shall apply to such customary home occupations:

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- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
  - (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
  - (3) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
  - (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
  - (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
- f. Small wind energy conversion systems in the “RR” Rural Residential District. The following conditions and restrictions shall apply to small wind energy conversion systems:
- (1) **Minimum lot size.** No system shall be located on a lot of less than 20 contiguous acres.
  - (2) **Density.** No more than one (1) system shall be located on each 20 acres of parcel.
  - (3) **Spacing.** No system may be located within 300 feet of another system or a commercial wind energy conversion system.
  - (4) **Setbacks.** Every system shall meet the following minimum setbacks:
    - a. A setback from the nearest property line a distance equal to twice the height of the system, including rotor blades.
    - b. A setback from the nearest public road right-of-way a distance equal to the height of the system, including rotor blades, plus an additional 50 feet.
  - (5) **Blade height.** The lowest point of the rotor blades shall be a least 50 feet above ground level at the base of the tower.
  - (6) **Advertising.** No advertising of any kind shall be located on the system.

**ARTICLE 31: SUPPLEMENTARY USE REGULATIONS CONDITIONAL USES, ACCESSORY USES, PROHIBITED USES**

3. In District "R-1A" Single-Family Residential, "R-1B" Single-Family Residential, "R-1C" Single-Family Residential, and "R-2" Two-Family Residential District, only the following accessory uses are allowed:

a. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:

Accessory off-street parking and loading spaces

Fences or walls

Flag poles

Gates or guard houses for subdivisions

Guest houses

Home barbecue grills

Parabolic and satellite dish-type antennas

Play equipment

Private garages and carports

Servants quarters

Small storage sheds

Solar collectors

Swimming pools

Television and radio receiving antennas less than 50 feet in height

No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 1200 square feet and the sidewall height of such an accessory building shall not exceed 10 feet.

b. The use of a manufactured home or a recreational vehicle for a temporary dwelling purposes while a site-built dwelling is being constructed on the same site.

c. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.

d. Home occupations such as, but not limited to, the following:

Accountant

Architect

Artist

Attorney

Author or writer

Chiropractor

Clergyman

Cosmetologist

Counselor

Dentist

Engineer

Home crafts

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Insurance Agent  
Osteopath  
Photographer  
Physician  
Planner  
Real Estate Agent  
Salesman  
Seamstress/Dressmaker  
Secretary/Typist

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

Home Schooling

The following conditions and restrictions shall apply to such customary home occupations:

- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
  - (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
  - (3) That only one (1) nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
  - (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
  - (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
4. In Districts "RP-3" Planned Medium Density Residential and "RP-4" Planned Apartment House, only the following accessory uses are allowed:
- a. Where single-family and two-family dwellings are permitted, the accessory uses permitted for said single-family and two-family dwellings are those permitted in Section 30-108 (1), above.

**ARTICLE 31: SUPPLEMENTARY USE REGULATIONS CONDITIONAL USES, ACCESSORY USES, PROHIBITED USES**

- b. Accessory buildings and uses commonly associated with multi-family residential activity, including, but not limited to, the following:

- Accessory off-street parking and loading spaces
- Fences and walls
- Flag poles
- Gates or guard houses
- Maintenance buildings for the complex
- Parabolic and satellite dish-type antennas
- Play equipment
- Power generators
- Recreation areas and buildings, clubhouses
- Swimming pools
- Television and radio receiving antennas less than 50 feet in height
- Trash collection centers
- Vending machines, mail rooms and laundry facilities in common areas

No accessory building or use shall occupy a required front yard (except flag poles and fences as permitted.) The total floor area of all accessory buildings shall not exceed 1200 square feet and the sidewall height of such an accessory building shall not exceed 10 feet.

- c. Home occupations such as, but not limited to, the following:

- Accountant
- Architect
- Artist
- Attorney
- Author or writer
- Chiropractor
- Clergyman
- Cosmetologist
- Counselor
- Dentist
- Engineer
- Home crafts
- Insurance Agent
- Osteopath
- Photographer
- Physician
- Planner
- Real Estate Agent
- Salesman
- Seamstress/Dressmaker
- Secretary/Typist

**ARTICLE 31: SUPPLEMENTARY USE REGULATIONS CONDITIONAL USES, ACCESSORY USES, PROHIBITED USES**

Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

Home schooling

The following conditions and restrictions shall apply to such customary home occupations:

- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
  - (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
  - (3) That only one (1) nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
  - (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
  - (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
- d. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
5. In Districts "CP-0" Planned Commercial Office, "CP-1" Planned Neighborhood Commercial, "CP-2" Planned General Commercial, "CP-3" Planned Highway Commercial, and "CP-4" Planned Central Business District, only the following accessory uses are allowed:
- a. Awnings, subject to the restrictions in Section 28-105(2)(c).
  - b. Parking areas, loading areas, and/or private garages for motor vehicles.
  - c. Exterior lighting, including floodlighting.
  - d. Radio, television, and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
  - e. Fences or walls, including security or screen fences or walls.



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- f. Flagpoles, cooling towers and other similar uses.
  - g. Food service and vending machines for tenants.
  - h. Solar collectors.
  - i. Parabolic and satellite dish-type antennas.
  - j. Washing and other motor vehicle cleaning shall be permitted as an accessory use in service stations, provided such washing and cleaning shall not utilize more than two car stalls or more than 30 percent of the floor area in any one station, shall be a part of the main building, shall not be equipped to handle anything larger than a one ton truck, and shall not be open for use during hours when the service station is closed. Such washing and cleaning operation shall utilize the same entrance drives as the service station and may use coin-operated or attendant-operated equipment, but not continuous line or conveyor type washing equipment.
  - k. Material storage yards, in connection with retail sales of products sold on the premises, where storage is incidental to the approved occupancy of a building, provided all products and materials used or stored are in a completely enclosed building or enclosed by a masonry wall, fence or hedge no less than 6 feet in height. Storage of all materials and equipment shall not exceed the height of said wall or fence. Storage of motor vehicles used in connection with the permitted trade or business is permitted within the walls, but not including storage of heavy equipment such as road-building or excavating equipment.
6. In Districts "IP-1" Planned Light Industrial, "IP-2" Planned Medium Industrial, and "IP-3" Planned Heavy Industrial, only the following accessory uses are allowed:
- a. Awnings, subject to the restrictions in Section 27-105(2)(c).
  - b. Parking areas, loading areas and/or private garages for motor vehicles.
  - c. Exterior lighting, including floodlighting.
  - d. Fences or walls, including security or screen fences or walls.
  - e. Loading equipment.
  - f. Parabolic and satellite dish-type antennas.
  - g. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
  - h. Gate houses.

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- i. Employee recreation facilities.
- 7. In the "AO" Airport Overlay District, only the following accessory uses are allowed:
  - a. For airport uses, those accessory uses commonly associated with the airport.
  - b. For all other uses, the accessory uses herein allowed for the underlying district.

**31-110 SPECIALITY ACCESSORY USES**

The following uses, activities, or items shall be the accessory uses or restrictions allowable:

**1. Construction Sites:**

Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.

**2. Recreational Vehicles and Trailers:**

- a. Recreational vehicles may be parked in a recreational vehicle park or campground. Recreational vehicles or equipment may also be stored within any "RR", "SR", "R-1", "V-1", "R-1A", "R-1B", "R-1C" or "R-2" District, provided; said recreational vehicle or recreational equipment, as defined in these Regulations, is stored within an enclosed structure (which structure otherwise conforms to the requirements of these Regulations), or may be permanently parked upon the private property of the premise if said recreational vehicle or recreational equipment is not parked within the front yard; within the required yard along any public street; or within 10 feet of a side or rear lot line.
- b. At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes, except in a recreational vehicle park or as temporary living quarters inside the corporate limits of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico under conditions specified in Section 36-110 in these Regulations.
- c. The provisions of these Regulations regarding recreational vehicles do not apply to those businesses displaying recreational vehicles or recreational equipment for sale or service when said business is properly located.
- d. In the "LW" District, recreational vehicles or equipment may be stored within an enclosed structure (which structure otherwise conforms to the requirements of these Regulations), or may be permanently parked upon the private property of the premise if said recreational vehicle or equipment is not parked within the front yard or within the required yard along any public street. Further, no recreational vehicle

**ARTICLE 31: SUPPLEMENTARY USE REGULATIONS CONDITIONAL USES, ACCESSORY USES, PROHIBITED USES**

or equipment shall be stored upon a vacant lot unless it has obtained a Conditional Use Permit in conformance with the provisions of these Regulations.

***31-111 ACCESSORY BUILDING OR STRUCTURE USE***

Except in the 'AG' Agricultural, no accessory building or structure shall be constructed upon a lot until the construction of the main "principal" building or structure has been actually commenced, and no accessory building or structure shall be used unless the main "principal" building or structure on the lot is also being used, unless permitted by Special Exception as provided herein.

***31-112 PROHIBITED USES***

After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property in either the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico or in the unincorporated portion of Wabaunsee County, including within any Manufactured Home Park or Manufactured Home Subdivision.
2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article.
3. No cellar or basement shall be used as a dwelling.
4. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use, unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.
5. No Commercial Wind Energy Conversion System, as defined in these Regulations, shall be placed in Wabaunsee County. No application for such a use shall be considered.
6. No application for a Conditional Use shall be considered and no Conditional Use shall be issued for any person on any property which proposes as the only use the placement of an advertising sign or billboard. Further, an advertising sign or billboard permitted as an accessory structure in an approved Conditional Use shall not be built, used or remain in use unless the principal use and/or structure on the property is first built and/or currently used. Upon the cessation of the principal use and/or structure on the property, the advertising sign or billboard shall lose its standing as an accessory structure and must be removed. At no time shall an advertising sign or billboard first established under these regulations gain standing as a non-conforming use since the placement and continued use of such advertising sign or billboard is accessory to another principal structure or use.
7. Commercial Solar Energy Conversion Systems are specifically prohibited until June 1, 2028.

***31-113 AMENDMENT, SUSPENSION AND REVOCATION OF CONDITIONAL USE PERMITS***

1. Authority to Amend, Suspend or Revoke. The County Commission shall have the authority to amend, suspend or revoke any permit previously issued by it. In doing so, it shall follow the procedures set forth in this section.
2. Compliance Review. The Zoning Administrator shall conduct an annual review of all CUP's to ensure compliance with the terms of the permit and all applicable laws and regulations. This review shall be performed on the anniversary of the granting of the permit. or at any time there is a reasonable cause to review the permit. Any violations or failures to comply shall be reported to the County Commission.
3. Coordination of Enforcement. The Zoning Administrator shall have primary responsibility for the coordination of enforcement of the requirements of CUP's. He shall investigate complaints and make recommendations concerning corrective action. He shall coordinate with the County Counselor regarding enforcement actions and options. A complaint may be filed by any county officer, employee, resident or other person having knowledge of a violation of these regulations.
4. Notice of Alleged Violations. Upon receiving a complaint or determining a violation may exist, the Zoning Administrator shall make an onsite inspection. If a violation is confirmed, the Zoning Administrator shall send a letter to the permit holder informing him/her of the violation and specifying the corrective action required and a deadline for performance. The letter shall be sent by registered mail or personally delivered.
5. Warning Letter. If corrective action specified in the first letter is not taken, a second letter shall be sent informing the alleged violator of the intent to amend, suspend or revoke the permit. It will inform him/her of additional requirements and any extension of deadlines that are deemed appropriate.
6. Pre-enforcement Conference. Prior to initiating any enforcement action the Zoning Administrator shall confer with the County Counselor and the County Commission to consider the enforcement options and decide on a course of action.
7. Procedure for Amending, Suspending or Revoking a Permit. If the decision is to amend, suspend or revoke a permit, the procedure shall be the same as that used to grant the permit. This shall include publication notice and hearing before the Planning Commission and all other requirements of K.S.A. 12-757.
8. Notice of Hearing to Amend, Suspend or Revoke a Conditional Use. The Board of County Commissioners may establish a public hearing date to consider any proposed amendment, suspension or revocation of an approved conditional use permit. Notice of the public hearing shall be made to the property owner of record and the tenant of the property via registered mail no less than 20 days before the public hearing date. In addition, notice of the hearing shall be published in the official county newspaper no less than 20 days before the hearing specifying

**ARTICLE 31: SUPPLEMENTARY USE REGULATIONS CONDITIONAL USES, ACCESSORY USES, PROHIBITED USES**

the time and place.

9. Conduct of Hearing. The Planning Commission shall receive and consider all relevant information and evidence concerning the conditional use during the public hearing. The commission shall keep an accurate written summary of the proceedings. It may continue the hearing to a specified date if necessary.

10. Recommendations by the Planning Commission. The Planning Commission shall report its findings and recommendations to the Board of County Commissioner and shall state the grounds for its recommendations.

11. Action by the County Commission Upon receipt of the recommendations of the Planning Commission, the Board of County Commissioners shall amend, suspend or revoke the permit, as appropriate, if it finds that the recommendations are based on a preponderance of evidence and information. The governing body may also override the Planning Commission or return the matter to them stating the reasons for the governing body's failure to act on their recommendations.

***31-114 GROUNDS FOR AMENDMENT, SUSPENSION OR REVOCATION OF CUP***

1. Failure to comply with conditions established for the permit.
2. The permittee has substantially expanded or deviated from its original intent and use.
3. That the conditional use has become a violation of the law or a nuisance.
4. There has been a violation of these zoning regulations.

**ARTICLE 32: MANUFACTURED HOME PARK STANDARDS**

**SECTIONS:**

**32-101 PURPOSE**

**32-102 USE REGULATIONS**

**32-103 DEVELOPMENT PLAN APPROVAL AND MANUFACTURED HOME PARK PERMIT PROCEDURES**

**32-104 LOT AREA AND YARD REQUIREMENTS**

**32-105 PERFORMANCE STANDARDS**

**32-106 PERMITS FOR PLACEMENT OF MANUFACTURED HOMES**

**32-107 STRUCTURAL QUALITY OF MANUFACTURED HOMES**

**32-108 PENALTY FOR NONCOMPLIANCE**

**32-101 PURPOSE**

The standards, regulations and restrictions set forth in this Article are the standards, regulations and restrictions for Manufactured Home Parks in both the cities and the unincorporated portion of the county as authorized in Article 31 of these Regulations. These standards, regulations and restrictions are intended to accommodate the grouping of manufactured home sites for use under a rental or lease arrangement. The planning requirements in this Article are intended to provide a safe and healthful living environment and to assure the mutual compatibility of manufactured home parks with adjoining land uses.

**32-102 USE REGULATIONS**

Whenever a Conditional Use has been granted under the provisions and procedures outlined in Article 31 authorizing a Manufactured Home Park; no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered within the land or premises so authorized as a Manufactured Home Park, except for one or more of the following uses:

1. Manufactured homes located in Manufactured Home Parks used exclusively for single-family occupancy.
2. Residential-design manufactured home.
3. Service buildings common to Manufactured Home Parks which provide such services as storm shelters, laundry facilities, sanitary facilities, recreational facilities, park management buildings, maintenance buildings and community buildings.

**32-103 DEVELOPMENT PLAN APPROVAL AND MANUFACTURED HOME PARK PERMIT PROCEDURES**

The construction, alteration or extension of any Manufactured Home Park shall not be permitted unless a Manufactured Home Park permit has been issued by the Zoning Administrator in the name of the person proposing the specific construction, alteration or extension. No permit for a Manufactured Home Park shall be issued until the Conditional Use and Development Plan has been approved as provided in Article 31.

## **ARTICLE 32: MANUFACTURED HOME PARK STANDARDS**

1. **Development Plan Approval:** Application for a Conditional Use for a Manufactured Home Park and development plan approval shall be made in accordance with the procedures outlined in Article 31 of these Regulations. The application shall include a Development Plan prepared at a scale of 1"=100' and shall include, either displayed on or attached to the Development Plan and in addition to the information required in Article 24, the following information:
  - a. Name and address of the owner/applicant.
  - b. Location and legal description of the Manufactured Home Park.
  - c. Topographic survey of the property with contour intervals of 2 feet, natural features and existing utilities.
  - d. The area and dimensions of the tract of land proposed for the Manufactured Home Park.
  - e. The number, location and dimensions of all manufactured home lots, including proposed setbacks of manufactured homes from the Park's exterior property lines and setbacks on individual lots.
  - f. The location and width of roadways and walkways.
  - g. The number, location and size of all parking stalls and parking areas.
  - h. Plans for the water supply, refuse and sewage disposal facilities, electrical service and gas service, including the location of riser pipes and other utility hookups.
  - i. The location of water, sewer, gas, electrical, and other utility lines and easements protecting these utilities.
  - j. Plans for controlling surface drainage.
  - k. The location of recreation areas, storm shelters, storage areas, laundry areas, and other facilities and/or service buildings common to the Manufactured Home Park.
  - l. The location and description of the lighting system.
  - m. Plans for screening through the use of plant material, fencing and other landscaping structures and features.
  - n. Other information as may be requested by the Planning Commission or the appropriate Governing Body.

The Planning Commission shall review the Development Plan as part of the review of the Conditional Use request and include its recommendations regarding the approval or denial of the Development Plan to the appropriate Governing Body with the recommendations concerning the Conditional Use, or may request such modifications to the proposed

## **ARTICLE 32: MANUFACTURED HOME PARK STANDARDS**

Development Plan as are deemed necessary to carry out the spirit and intent of this Article. Approval by the appropriate Governing Body shall constitute approval and permanency of the Development Plan.

2. **Application for a Manufactured Home Park Permit:** Application for a Manufactured Home Park permit to construct, alter or extend any Manufactured Home Park shall be made to the Zoning Administrator. The application shall be accompanied by the following information:
  - a. Engineering plans and specifications of the water supply and distribution system approved by the water supplier, or the documentation for the proposed individual water supply system.
  - b. Plans and specifications for the proposed on-site wastewater disposal systems, including location plans for each proposed lot for said systems and their relationship to any proposed on-site water wells.
  - c. Plans and specifications for the lighting and electrical systems.
  - d. Plans and specifications for gas lines.
  - e. Plans and specifications for streets.

All review comments regarding engineering aspects from the Wabaunsee County Health Department, Kansas State Department of Health and Environment, City and/or County Engineer and other appropriate persons and agencies shall be directed to the Zoning Administrator. The Zoning Administrator shall issue a Manufactured Home Park permit when he or she is assured that the construction, alteration or extension shall be in compliance with the Development Plan as approved by the appropriate Governing Body and the provisions of this Article. No Manufactured Home Park permit shall be issued for the alteration or extension of an existing Manufactured Home Park, whether same is conforming or nonconforming to these Regulations, unless the entire Manufactured Home Park is brought to the standards established in these Regulations.

### ***32-104 LOT AREA AND YARD REQUIREMENTS***

The location of manufactured homes, common facilities and service buildings should be arranged within the Manufactured Home Park in a manner which provides optimum open space and accessibility and compatibility of uses. Likewise, the size and orientation of individual lots within a Manufactured Home Park should be designed to provide maximum outdoor living area and a compatible relationship between the manufactured home, parking, storage building area, utility corridor and outdoor living space. The following minimum requirements shall be observed in all Manufactured Home Parks:

1. **Manufactured Home Park:**
  - a. **Size:** A Manufactured Home Park shall be at least five (5) acres.



## ARTICLE 32: MANUFACTURED HOME PARK STANDARDS

- b. **Density:** A Manufactured Home Park shall not be developed at a gross density greater than seven (7) manufactured homes for every one (1) net acre of land, excluding road rights-of-way and common open spaces within the Manufactured Home Park.
- c. **Yard Requirement:** No part of any manufactured home or other building or structure shall be located within 50 feet of any public road right-of-way, nor within 25 feet of any exterior property line of the Manufactured Home Park.

### 2. Individual Manufactured Home Lot:

- a. **Lot Area:** Each manufactured home lot to be occupied by a single-wide unit shall consist of at least 4,500 square feet, with a minimum width of 45 feet and a minimum length of 100 feet. Each manufactured home lot to be occupied by a double-wide unit shall consist of at least 5,000 square feet, with a minimum width of 55 feet and a minimum length of 90 feet.
- b. **Front Yard:** Each lot shall have a front yard of at least 20 feet measured from the edge of the pavement to the closest point of the lower face of the manufactured home. The front yard may be reduced to 10 feet when on-street parking is provided along the same side of the street.
- c. **Side Yard:** Each lot shall have a side yard on both sides of the manufactured home. The combined total side yard requirement shall be 25 feet with the minimum side yard being 10 feet. There shall be a minimum separation between manufactured homes on adjoining lots of 25 feet.
- d. **Rear Yard:** Each lot shall have a rear yard of at least 15 feet.
- e. **Maximum Height:** No manufactured home or other building or structure shall exceed 20 feet in height.

### 32-105 PERFORMANCE STANDARDS

Minimum requirements pertaining to structural, design, utility service, and maintenance features within a Manufactured Home Park shall be as follows:

- 1. **Utilities:** Sanitary sewer and water facilities shall be provided for each lot within the Manufactured Home Park. All manufactured homes within the Manufactured Home Park shall be served by a central water supply adequate to provide fire protection by hydrants, and by a public sanitary sewer system.

All utility lines shall be placed underground and there shall be no overhead wires or support poles except those required for street or other lighting purposes.

- 2. **Streets:** All internal streets shall be asphalt or concrete surface and shall be durable and well drained under normal use and weather conditions. The surface shall be maintained free of cracks, holes and other hazards by the Manufactured Home Park management. All

## ARTICLE 32: MANUFACTURED HOME PARK STANDARDS

internal streets shall be owned and maintained by the owner of the Manufactured Home Park.

Grades of all streets shall be sufficient to insure adequate surface drainage. Grades shall not exceed 8 percent.

Minimum pavement widths shall be as follows:

- a. Entrance streets and all other streets with parking allowances on both sides of the street shall be a minimum of 42 feet in width.
  - b. Streets with parking allowance on one side only shall be a minimum of 32 feet in width.
  - c. Streets with no parking allowance shall be a minimum of 24 feet in width.
3. **Manufactured Home Pad:** A concrete pad shall be provided on every manufactured home lot to accommodate the manufactured home and its attached accessory structures. The pad shall be graded to insure adequate surface drainage. Anchoring facilities for the placement and tie-down of the manufactured home to secure it against accidental uplift, sliding, rotation and over-turning shall be installed before any manufactured home is occupied.
  4. **Recreation:** One or more recreation areas shall be provided within every Manufactured Home Park. The size of such recreation area(s) shall not be less than 10 percent of the gross area of the Manufactured Home Park and shall be located so as to be easily accessible to all Park residents. Recreation areas shall be maintained by the Park management and may include space for community building(s) and community use facilities such as indoor recreation, meeting rooms and similar uses.
  5. **Parking:** Adequate parking shall be provided for the use of Park residents and guests. Each manufactured home lot shall have parking for at least two (2) motor vehicles. The parking spaces may be provided on-street or off-street. A parking space shall be a minimum of 9 feet by 19 feet.
  6. **Skirting:** Skirting of a durable type of material and construction shall be installed on each manufactured home to enclose the open space between the bottom of the manufactured home floor and the grade level of the manufactured home pad. Such skirting shall be constructed of noncombustible material consistent with the exterior surface of the manufactured home and maintained in a manner to enhance the appearance of the Manufactured Home Park.
  7. **Screening:** Effective screening shall be provided along the boundary lines of the Manufactured Home Park to serve as a buffer through the use of plantings, berms or other landscaping features.

## ARTICLE 32: MANUFACTURED HOME PARK STANDARDS

8. **Lighting:** Adequate lighting shall be provided for all streets, walkways, service buildings and other facilities subject to nighttime use.
  
9. **Common Storm Shelter Facility:** A common storm shelter facility capable of providing adequate shelter from severe weather for all Manufactured Home Park residents shall be provided. The minimum size shall be fifteen (15) square feet of space within the storm shelter for each manufactured home lot within the Park. The storm shelter shall be located in as centralized location as possible to minimize the time required to reach the shelter.
  
10. **Storage Lot:** All Manufactured Home Parks shall have an area or areas set aside for the storage of boats, boat trailers, hauling trailers, motor vehicles, snowmobiles, and other equipment for seasonal or periodic use to be noncommercially operated and for the exclusive use of residents of the Manufactured Home Park. Such items listed above shall not be stored upon a manufactured home lot nor upon the streets within a Manufactured Home Park.

Storage lots shall be screened in accordance with Section 32-105(7) herein.

11. **Lot Identification:** Each manufactured home lot within the Manufactured Home Park shall be addressed in an orderly fashion and in a secure and consistent manner throughout the Manufactured Home Park. The address shall be displayed on the lot and be visible at all times.

All items listed above shall comply, where applicable, with all other rules and regulations governing any portion of the development of said Manufactured Home Park.

### ***32-106 PERMITS FOR PLACEMENT OF MANUFACTURED HOMES***

The initial placement, relocation, alteration or replacement of all manufactured homes within the Manufactured Home Park shall require a permit as specified within these Regulations. Responsibility for obtaining the required permit rests solely with the owner/operator of the Manufactured Home Park and not with the owner of the manufactured home. Failure to obtain the required permit shall subject the owner and/or operator to the provisions of Section 32-108 below.

### ***32-107 STRUCTURAL QUALITY OF MANUFACTURED HOMES***

All manufactured homes proposed to be placed in a Manufactured Home Park in the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico of the unincorporated portion of Wabaunsee County, Kansas, shall have been manufactured in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development, and the owner must show verification of such to the Zoning Administrator to assure said Administrator of compliance with these Regulations.

**ARTICLE 32: MANUFACTURED HOME PARK STANDARDS**

***32-108 PENALTY FOR NONCOMPLIANCE***

Failure on the part of a Manufactured Home Park owner and/or operator to comply with the provisions and standards of this Article shall make said owner and/or operator subject to the penalties outlined in Article 39 of these Regulations.

**ARTICLE 33: MANUFACTURED HOME SUBDIVISION STANDARDS**

**SECTIONS:**

**33-101 PURPOSE**

**33-102 USE REGULATIONS**

**33-103 SUPPLEMENTARY USE REGULATIONS**

**33-104 DEVELOPMENT PLAN APPROVAL AND PLATTING PROCEDURES**

**33-105 LOT, AREA AND YARD REQUIREMENTS**

**33-106 PERFORMANCE STANDARDS**

**33-107 STRUCTURAL QUALITY OF MANUFACTURED HOMES**

**33-101 PURPOSE**

The regulations, restrictions, requirements and standards set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations, restrictions, requirements and standards for Manufactured Home Subdivisions to be established in the unincorporated portion of Wabaunsee County only as authorized in Article 31 of these Regulations by the issuance of a Conditional Use. A Manufactured Home Subdivision is intended to accommodate manufactured homes on legally subdivided lots deeded to individual property owners. The planning requirements of this Article are intended to provide a safe and healthful living environment and to assure the mutual compatibility of manufactured home subdivisions with adjoining land uses.

**33-102 USE REGULATIONS**

In a Manufactured Home Subdivision established with a Conditional Use as authorized in Article 31 of these Regulations, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered within said Manufactured Home Subdivision, except for one or more of the following uses:

1. Manufactured homes used exclusively for single-family occupancy and in accordance with the provisions of these Articles.
2. Residential-design manufactured homes.
3. Service buildings, recreational facilities, maintenance buildings, community buildings and similar uses and buildings which exclusively serve the Manufactured Home Subdivision when held in common ownership by the property owners within the Manufactured Home Subdivision through a homeowners association or other similar organization.
4. Any use permitted or authorized in the "R-1" Single-Family Residential District.

**33-103 SUPPLEMENTARY USE REGULATIONS**

The Supplementary Uses, including permitted Accessory Uses, shall be the same as permitted or authorized for the "R-1" Single-Family Residential District as found in Article 31 of these Regulations.

## **ARTICLE 33: MANUFACTURED HOME SUBDIVISION STANDARDS**

### ***33-104 DEVELOPMENT PLAN APPROVAL AND PLATTING PROCEDURES***

The construction, alteration or extension of any Manufactured Home Subdivision shall not be permitted unless a Development Plan has been approved as part of the approval of the Conditional Use and unless the property in question has been platted in accordance with the Wabaunsee County Subdivision Regulations.

1. **Development Plan Approval:** Application for a Conditional Use for a Manufactured Home Subdivision and Development Plan approval shall be in accordance with the procedures outlined in Article 31 of these Regulations. The application shall include a Development Plan prepared at a scale of 1" = 100' and shall include, either displayed on or attached to the Development Plan and in addition to the information required in Article 24, the following information:
  - a. Name and address of the owner/applicant.
  - b. Location and legal description of the Manufactured Home Subdivision.
  - c. Topographic survey of the property with contour intervals of 2 feet, natural features and existing utilities.
  - d. The area and dimensions of the tract of land proposed for the Manufactured Home Subdivision.
  - e. The number, location and dimensions of all manufactured home lots, location of riser pipes and/or other utility hookups.
  - f. The location and width of all streets and walkways.
  - g. The number, location and size of all parking stalls and parking areas.
  - h. Plans for the water supply, refuse and sewage disposal facilities, electrical service and gas service.
  - i. The location of water, sewer, gas, electrical, and other utility lines and easements protecting these utilities.
  - j. Plans for controlling surface drainage.
  - k. The location of recreation areas, storage areas, laundry areas, and any other facilities and service buildings common to the Manufactured Home Subdivision.
  - l. The location and description of the lighting system.
  - m. Plans for screening through the use of plant materials, berming or other landscaping structures and/or features.
  - n. Other information as may be requested by the Planning Commission or the appropriate county Governing Body.

## **ARTICLE 33: MANUFACTURED HOME SUBDIVISION STANDARDS**

The Planning Commission shall review the Development Plan as part of the review of the Conditional Use request, and include its recommendations regarding the approval or denial of the Development Plan to the appropriate Governing Body with the recommendations concerning the Conditional Use, or may request modifications to the proposed Development Plan as are deemed necessary to carry out the spirit and intent of this Article. Approval by the appropriate Governing Body shall constitute approval and permanency of the Development Plan.

2. **Platting Requirements:** The construction, alteration or extension of any Manufactured Home Subdivision shall be subject to the provisions and requirements of the Wabaunsee County Subdivision Regulations. No building shall be permitted in a Manufactured Home Subdivision until a final plat has been approved in accordance with said Subdivision Regulations, after the approval of a Conditional Use in accordance with Article 31 of these Regulations. For the purpose of the Subdivision Regulations, the Development Plan of the Manufactured Home Subdivision may represent the preliminary plat and approval of the Development Plan shall constitute approval of the preliminary plat. No additional fees will be required when the above rule is applied for a Development Plan/ preliminary plat of a Manufactured Home Subdivision, however, all final plat requirements of the Wabaunsee County Subdivision Regulations must be complied with.

### ***33-105 LOT, AREA AND YARD REQUIREMENTS***

The location of manufactured homes, common facilities and service buildings should be arranged within the Manufactured Home Subdivision in a manner which provides optimum open space, accessibility and compatibility of uses. Likewise, the size and orientation of individual lots within a Manufactured Home Subdivision should be designed to provide maximum outdoor living area and a compatible relationship between the manufactured home, parking, storage building area, utility corridor and outdoor living space. The following minimum requirements shall be observed in a Manufactured Home Subdivision:

1. **Manufactured Home Subdivision:**
  - a. **Density:** A Manufactured Home Subdivision shall not be developed at a gross density greater than 1 manufactured home lot per 10,000 square feet, excluding road rights-of-way and common open spaces.
  - b. **Area:** A Manufactured Home Subdivision shall provide a minimum of 5 acre of gross subdivision area with all individual lots meeting the standards established in this Article.
2. **Individual Manufactured Home Lot:**
  - a. **Lot Area:** Each lot shall consist of at least 10,000 square feet.

## **ARTICLE 33: MANUFACTURED HOME SUBDIVISION STANDARDS**

- b. Front Yard:** Each lot shall have a front yard of at least 30 feet measured from the front lot line to the closest point of the face of the manufactured home or any accessory structure.
- c. Side Yard:** Each lot shall have a side yard of at least 10 feet on both sides of the manufactured home.
- d. Rear Yard:** Each lot shall have a rear yard of at least 20 feet.
- e. Maximum Height:** No manufactured home or accessory building shall exceed 20 feet in height.
- f. Lot Dimensions:** The minimum width of a lot shall be 100 feet. The minimum depth of a lot shall be 100 feet.

### ***33-106 PERFORMANCE STANDARDS***

Design and construction standards for streets and all utilities, except water and sewage disposal, shall comply with the Wabaunsee County Subdivision Regulations. Additional minimum requirements pertaining to structural, design, utility service and maintenance features within the Manufactured Home Subdivision shall be as follows:

- 1. Utilities:** All manufactured homes within the Manufactured Home Subdivision shall be served by a public water supply.

All manufactured homes within the Manufactured Home Subdivision shall be served by a public sanitary sewer system.

All utility lines shall be placed underground and there shall be no overhead wires or support poles except those required for street or other lighting purposes.

- 2. Streets:** All internal streets within the Manufactured Home Subdivision shall comply with the requirements of the Wabaunsee County Subdivision Regulations.
- 3. Parking:** Adequate parking shall be provided for the use of subdivision residents and guests. Each lot within the subdivision shall have off-street parking space for at least two (2) motor vehicles. Each parking space shall be a minimum of 9 feet by 19 feet.
- 4. Skirting:** Skirting of a durable type of material and construction shall be installed on each manufactured home to enclose the open space between the bottom of the manufactured home floor and the grade level of the manufactured home site. Such skirting shall be constructed of noncombustible material consistent with the exterior surface of the manufactured home and maintained in a manner to enhance the appearance of the Manufactured Home Subdivision. This rule shall not apply if the manufactured home is placed on a permanent foundation on the manufactured home lot.



**ARTICLE 33: MANUFACTURED HOME SUBDIVISION STANDARDS**

5. **Screening:** Effective screening shall be provided along the boundary lines of the Manufactured Home Subdivision to serve as a buffer through the use of plantings, berms or other landscaping features.
6. **Lighting:** Adequate lighting shall be provided for all streets, walkways, service buildings and other facilities subject to nighttime use.

All items previously cited, and any other issue concerning the placement of the manufactured home, shall comply, where applicable, with all other rules and regulations governing any portion of the development of the Manufactured Home Subdivision.

***33-107 STRUCTURAL QUALITY OF MANUFACTURED HOMES***

All manufactured homes proposed to be placed in a Manufactured Home Subdivision in Wabaunsee County, Kansas, shall have been manufactured in compliance with National Manufactured Home Construction and Safety Standards (24 CFR 3280 et seq) promulgated by the U.S. Department of Housing and Urban Development, and the owner must show verification of such to the Zoning Administrator to assure said Administrator of compliance with these Regulations.

**ARTICLE 34: NONCONFORMING USES**

**SECTIONS:**

**34-101 NONCONFORMING LOTS OF RECORD**

**34-102 NONCONFORMING USE OF LAND**

**34-103 NONCONFORMING USE OF STRUCTURES**

**34-104 DISCONTINUANCE OF NONCONFORMING USES**

**34-105 DESTRUCTION OF A NONCONFORMING USE**

**34-106 INTERMITTENT USE**

**34-107 EXISTENCE OF A NONCONFORMING USE**

**34-101 NONCONFORMING LOTS OF RECORD**

**1. In Certain Residential Districts:**

- a. In Districts "R-1", "V-1", "LW", "R-1A", "R-1B", "R-1C" and "R-2", notwithstanding the regulations imposed by any other provision of these Regulations, a single-family detached dwelling which complies with the restrictions in Section 34-101-1.b., below, may be erected or expanded on a lot that is not less than 25 feet in width and that consists entirely of a tract of land that:
  - (1) Has less than the prescribed minimum lot area, width or depth, or all three, and,
  - (2) Is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and,
  - (3) Has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulation or regulations.
- b. Construction permitted by Section 34-101-1.a., above, shall comply with all of the regulations (except lot area, width and depth) applicable to single-family dwellings in the zoning district in which the lot in question is located; provided, however, that the following front and side yard requirements shall apply in place of the front and side yard requirements otherwise applicable:
  - (1) The dwelling shall provide a yard on each side of the dwelling.
  - (2) The dwelling shall provide a front yard equal to either the required front yard or the established front yard as provided by these Regulations. In no case shall an expansion be allowed to encroach into the required front yard greater than what exists for the existing structure.
  - (3) The sum of the widths of the two side yards on each lot shall be not less than the smaller of:

**ARTICLE 34: NONCONFORMING USES**

- (a) Twenty-five percent of the width of the lot, or
- (b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district, and,
- (c) No side yard shall be less than 10 percent of the width of the lot, and in no case less than 3 feet.

**34-102 NONCONFORMING USE OF LAND**

Where open land is being used as a nonconforming use at the time of the enactment of these Regulations, and such use is the principal use and not accessory to the main use conducted in a structure, such use may be continued; provided, such nonconforming use shall not be extended or enlarged, either on the same or adjoining property. The protection afforded to nonconforming use of land by this section applies only to such land held under ownership or lease agreement for said activity on or before the effective date of these Regulations, but shall not apply to new lands purchased or leased after said date. In addition, said protection shall not apply to any activities not legal under the terms of the regulations which these Regulations replace.

**34-103 NONCONFORMING USE OF STRUCTURES**

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 hereof. 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 a structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of these Regulations.

**34-104 DISCONTINUANCE OF NONCONFORMING USES**

No land or structure or portion thereof used in whole or in part for a nonconforming use which remains idle or unused for a continuous period of six (6) months, whether or not the equipment, fixtures, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

**34-105 DESTRUCTION OF A NONCONFORMING USE**

No structure which has been damaged by any cause whatsoever to the extent of more than 50 percent of the fair market value of the structure, immediately prior to damage, shall be restored except in conformity with the provisions of these Regulations, and all rights as a nonconforming use are terminated. If a structure is damaged by less than 50 percent 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.

**34-106 INTERMITTENT USE**

The casual, intermittent, temporary or illegal use of land or structures shall not be sufficient to establish the existence of a nonconforming use. The existence of a nonconforming use on the part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.

**ARTICLE 34: NONCONFORMING USES**

***34-107 EXISTENCE OF A NONCONFORMING USE***

Whether a nonconforming use exists shall be a question of fact and shall be decided by the Zoning Administrator, subject to appeal to the Board of Zoning Appeals after public notice and hearing and in accordance with the rules of the Board and of these Regulations.

## **ARTICLE 35: THE BOARD OF ZONING APPEALS**

### **SECTIONS:**

#### **35-101 ORGANIZATION AND PROCEDURE**

#### **35-102 POWERS**

#### **35-103 VARIANCES**

#### **35-104 SPECIAL EXCEPTIONS**

#### **35-105 GUIDELINES FOR CONDITIONS**

#### **35-106 APPLICATION**

#### **35-107 STAY OF PROCEEDINGS**

#### **35-108 PUBLIC HEARING**

#### **35-109 FINDINGS AND RECORDS OF PROCEEDINGS**

#### **35-110 LAPSE OF SPECIAL EXCEPTION**

#### **35-111 DECISIONS OF THE BOARD**

#### **35-101 ORGANIZATION AND PROCEDURE**

The full membership of the Wabaunsee County Planning Commission, as established by the Governing Body, is hereby declared to be the Wabaunsee County Board of Zoning Appeals and, as such, shall function with its full membership as the Board of Zoning Appeals as referred to herein. In all instances within this Article and/or these Regulations where reference is made to the Board of Zoning Appeals, said board shall be the Wabaunsee County Planning Commission acting as the Board of Zoning Appeals.

The Board of Zoning Appeals shall administer the details of the application of these Regulations in accordance with the general rules set forth herein. The Board may adopt rules and regulations as it may deem necessary to effectuate the provisions of these Regulations.

#### **35-102 POWERS**

The Board of Zoning Appeals shall have the following powers:

1. In accordance with the specific provisions of this Article, to authorize upon appeal of specific cases such variance from the terms of these Regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these Regulations would result in unnecessary hardship, and so that the spirit of these Regulations shall be observed and substantial justice done.
2. To hear and decide those special exceptions to the terms of these Regulations upon which such Board is required to pass under these Regulations.
3. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations.

#### **35-103 VARIANCES**

The Board of Zoning Appeals shall have the power to grant the following variances:

## **ARTICLE 35: THE BOARD OF ZONING APPEALS**

1. A variation in the bulk requirements in any district so as to relieve practical difficulties or particular hardships in cases, when and where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or by reason of exceptional topographical conditions or other extraordinary or exceptional situations or conditions of such piece of property, the strict application of each regulation or restriction would result in peculiar and exceptional practical difficulties to, or exceptional hardship upon the owner of such property. Such variance shall comply, as nearly as possible, in every respect with the spirit, intent and purpose of these Regulations; it being the purpose of this provision to authorize the granting of variation only for reasons of demonstrable and exceptional hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice. Such variance shall be granted only when public safety and welfare are secured, and substantial justice done.
2. A request for a variance may be granted in such case, upon a finding by the board that **ALL** of the following conditions have been met:
  - a. 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(s) or of the applicant;
  - b. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
  - c. The strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
  - d. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare, and;
  - e. That granting the variance desired will not be opposed to the general spirit and intent of these Regulations.
3. A request for variance allowing more than 2 dwellings per each quarter/quarter (1/4 –1/4) of a section may be considered by the Board of Zoning Appeals provided that the conditions of Subdivision Regulations Article 3-104 are met where applicable.

### ***35-104 SPECIAL EXCEPTIONS***

In order to provide for adjustment in the relative locations of uses and buildings of the same or different classifications, to promote the usefulness of these Regulations as an instrument for fact finding, interpretation, application, and adjustment, and to supply the necessary elasticity to its efficient operation; special exceptions are hereby permitted by the terms of this Article. The following buildings and uses are permitted as special exceptions if the Board of Zoning Appeals

## **ARTICLE 35: THE BOARD OF ZONING APPEALS**

finds that in its opinion, as a matter of fact, such exceptions will not adversely affect the uses of adjacent and neighboring property permitted by these Regulations:

1. In the unincorporated portion of Wabaunsee County, replacing a nonconforming mobile home or manufactured home with a newer and/or larger manufactured home on the same lot; provided, said reestablished manufactured home, if approved, shall be set up in accordance with these Regulations and be properly skirted within 60 days of the placement of said manufactured home.
2. A manufactured home or recreational vehicle to be placed temporarily on an individual lot on an emergency basis on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable, and where the placement of the manufactured home or recreational vehicle will be for a period longer than six (6) months. The placement of the manufactured home or recreational vehicle for a period not greater than six (6) months is allowed under these conditions by the issuance of an administrative permit by the Zoning Administrator under Section 36-110 of these Regulations.
3. Placing a manufactured home as a second home on a lot under instances of extreme hardship or necessity as determined by the Board, provided:
  - a. The applicant shall clearly state the hardship or reason of necessity for requesting the Special Exception.
  - b. The Special Exception may be permitted for a period of up to three (3) years and may be renewed for successive three (3) year periods; provided, however, that at such time as the hardship or reason of necessity shall cease to exist, the Special Exception shall become null and void and said manufactured home shall be forthwith removed.
  - c. Such manufactured home shall be maintained in a safe and sanitary condition and shall comply with the Wabaunsee County Sanitary Code and all other applicable adopted codes and procedures of the appropriate city or of Wabaunsee County.
4. In Districts "R-1", "V-1", "LW", "R-1A", "R-1B", "R-1C", or "R-2", a private garage(s) and/or storage building(s) as an accessory building(s) for more than four motor vehicles and/or covering more than 900 square feet.
5. In the unincorporated portion of Wabaunsee County in the "RR" Rural Residential District, "SR" Suburban Residential District and the "LW" Lake Wabaunsee District, the erection and use of an accessory building or structure prior to the erection and use of a principal or main building or structure.

### ***35-105 GUIDELINES FOR CONDITIONS***

Where, in these Regulations, special exceptions are permitted, provided they are approved by the Board of Zoning Appeals where the Board is authorized to decide appeals or approve certain uses,

## **ARTICLE 35: THE BOARD OF ZONING APPEALS**

and where the Board is authorized to approve variances; such approval, decision, or authorization shall be limited by such conditions as the case may require, including, if necessary, any of the following specifications:

1. No outside signs or advertising structures except professional or directional signs.
2. Limitations of signs as to size, type, color, location or illumination.
3. Amount, direction, and location of outdoor lighting.
4. Amount and location of off-street parking and loading space.
5. Maintenance requirements including cleaning and painting of buildings, structures or facilities.
6. Type of roof (i.e., gable, flat, etc.).
7. Construction design and type of construction materials to be used.
8. Whether the buildings, if multiple buildings are proposed, can be connected or not.
9. Exit, entrance, door and window locations.
10. The type and amount of paving, landscaping, fencing, screening and other such features.
11. Hours of operation, including limitations on nighttime hours.
12. Limitations on structural alterations to existing buildings.
13. Plans for the control or elimination of smoke, dust, gas, noise or vibration caused by the proposed use.
14. Such other conditions and/or limitations that are deemed necessary.

### ***35-106 APPLICATION***

Written application for a variance, a special exception, or an appeal authorized in this Article shall be filed with the Board or its agent, upon forms and in a manner prescribed by the Board. Said application shall be submitted within 30 days of the action requiring said variance, special exception or appeal.

### ***35-107 STAY OF PROCEEDINGS***

Upon the application for an appeal of an order, requirement, decision, or determination made by an administrative official in the enforcement of these Regulations, said application shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board, after the application for appeal has been filed with him, that by reason of



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facts stated in the certificate the stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed except by a restraining order which may be granted by the Board, or by a court of competent jurisdiction on application, on notice to the Zoning Administrator and on due cause shown.

***35-108 PUBLIC HEARING REQUIRED***

The Board shall hold a public hearing on each application for an appeal, decision, variance or special exception. Applications for a variance or special exception must be accompanied with a list of property owners, and their addresses, within the same distances of the property for which the variance or special exception is being sought as is required for a rezoning as specified in Article 38 herein. On all applications, notice of the time and place of the public hearing shall be published once in the official City or County paper not less than twenty (20) days prior to the date of such public hearing. In addition, for all applications for a variance or special exception all property owners within the notification area shall be notified by mail of such public hearing and be given an opportunity to attend and be heard regarding such application for a variance or special exception.

***35-109 FINDINGS AND RECORDS OF PROCEEDINGS***

The Board of Zoning Appeals shall hold the public hearing at such prescribed time and place and shall make its findings and determinations in writing within a reasonable time from the date of filing of the application, and shall forthwith transmit a copy thereof to the applicant. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, and shall keep records of its examinations and other official actions, which shall be a public record.

***35-110 LAPSE OF SPECIAL EXCEPTIONS OR VARIANCES***

After the Board of Zoning Appeals has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of one (1) year if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted, and the provisions of these Regulations shall thereafter govern.

***35-111 DECISIONS OF THE BOARD***

In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions and may issue or direct the issuance of a permit. Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals may bring an action in the District Court of Wabaunsee County, Kansas, to determine the reasonableness of any such order or determination within thirty (30) days of the rendering of the order or determination by said Board of Zoning Appeals.

## **ARTICLE 36: ADMINISTRATION**

### **SECTIONS:**

#### **36-101 ENFORCEMENT**

#### **36-102 ZONING CERTIFICATE**

#### **36-103 APPLICATION FOR ZONING CERTIFICATE**

#### **36-104 FEES**

#### **36-105 ISSUANCE OF ZONING CERTIFICATE**

#### **36-106 REVOCATION OF CERTIFICATE**

#### **36-107 STOP ORDER**

#### **36-108 PERIOD OF VALIDITY**

#### **36-109 CERTIFICATE OF OCCUPANCY**

#### **36-110 REPORTS**

#### **36-111 ADMINISTRATIVE PERMIT**

#### **36-112 VESTING OF DEVELOPMENT RIGHTS**

#### **36-101 ENFORCEMENT**

It shall be the duty of the Zoning Administrator to enforce the provisions of these Regulations and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of these Regulations. It shall also be the duty of all officers and employees of Wabaunsee County, Kansas, to assist the Zoning Administrator by reporting any seeming violation in new construction, reconstruction or land use. In case any building is erected, constructed, reconstructed, moved, altered, repaired or converted or any building or land is used in violation of these Regulations, the Zoning Administrator is hereby authorized and directed to institute any appropriate action to put an end to such violation.

#### **36-102 ZONING CERTIFICATE**

No building, structure, or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these Regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these Regulations shall be used for any other purpose; and no use of any land or structure shall be changed to any other use, unless a zoning certificate shall first be obtained from the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these Regulations. No agricultural use or farm dwelling proposed to be established shall be required to pay any fee for said permit.

#### **36-103 APPLICATION FOR ZONING CERTIFICATE**

The application for a zoning certificate shall be by the owner of record made on forms provided by the Zoning Administrator and shall be accompanied by a site plan of the real estate upon which said application is made. Said site plan shall be drawn to scale showing the following items:

1. Legal description of the real estate involved.
2. Location and size of all buildings, structures, yards and open space.
3. Width and length of all entrances and exits to and from said real estate.
4. All adjacent and adjoining roads or highways.

## **ARTICLE 36: ADMINISTRATION**

5. Sufficient grades and elevations to establish the proper placement of buildings, adequate sewage disposal systems, the proper drainage of the property, and the applicability of possible floodplains.
6. Location and specifications of all signs, lighting, fencing, screening, landscaping and other such site improvements.

Site plans so furnished shall be filed by the Zoning Administrator and shall become a permanent record. A record of all zoning certificates shall be kept on file in the Office of the Zoning Administrator. No zoning certificate shall be issued unless the party requesting the zoning certificate has filed a deed with the Register of Deeds that shows full ownership of the real property in the name of the person requesting the certificate.

### ***36-104 FEES***

An application for a zoning certificate shall be accompanied by such fee as shall be officially specified by resolution of the Governing Body from time to time.

### ***36-105 ISSUANCE OF ZONING CERTIFICATE***

A zoning certificate shall be either issued or refused by the Zoning Administrator within 10 working days after the receipt of the application thereof, or within such further period as may be agreed to by the applicant. When the Zoning Administrator refuses to issue a zoning certificate, the applicant shall be advised of the reasons for the refusal in writing.

### ***36-106 REVOCATION OF CERTIFICATE***

A zoning certificate issued in accordance with the provisions of these Regulations may be revoked by the Zoning Administrator if he finds that prior to the completion of the structure for which the permit was issued there is a departure from the approved plans, specifications and/or requirements or conditions required under the terms of the zoning certificate, or the same was issued under false representation, or that any other provisions of these Regulations are being violated.

### ***36-107 STOP ORDER***

Failure, refusal or neglect of any property owner, or his authorized representative, to apply for and secure a valid zoning certificate, including the payment of the prescribed fee, shall be reason for the issuance of a "stop order" by the Zoning Administrator; provided said owner or authorized representative shall have been notified in writing at least 48 hours prior to the issuance of said stop order that he is in violation of regulations of the County. Said stop order shall be posted on or near the property in question, in a conspicuous place and no further construction shall proceed. Where such construction has proceeded without filing for and receiving a valid permit, the fee for the issuance of a subsequent zoning certificate shall be quadrupled.

### ***36-108 PERIOD OF VALIDITY***

A zoning certificate shall become null and void ninety (90) days after the date on which it is issued unless within such ninety (90) day period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. A zoning certificate shall

## **ARTICLE 36: ADMINISTRATION**

expire upon issuance of a certificate of occupancy as specified herein, or within one (1) year from the date of issuance of the certificate, regardless of the state of completion of the construction authorized by said certificate. Any construction not completed when a zoning certificate expires shall cease and no new construction may commence until such time as a newly issued zoning certificate is issued in conformance with this Article and these Regulations.

### ***36-109 CERTIFICATE OF OCCUPANCY***

No new or existing building or structure shall be occupied or used, and no change in the character or use of land or of a building shall occur, until a certificate of occupancy has been issued by the Zoning Administrator certifying that such building or use complies with all requirements of these Regulations and other applicable city or county rules and regulations.

### ***36-110 REPORTS***

The Zoning Administrator shall periodically report in writing to all Governing Bodies and the Planning Commission a summary of all zoning certificates and certificates of occupancy issued during the preceding period, giving details of any permitted variations, as well as the current status of all applications in process for amendments, rezonings, conditional uses, appeals, and variances. Such report shall include comments on any problems encountered in the administration of these Regulations which may need correction by amendment to these Regulations.

### ***36-111 ADMINISTRATIVE PERMIT***

A manufactured home on an individual lot may be authorized by the Zoning Administrator, on an emergency basis for a period not to exceed six (6) months, on any lot where the permanent dwelling unit has been destroyed by fire, storm or other such calamity and the dwelling unit has been rendered uninhabitable. If the authorization for the emergency placement of such mobile home unit lasts longer than six (6) months, a Special Exception may be granted by the Board of Zoning Appeals for an additional period of time, provided, the procedures for approval of Special Exceptions outlined in Article 35 herein are followed.

### ***36-112 VESTING OF DEVELOPMENT RIGHTS***

In conformance with the provisions of K.S.A. 12-764, and any subsequent amendments, the following shall apply:

1. The rights of landowners of properties platted or subdivided for residential development shall be protected for use of said land for the intended residential purposes for a period of five (5) years from the time in which such property was first platted or subdivided, provided:

## **ARTICLE 36: ADMINISTRATION**

- a. Verifiable evidence is presented showing the date in which said plat or subdivision of land was first created. Acceptable evidence shall be: signed and sealed certificates or plats of survey from a Registered Land Surveyor showing the several lots proposed to be created, whether dated or dated and recorded with the recorded with the Register of Deeds; recorded Restrictive or Protective Covenants for the development; deeds conveying land; or recorded Affidavits of Equitable Interest on contracts for deed for said tracts of land.
  - b. Within said five (5) year period actual sales occur resulting in separate owners on the tracts of land.
  - c. The division of land was legally done in conformance with the then Wabaunsee County Zoning and Subdivision Regulations.
2. Except for lots in a recorded plat, any remaining contiguous tracts of land within the area divided under this rule held in common ownership at the conclusion of said five (5) year period shall be considered an unplatted lot and subsequent divisions of said lot shall be in conformance with the Wabaunsee County Subdivision Regulations then in effect.
  3. Properties divided or platted for any use other than agricultural or residential purposes shall not be permitted to develop or further develop except in conformance with these Regulations and the Wabaunsee County Subdivision Regulations. Persons who obtain a validly issued permit under the previous Wabaunsee County Zoning Regulations shall be permitted to develop the property so long as the permit issued under the previous Wabaunsee County Zoning Regulations does not expire. Failure to start construction under said permit before the expiration of the permit shall not protect the owner from the provisions of these Regulations or the Wabaunsee County Subdivision Regulations then in effect.
  4. At the time of the initial adoption of these regulations in 1995, all lots of record within unincorporated portion of Wabaunsee County, Kansas, shall be granted zoning consistent with the appropriated zoning district they fit based upon their size according to the requirements of the zoning districts. (Example: A lot of record of 5 acres would be zoned "SR" Suburban Residential. In addition, certain properties are hereby granted "Conditional Use" without the benefit of an approved development plan as specified within these Regulations. Those properties granted Conditional Uses shall be those properties which have a legally established land use activity at the time of the adoption of these Regulations which would require Conditional Use in order to be established new under the terms of these Regulations. Further, said uses granted a Conditional Use upon the initial adoption of these Regulations shall be permitted to expand, enlarge or otherwise enhance said use on that land contiguous to and owned by the same person at the time of the establishment of this rule. (Example: A landowner operating a cattle feeding operation that would require a Conditional Use under these Regulations if it were proposed new shall be granted a Conditional Use at the time of the adoption of these Regulations. In addition, that Landowner may expand that operation on any portion of the contiguous land owned at the time the Regulations were first adopted.)

## **ARTICLE 37: SPECIAL EVENTS**

### **SECTIONS:**

#### **37-101 PURPOSE AND INTENT**

#### **37-102 SPECIAL EVENT DEFINED**

#### **37-103 SPECIAL EVENTS NOT REQUIRING A PERMIT**

#### **37-104 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT**

#### **37-105 SPECIAL EVENTS SUBJECT TO GOVERNING BODY APPROVAL**

#### **37-106 APPLICATION AND FEE**

#### **37-101 PURPOSE AND INTENT**

The purpose and intent of this Article is to provide for the temporary use of land for special events in a manner consistent with its normal use and beneficial to the general welfare of the public. Furthermore, it is the intent of this Article to protect nearby property owners, residents and businesses from special events which may be disruptive, obnoxious, unsafe or inappropriate given site conditions, traffic patterns, land use characteristics, and the nature of the proposed use. Finally, it is the intent of this Article to preserve the public health, safety and convenience.

#### **37-102 SPECIAL EVENT DEFINED**

The term "special event" shall mean a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these Regulations, for one or more of the following types of activities:

1. **Type 1.** Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
2. **Type 2.** Temporary banners attached to the wall of a building or placed across street rights-of-way.
3. **Type 3.** Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
4. **Type 4.** Commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration.
5. **Type 5.** Public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades.

The term "special event" shall not include amusement enterprises, garage sales at an individual residence, transient merchants, or off-site promotional signs.

#### **37-103 SPECIAL EVENTS NOT REQUIRING A PERMIT**

Special events meeting the Type 1 definition are allowed without a Special Event Permit, provided all of the following performance standards are met:

## **ARTICLE 37: SPECIAL EVENTS**

1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
2. Any structure use in conjunction with the special event shall meet all applicable yard setbacks, shall be the subject of a valid zoning certificate, and shall be promptly removed upon cessation of the event.
3. The special event shall be restricted to hours of operation between 6:00 a.m. and 10:00 p.m., to a maximum duration of four (4) days, and to a maximum frequency for similar events of two (2) times per calendar year.

### ***37-104 SPECIAL EVENTS SUBJECT TO AN ADMINISTRATIVE PERMIT***

Special events meeting the following standards may be issued a Special Event Permit administratively by the Zoning Administrator. In administering the provisions of this section, the Zoning Administrator shall be guided by applicable city and county policies as adopted by the appropriate Governing Body. Any applicant denied a Special Event Permit shall be notified in writing of the reasons for the denial and of the opportunity to appeal the denial to the appropriate Governing Body.

1. Special events meeting the Type 2 definition may be permitted administratively by the Zoning Administrator, provided that all of the following performance standards are met:
  - a. An application is made and a fee paid in accordance with Section 37-106.
  - b. No more than one banner will be displayed when attached to the wall of a building.
  - c. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
  - d. The banner will be displayed for a maximum duration of fifteen (15) days per permit.
2. Special events meeting the Type 3 or Type 4 definition, and Type 1 events not meeting the standards of Section 37-103, may be permitted administratively by the Zoning Administrator subject to the prior review and approval of special arrangements for traffic and crowd control by the City and/or County Engineer and the law enforcement and fire protection agency having jurisdiction. No such administrative permit shall be issued unless all of the following performance standards are met:
  - a. An application is made and a fee paid in accordance with Section 37-106.
  - b. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.

## **ARTICLE 37: SPECIAL EVENTS**

- c. The activity shall not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
- d. The special event shall not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
- e. The special event shall not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
- f. Any structure used in conjunction with the special event shall meet all sight distance requirements, shall be the subject of a valid building permit, and shall be promptly removed upon the cessation of the event.
- g. The special event shall be conducted on private property where the property owner has granted the appropriate permission.
- h. The duration and hours of operation of the special event shall be consistent with the intent of the event and the surrounding land uses, but in no case shall the duration exceed ten (10) days.

### ***37-105 SPECIAL EVENTS SUBJECT TO GOVERNING BODY APPROVAL***

Any special event not meeting the criteria of Sections 37-103 or 37-104 may be granted a Special Event Permit by the appropriate Governing Body. Such permit may be subject to such conditions and safeguards as the appropriate Governing Body may deem necessary to protect the public health, safety and welfare. These conditions may include, but shall not be limited to:

- 1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
- 2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to the expectations of the appropriate Governing Body.
- 3. The provision of traffic control or security personnel to increase the public safety and convenience.
- 4. Obtaining liability and personal injury insurance in such form and amount as the appropriate Governing Body may find necessary to protect the safety and general welfare of the community.

### ***37-106 APPLICATION AND FEE***

- 1. No Special Event Permit shall be issued until an application has been submitted to the Zoning Administrator and the appropriate fee paid. The application shall be made on forms



## **ARTICLE 37: SPECIAL EVENTS**

provided by the Zoning Administrator, and shall be accompanied by the following items as applicable:

- a. A letter from the applicant describing the proposed event, the hours of operation, the duration of the event, anticipated attendance, and any structures, signs or attention-attracting devices used in conjunction with the event.
  - b. A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
  - c. A letter from the property owner or manager, if different from the applicant, agreeing to the special event.
2. Each application for a Special Event Permit shall be accompanied by an application fee, except that such fee shall be waived for any applicant registered with the State of Kansas as a nonprofit organization. The fees shall be as established by separate resolution or ordinance by the appropriate Governing Body.
  3. The Special Event Permit shall be posted on the site for the duration of the event.

**ARTICLE 38: AMENDMENTS**

**SECTIONS:**

**38-101 WHO MAY PETITION OR APPLY**

**38-102 PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES**

**38-103 REFERRAL OF AMENDMENTS TO CITIES**

**38-104 POSTING OF SIGN**

**38-105 FACTORS TO BE CONSIDERED**

**38-106 TRAFFIC STUDIES**

**38-107 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS**

**38-101 WHO MAY PETITION OR APPLY**

Applications for amendments, revisions or changes in the Zoning District Boundary Maps in effect for the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico or for Wabaunsee County, Kansas, or for a Conditional Use as authorized by Article 31, may be made by any person who owns the land for which such an amendment, revision, change or Conditional Use is sought, or by the owner's agent as defined by these Regulations. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner and shall submit written authorization to act as agent for said owner prior to the setting of any public hearing.

Applications for amendments, revisions or changes to the Zoning Regulations, the Zoning District Boundary Maps and/or for a Conditional Use may also be made by the Planning Commission or the appropriate Governing Body; provided, such proposed amendments, revisions, changes, or Conditional Use shall first be submitted to the Planning Commission for public hearing, recommendation and report and the final decision is made by the appropriate Governing Body.

**38-102 PROCEDURES FOR CONSIDERATION OF REQUEST FOR AMENDMENTS, REVISIONS OR CHANGES**

All applications or requests for amendments, revisions or changes to the Zoning Regulations, the Zoning District Boundary Maps or for a Conditional Use shall be made to the Zoning Administrator on such forms as provided and acceptable to the Zoning Administrator. The payment of the application fee, as established by the appropriate Governing Body by separate resolution, shall be made at the time of the submission of the application. Immediately upon receipt of an application for rezoning or Conditional Use by the owner, or his agent, and the payment of the appropriate fee, the Zoning Administrator shall note thereon the date of filing and make a permanent record thereof.

All such proposed applications for amendment, revisions or changes to the Zoning Regulations and/or for a Conditional Use shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon and shall cause a written summary to be made of the proceedings. Notice of such hearing shall be published once in the official city or county newspaper at least twenty (20) days prior to the date of the hearing. Said notice shall fix the time and place for such hearing, shall give the name and address of the applicant, and shall contain a statement regarding the proposed changes in regulations or restrictions, or in the boundary or classification of any zone or district, or the requested Conditional Use.

## **ARTICLE 38: AMENDMENTS**

If the application is not a general amendment, revision or change to the Zoning Regulations, but is for a rezoning or Conditional Use Permit affecting specific property, the property affected shall be designated by legal description and a general description sufficient to identify the property under consideration. In addition to such publication notice, written notice of such proposed rezoning and/or Conditional Use shall be mailed at least twenty (20) days before the public hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered for properties within the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico and within at least 1,000 feet of the area proposed to be altered within the unincorporated portion of Wabaunsee County and to the Lake Wabaunsee Improvement District Board" for those applications within the "LW" District. If an application of a city is proposed adjacent to the city's limits, the area of notification of the city's action shall be extended to at least 1,000 feet in the unincorporated portion of the county. On applications within the unincorporated portion of Wabaunsee County said notice shall extend only 200 feet in those areas where the notification area extends within the corporate limits of a city. All notices shall include a statement that a complete legal description is available for public inspection in the office of the Zoning Administrator. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or Governing Body. The applicant shall provide a list of the owners of record of said lands at the time of the filing of the application.

In the case of an application by the Planning Commission or of a Governing Body, all the above stated requirements shall be followed except:

1. No fee shall be required.
2. If the application is for an amendment or revision to the text of the Zoning Regulations, notice of the public hearing shall not be required to be mailed to all affected persons; therefore, a list of the owners of land shall not be required.

The Planning Commission shall hold the public hearing at the place and time so stated within the legal notice. The hearing may be adjourned from time to time, and at the conclusion of the same, the Planning Commission shall take action on the request by preparing a recommendation either to approve, approve with conditions as authorized by these Regulations, or disapprove the application by a majority of the members of the Planning Commission present and voting at the hearing. When the Planning Commission fails to make a recommendation on an application, the Planning Commission shall be deemed to have made a recommendation of disapproval. Any such hearing may, for good cause at the request of the applicant, or in the discretion of the Planning Commission, be continued.

When the Planning Commission submits a recommendation of approval or disapproval of such amendment, revision, change or Conditional Use and the reasons therefor, the appropriate Governing Body may: 1) adopt such recommendation by resolution; 2) override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Governing Body; or 3) return such recommendation to the Planning Commission with a statement specifying the basis for said Governing Body's failure to approve or disapprove. If said Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the

## **ARTICLE 38: AMENDMENTS**

same, may resubmit its original recommendation giving the reasons therefor or submit a new and amended recommendation. Upon the receipt of such recommendation, said Governing Body, by a simple majority thereof, may adopt, may revise or amend and adopt, or may disapprove such recommendation by resolution, or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to said Governing Body following the Planning Commission's next regular meeting after receipt of said Governing Body's report, said Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed amendment, revision, change, or Conditional Use, if approved with or without conditions, shall become effective upon publication of the adopting ordinance of the cities or resolution of the county.

If such amendment or Conditional Use affects the boundaries of any zone or district, the ordinance or resolution shall describe the boundaries as amended, or if provision is made for the fixing of the same upon the official maps which has been incorporated by reference, the amending ordinance or resolution shall define the change or the boundary as amended, shall order the official maps be changed to reflect such amendment or Conditional Use, shall amend the section of the ordinance or resolution incorporating the same and shall reincorporate such maps as amended.

Regardless of whether or not the Planning Commission approves or disapproves a proposed zoning amendment, supplement, change, or Conditional Use, if a protest against an amendment, supplement, change or Conditional Use is filed in the office of appropriate City or County Clerk within fourteen (14) days after the date of the conclusion of the public hearing pursuant to the publication notice, duly signed and acknowledged by the owners of record of 20 percent or more of any property proposed to be rezoned, or by the owners of record of 20 percent or more of the total area required to be notified of the proposed amendment, supplement, change or Conditional Use of a specific property, excepting public streets and highways, the resolution of approval shall not be passed except by three-fourths majority vote of the appropriate Governing Body.

### ***38-103 REFERRAL OF AMENDMENTS TO CITIES***

In order to protect the area around all incorporated cities within Wabaunsee County from untimely, premature, or inappropriate development, all proposed changes in a zoning district (rezonings) or requests for a Conditional Use Permit for all property within the designated notification area of all cities within Wabaunsee County shall be submitted to said city for official review and recommendation. The notification area for each city shall be mutually agreed upon by said city and Wabaunsee County. Such area shall not exceed that area a city would be able to include within its zoning ordinance as outlined in K.S.A. 12-715b, as amended; however, it shall be limited in scope to what can be reasonably serviced by an extension of the city water and/or sewer services. The notification area may be revised by mutual agreement at any time.

The Zoning Administrator shall submit the application, along with all supporting documentation and any development plans, to the appropriate city once the application has been determined to be complete. The application shall not be set for public hearing by the Wabaunsee County Planning Commission until the expiration of the review and comment period provided herein for said city; however, the required notices may be published to set the public hearing as soon after the expiration of the 30-day review and comment period as is practical. Said city shall review such

**ARTICLE 38: AMENDMENTS**

proposed rezoning or Conditional Use request and, within 30 days of receipt thereof, may submit a written recommendation regarding said application to the Wabaunsee County Planning Commission; or may appear before the Wabaunsee County Planning Commission and present its recommendation in person; or may elect to make no comments regarding said request. Any recommendation submitted may be from either the Planning Commission or the appropriate Governing Body, whichever said city so chooses.

Notwithstanding any other provision of these Regulations or of state law; and in addition to all other rights granted to the applicant and to adjoining landowners; in the event a city recommends that a rezoning or Conditional Use proposed within said notification area be denied; then a resolution of approval of such request shall not be passed except by three-fourths majority vote of the Board of County Commissioners.

**38-104 POSTING OF SIGN**

Each applicant for a rezoning and each applicant for a Conditional Use Permit shall, within 48 hours of filing such application, place a sign upon the lot, tract or parcel of land for which the application was filed. Said sign shall be furnished by the Zoning Administrator to the applicant and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth.

Said sign shall read as follows:

REZONING PENDING

(or)

CONDITIONAL USE PERMIT PENDING

Application Number \_\_\_\_\_

From \_\_\_\_\_ To \_\_\_\_\_

PUBLIC HEARING BEFORE THE

WABAUNSEE COUNTY PLANNING COMMISSION

on

(date) \_\_\_\_\_ on \_\_\_\_\_ (time)

NOTE: Unauthorized Removal, Defacing, or Destruction of this Sign Punishable upon Conviction by Fine not exceeding \$100.00 and/or not more than thirty (30) days imprisonment.

Said sign shall be maintained and kept in place by the applicant until final disposition of such application, or until withdrawal of the application. The sign shall be removed by the applicant after final action on the application.

## **ARTICLE 38: AMENDMENTS**

The bottom of said sign shall be a minimum of two (2) feet above the ground line. Said sign shall be placed within five (5) feet of the street right-of-way line, in a position on such lot, tract or parcel of land as to have no visual obstructions thereto and to be readily seen by passersby. If the lot, tract or parcel of land has more than one (1) street abutting thereto, signs shall be placed facing all street frontages. Failure to comply with this requirement shall not deprive the Planning Commission of its jurisdiction or affect any decision, but may be due cause for the Planning Commission to refuse to hear the application or to adjourn the hearing or to require further notice.

### ***38-105 FACTORS TO BE CONSIDERED***

1. When a proposed amendment would result in a change of the zoning classification of any specific property, the recommendation of the Planning Commission, accompanied by a copy of the record of the hearing, shall contain statements as to the present classification, the classification under the proposed amendment, the reasons for seeking such reclassification, a summary of the facts presented, and a statement of the factors upon which the recommendation of the Planning Commission is based using the following guidelines:
  - a. Whether the change in classification would be consistent with the intent and purpose of these Regulations;
  - b. The character and condition of the surrounding neighborhood and its effect on the proposed change;
  - c. Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions;
  - d. The current zoning and uses of nearby properties, and the effect on existing nearby land uses upon such a change in classification;
  - e. Whether every use that would be permitted on the property as reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
  - f. The suitability of the applicant's property for the uses to which it has been restricted;
  - g. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;
  - h. Whether adequate sewer and water facilities, and all other needed public services including transportation, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
  - i. The general amount of vacant land that currently has the same zoning classification proposed for the subject property, particularly in the vicinity of the subject property,

**ARTICLE 38: AMENDMENTS**

and any special circumstances that make a substantial part of such vacant land available or not available for development;

- j. The recommendations of permanent or professional staff;
  - k. Whether the proposed amendment would be in conformance to and further enhance the implementation of the Comprehensive Plan;
  - l. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed upon the applicant by not upgrading the value of the property by such a reclassification; and,
  - m. Such other factors as may be relevant from the facts and evidence presented in the application.
2. Because of particular conditions associated with their activities, certain uses which might have an adverse effect upon nearby properties or upon the character and future development of a district are not permitted outright in districts, but are permitted as Conditional Uses when their proposed location is supplemented by additional requirements so as to make the use requested compatible with the surrounding property, the neighborhood and the zoning jurisdiction.

In approving a Conditional Use, the minimum requirements of approval for all similar types of permitted uses in the same district must be met unless otherwise reduced by specific reference in the recommendation of the Planning Commission or the approval of the Governing Body. The requirements may be made more stringent if there is potentially injurious effects which may be anticipated upon other property and the neighborhood or contrary to the welfare and convenience of the public.

The Planning Commission may recommend approval of a Conditional Use, and the Governing Body may approve such Conditional Use, using the following factors as guidelines:

- a. Whether approval of the Conditional Use would be consistent with the intent and purpose of these Regulations;
- b. Whether the location of the proposed use is compatible to other land uses in the surrounding neighborhood;
- c. Whether the proposed use places an undue burden on the existing transportation and service facilities in the area affected and, if so, whether such additional transportation and service facilities can be provided;
- d. Whether the proposed use is made necessary or desirable because of changed or changing conditions in the area affected;

## **ARTICLE 38: AMENDMENTS**

- e. The length of time the subject property has remained vacant or undeveloped as zoned; provided, the use of land for agricultural purposes shall be considered as viable use of the land and not be considered as allowing the land to be vacant or undeveloped;
- f. Whether the applicant's property is suitable for the proposed use;
- g. The recommendations of permanent or professional staff;
- h. Whether the proposed Conditional Use would be in conformance to and further enhance the implementation of the Comprehensive Plan;
- i. Whether the relative gain to the public health, safety, and general welfare outweighs the hardship imposed on the applicant by not upgrading the value of the property by approving the proposed Conditional Use; and,
- j. Whether the proposed Conditional Use, if it complies with all the conditions upon which the approval is made contingent (as authorized in Article 17 of these Regulations), will not adversely affect the property in the area affected.
- k. Such other factors as may be relevant from the facts and evidence presented in the application.

### ***38-106 TRAFFIC STUDIES***

In the case of an application for rezoning of land or for a Conditional Use Permit for a use which may, in the opinion of the Planning Commission or Governing Body, substantially change traffic patterns, or create traffic congestion, either the Planning Commission or Governing Body may require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such traffic study shall show that the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner, that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner and that no undue burden will be placed upon the existing public street system.

The results of the traffic study shall be used in determining the impact of the proposed rezoning or Conditional Use Permit and guide the development of a recommendation or decision regarding the same.

### ***38-107 LIMITATIONS ON REAPPLICATION FOR AMENDMENTS***

Whenever an application for amendment, supplement, change, rezoning or Conditional Use Permit has been denied by the Governing Body, such application or one substantially similar shall not be reconsidered sooner than one (1) year after the said denial.



**ARTICLE 39: INTERPRETATION, CONFLICT, REMEDIES, AND PENALTY**

**SECTIONS:**

**39-101 INTERPRETATION AND CONFLICT**

**39-102 REMEDIES AVAILABLE**

**39-103 PENALTY**

**39-101 INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of these Regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, convenience, comfort, prosperity, or general welfare. It is not intended by these Regulations to interfere with, or abrogate or annul any easements, covenants or other agreement between parties. Where the conditions or requirements imposed by the provisions of these Regulations are either more restrictive or less restrictive than comparable conditions or restrictions imposed by any other provision of any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall apply.

If any property within the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico is not given a zoning classification on the Zoning District Boundary Maps because of error or omission, such property shall be classified "R-1B" Single-Family Residential until changed by amendment.

If any property in the unincorporated portion of Wabaunsee County is not given a zoning classification on the Zoning District Boundary Maps because of error or omission, such property shall be classified "AG" Agricultural until changed by amendment.

**39-102 REMEDIES AVAILABLE**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, moved, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of these Regulations, the Zoning Administrator, City or County Attorney, or other appropriate authority of the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland or Paxico or of Wabaunsee County, Kansas, may, in addition to all other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, relocation, alteration, conversion, maintenance, or use, or to correct or abate such violation, or to prevent the occupancy of a building, structure or land.

**39-103 PENALTY**

Any person or corporation who shall violate any of the provisions of these Regulations or fail to comply herewith, or with any of the requirements thereof; or who shall build or alter any building in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor and, upon conviction thereof, shall be liable to a fine of not more than five hundred dollars (\$500.00) and/or imprisonment for not more than six (6) months for each offense and each day such violation shall be permitted to exist shall constitute a separate offense. The owner of any building or premises or part thereof, where anything in violation of these Regulations shall be placed, or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith, and who assisted in the commission of any such violation, shall be guilty

**ARTICLE 39: INTERPRETATION, CONFLICT, REMEDIES, AND PENALTY**

of a separate offense and upon conviction thereof shall be subject to the same fine as hereinbefore provided.

**ARTICLE 40: MISCELLANEOUS**

**SECTIONS:**

**40-101 VALIDITY**

**40-102 ACCRUED RIGHTS AND LIABILITIES SAVED**

**40-103 SEVERABILITY**

**40-104 EFFECTIVE DATE**

**40-105 REPEALING CLAUSE**

**40-101 VALIDITY**

If any section, paragraph, subdivision, clause, phrase, or provision of these Regulations shall be adjudged invalid or held unconstitutional the same shall not effect the validity of these Regulations as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional. All regulations or parts of regulations in conflict herewith are hereby repealed.

**40-102 ACCRUED RIGHTS AND LIABILITIES SAVED**

The repeal of the existing Zoning Regulations provided in Section 40-105 herein shall not affect any rights accrued, fines, penalties, forfeitures, or liabilities incurred thereunder, or actions involving any of the provisions of said Regulations or parts thereof. Said Regulations below repealed are hereby continued in force and effect, after the passage, approval and publication of these Regulations, for the purpose of such rights, fines, penalties, forfeitures, liabilities or actions thereof.

**40-103 SEVERABILITY**

Each article, section and subdivision or a section of these Regulations are hereby declared to be independent of every other article, section, or subdivision or section, so far as inducement for the passage of these Regulations is concerned.

**40-104 EFFECTIVE DATE**

These Regulations, being designated as the "Zoning Regulations of Wabaunsee County, Kansas," shall be in full force and effect from and after its passage and publication in accordance with K.S.A. 12-3301 through 12-3305 for Wabaunsee County and after publication in accordance with K.S.A. 12-3009 through 12-3012 for the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico.

**40-105 REPEALING CLAUSE**

The adoption of these Regulations repeals all existing Zoning Regulations in effect in the cities of Alma, Alta Vista, Eskridge, Harveyville, Maple Hill, McFarland and Paxico, as well as all existing Zoning Regulations in effect in the unincorporated portion of Wabaunsee County, Kansas, in their entirety.