

LYON COUNTY, KANSAS

ZONING AND SUBDIVISION REGULATIONS

PREPARED AND RECOMMENDED BY THE LYON COUNTY PLANNING BOARD

AND

ADOPTED BY THE BOARD OF LYON COUNTY COMMISSIONERS

RESOLUTION #09-03

ASSISTED BY Russell Schoenberger

Title

NOTICE!

THESE REGULATIONS SHALL NOT APPLY TO THE USE OF LAND FOR AGRICULTURAL PURPOSES, NOR FOR THE ERECTION OR MAINTENANCE OF BUILDINGS, THEREON FOR SUCH PURPOSES SO LONG AS SUCH LAND AND BUILDINGS ARE USED FOR AGRICULTURAL PURPOSES AND NOT OTHERWISE. (See K.S.A. 12-758)

K.S.A. 12-758. Same: existing uses: alterations: agricultural land exempted, exception. (a) Except as otherwise provided by this section and K.S.A. 12-770 and 12-771, and amendments thereto, regulations adopted under authority of this act shall not apply to the existing use of any building or land, but shall apply to any alteration of a building to provide for a change in use or a change in the use of any building or land after the effective date of any regulations adopted under this act. If a building is damaged by more than 50% of its fair market value such building shall not be restored if the use of such building is not in conformance with the regulations adopted under this act.

(b) Except for flood plain regulations in areas designated as a flood plain, regulations adopted by a city pursuant to K.S.A. 12-715b, and amendments thereto, or a county pursuant to this act shall not apply to the use of land for agricultural purposes, not for the erection or maintenance of buildings thereon for such purposes so long as such land and buildings are used for agricultural purposes and not otherwise.

LYON COUNTY ZONING REGULATIONS

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LYON COUNTY ZONING REGULATIONS

ARTICLE 1. TITLE, PURPOSE, AND JURISDICTION

101. TITLE

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

102. PURPOSE

These regulations adopted pursuant to the provisions of Kansas State Statutes are intended to serve the following purposes:

- A. Promote and serve the public health, safety, morals, comfort, and general welfare of the citizens of Lyon County, Kansas.
- B. To conserve good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate agricultural use.
- C. To create a variety of zoning districts with varying intensities of uses and standards.
- D. Obtain the objectives of the Lyon County Comprehensive Plan.
- E. Preserve and protect property values.
- F. Prevent overcrowding of land.
- G. Provide adequate light and air.
- H. Avoid undue concentration of population.
- I. Regulate and restrict the use of land and location, and size of structures.
- J. Provide adequate notice of changes to these regulations and an opportunity for interested persons to be heard.

103. CONSISTENCY WITH THE COMPREHENSIVE PLAN

These regulations are intended to be consistent with the adopted Comprehensive Plan of Lyon County and with land use and development policies of the Planning Board and Governing Body.

104. JURISDICTION

These regulations shall apply to all land within the unincorporated area of Lyon County and excluding the land known as the Metropolitan Planning Area around the City of Emporia as established by County Resolution No. 15-98.

105. INVALIDITY OF A PART

Any provision of this regulation, which shall be declared by a competent court to be unconstitutional or invalid, shall not affect the validity and authority of any other sections of these regulations.

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Article 1 Title, Purpose, Jurisdiction

LYON COUNTY ZONING REGULATIONS

ARTICLE 2. INTERPRETATIONS, CONSTRUCTION AND DEFINITIONS

201. RULES OF INTERPRETATION

- A. Minimum Requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- B. Overlapping or Contradictory Regulations.** Where the conditions imposed by the provisions of these regulations upon the use of land or structures are otherwise more restrictive or less restrictive than comparable conditions imposed by any other provision of any other applicable law, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards shall apply.
- C. Private Agreements.** The provisions of these regulations are not intended to abrogate any easement, covenant or other private agreement, provided that where the requirements of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement, the requirements of these regulations shall govern.
- D. Unlawful Uses.** No structure or use, which was not lawfully existing at the time of the adoption of these regulations, shall become or be made lawful solely by reason of the adoptions of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.
- E. Not Licensing Regulations.** Nothing contained in these regulations shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any structure or facility, or to carry on any trade, industry, occupation or activity.
- F. Effect on existing approvals.** Any approval given for any use prior to the adoption of these regulations will be allowed to be continued, provided that construction has been started and that such use or structure shall not be enlarged greater than such approval unless in compliance with these regulations.

202. RULES OF CONSTRUCTION

- A.** In the construction of these regulations the provisions and rules of this Section shall be applied, except when the context clearly requires otherwise.
 - 1. The singular number includes the plural and the plural the singular.
 - 2. The present tense includes the past and future tenses and the future the present.
 - 3. The word “shall” is mandatory while the word “may” is permissive.
 - 4. The phrase “used for” shall include the phrase “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
 - 5. The word “person” includes individuals, firms, corporations, associations,

Article 2 Definitions

governmental bodies and agencies, and all other legal entities.

6. The words “Governing Body” mean the Board of Commissioners of Lyon County Kansas.
7. The words “Planning Board” means the Lyon County Planning Board.
8. The words “Comprehensive Plan” means the adopted Comprehensive Plan for the Planning Area of Lyon County, Kansas.
9. The words “zoning jurisdiction,” means the area as defined in Section 1-104 for which the jurisdiction of these regulations is applicable for zoning purposes.
10. Unless otherwise specified, all distances shall be measured horizontally.

B. Any word or phrase which is defined in this Article, or elsewhere in these regulations, shall have the meaning as so defined whenever used in these regulations, unless such definition is expressly limited in its meaning or scope.

C. Words or terms not herein defined shall have their ordinary meaning in relation to the context.

203. DEFINITIONS

The following definitions, including those contained elsewhere in these regulations, shall be used in the interpretation and construction of these regulations:

Accessory Building A detached subordinate building, located on the same lot with the main building, use of which is incidental to the main building or to the main use of the property.

Accessory Use Any use which is incidental to and subordinate to the main use of the premises.

Agriculture Use The growing of crops, pasturage, nursery, or the raising of poultry, cattle and other livestock, including the structures necessary for carrying out farming operations and the residence(s) of those owning and operating the premises, such as a member of the family thereof, or of an employee thereof, all on a tract of not less than 40 acres. Agriculture shall also include the sale of products on the premises, that are raised or produced on the premises, but shall not include feedlots as defined by State statute.

Alley A dedicated public right-of-way along the side of or the rear of lots intended to provide a secondary means of access to and from streets and such lots.

Alter or Alteration Any change or modification in construction or occupancy.

Animal Clinic or Hospital Any building or structure designed and/or used for examinations, treatment, boarding or care of animals by a doctor of veterinary medicine.

Basement That portion of a story having more than one-half of its height below the average grade.

Bed and Breakfast Inn A residential structure, other than a hotel or boarding house, where for compensation and prearrangement for definite short-term periods, sleeping rooms and meals are

provided for one or more persons.

Boarding House A building or place, other than a hotel, where by prearrangement and for compensation, lodging and meals for a definite period are provided for three or more persons, and such accommodations are not furnished to transient or overnight customers.

Board of Zoning Appeals Referred to herein as the “Appeals Board” which has been created by the Governing Body and which has the statutory authority to hear and determine appeals, conditional use, and variances to these zoning regulations.

Building A structure intended, designed, used or suitable for use for enclosure, shelter or protection of persons, animals, or property.

Building Height The vertical distance from the “grade” to the highest point of the coping of a flat roof, or the deck line of a mansard roof or to the mean height between eaves and ridge of gable, hip, curved and gambrel roof.

Building, Main A building in which is conducted the principal use of the parcel upon which it is located.

Building Site The land area, consisting of one or more lots or parcels of land under common ownership or control, considered as the unit of land occupied or to be occupied by a main building, or buildings and accessory buildings, or by a principal use or uses accessory thereto, together with such parking and loading spaces, yards, and open spaces as are required by these regulations.

Building Setback. A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the front street right-of-way. The setback distance shall be measured from the existing right-of way line.

1. **Building Setback Line** A line within a lot or other parcel of land, which establishes the limits which a building or structure or addition thereto, may not be built beyond.

Business and Professional Office The office of an engineer, dentist, doctor, attorney, real estate broker, insurance broker, architect, or other similar professional person, and any office used primarily for accounting, correspondence, research, editing or administration.

Campground or Travel Trailer Park Any piece, parcel, tract or plot of ground which provides space for transient occupancy and is used or intended to be used for the parking of one or more camping trailer, tents, or similar recreational vehicles. The term campground does not include sale lots on which unoccupied camping trailers, new or used, are parked for the purpose of storage, inspection, or sale.

Canopy Any structure, movable or stationary, attached to and deriving its support from framework or 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.

Capacity in Persons The maximum number of persons that can avail themselves of the services or goods of a location, at any one time, with reasonable comfort and safety.

Common Open Space A parcel of land or an area of water, or combination of both and designed and intended for the use and enjoyment of the residents of the development. Common open space does not include streets, alleys, parks, off-street parking or loading area, public open space, or other facilities dedicated for public use. Common open space may contain areas for recreation such as tennis courts, and swimming pools.

Day Care Facilities Regulations and definitions for facilities which provide care for children are established by state law and regulations of the Kansas Department of Health and Environment and the Kansas Department of Social and Rehabilitation Services. Such regulations and definitions are subject to change and are hereby incorporated by reference:

1. **Child Care Center.** A facility which provides care and educational activities for 13 or more children two weeks to 16 years of age for more than three and less than 24 hours per day including day-time, evening and night-time care, or which provides before and after school care for school age children and is licensed by the State as a child care center. Facilities having less than 13 children may be licensed if approved by the State as meeting all regulations for such use.
2. **Day Care Home.** A home in which care is provided for a maximum of 10 children in compliance with all definitions and regulations of the State of Kansas and licensed by the State as a day care home.
3. **Family Day Care Home.** A home in which care is provided for a maximum of 6 children in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a family day care home.
4. **Group Day Care Home.** A home in which care is provided for a maximum of 12 children in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a group day care home.
5. **Preschool.** A facility providing educational experiences for children of less than kindergarten age but who are 30 months of age or older, and in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a preschool.

Disability Shall mean with respect to a person as having:

1. A physical or mental impairment, which substantially limits one or more of such person's major life activities;
2. Having a record of having such an impairment; or
3. Is regarded as having such impairment.

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

Developer The legal or beneficial owner or owners of all of the land to be included in a planned development or the duly authorized agent thereof. The holder of a contract to purchase, a lessee or other person having an enforceable proprietary interest in such land, shall be deemed to be a developer for the purpose of these regulations.

Dog Kennel Any place where four or more dogs of six months of age are boarded, bred or offered for sale.

Drive-in Establishment A facility which accommodates the patron's automobiles and from which the occupants of such automobiles may purchase, transact business, or view motion pictures or other entertainment.

Dwelling Any building or portion thereof, which is designed or used primarily for residential purposes.

1. **Single Family** A residential building having accommodations for and occupied exclusively by one family.
2. **Two Family** A residential building having accommodations for and occupied exclusively by two families.
3. **Multiple Family** A residential building or portions thereof designed with accommodations for or occupied by three or more families living independently of each other.
4. **Seasonal** A residence intended for occasional occupancy.
5. **Dwelling Unit** One or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use by one family, and which includes cooking space and lawful sanitary facilities reserved for the occupants thereof.

Family Either an individual or two or more persons related by blood, marriage or legal adoption, living together as a single housekeeping unit in a dwelling unit, or a group of not more than four persons who need not be related by blood, marriage, or adoption, living together as a single housekeeping unit in a dwelling unit, plus, in either case, usual domestic servants.

Farming Activities Farming activities include any and all soil tillage operations essential for crop production, pasture grazing, pasture burning, spraying, fertilizer and/or manure application, conservation land treatment, harvesting crops, and such other farming activities attendant to proper land and soil management. Farming activities also include, but are not limited to, raising of livestock, horses, swine, poultry, in open or confinement, wild fowl raising, duck and geese

raising, fish farming, fur bearing animal raising, bee keeping, worm raising, nursery operations, timber harvesting.

Farm Structure Any structure necessary for farming operations.

Fence A free-standing structure of metal, masonry, glass, wood or any combination thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening or partition purposes.

Floodplain Land adjacent to a watercourse subject to inundation from a flood having a chance occurrence in any one year of one percent (1%). (See Resolution #25-10)

Floor Area for Computing Off-Street Parking Requirement Floor area shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of wall separating two buildings or uses and shall include all areas except that space used for storage.

Fraternal or Service Club An association formally organized for fraternal, social, educational philanthropic or other similar purposes, including union and professional organizations, and operated not for profit for persons who are members paying annual dues, which own, hire, or lease premises, the use of which is restricted to members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen by the members. Food, meals, and beverages may be served on such premises provided adequate dining space and kitchen facilities are available. Alcoholic beverages may be sold to members and their guests, provided such service is secondary and incidental to the promotion of other common objectives of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all Federal, State, and County laws.

Garage-Private Any accessory building or portion of the main building designed or used for the housing and storage of motor vehicles which are the property of, or provided for, the exclusive use of the occupants of the lot or premises upon which such building is located.

Garage-Public Any building, portion of a building or premises designed, operated or used for commercial purpose in the storage, sale, hiring, care or repair of motor vehicles.

Governing Body The Board of County Commissioners of Lyon County.

Group Home Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability, which is a physical or mental impairment as defined by K.S.A. 12-736, 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. Such a dwelling must be licensed as a group home by the Kansas Department of Social and Rehabilitation Services or the Kansas Department of Health and Environment.

Home Occupation As defined in Article 8, Section 804.

Hotel A building or portion thereof, or a group of buildings, which provides sleeping

accommodations for transients with or without meals, whether such establishments are designated as a motel, cabin, tourist court or other lodging type.

Inoperable Motor Vehicle A motor vehicle that is wrecked, dismantled, or unable to move under its own power or is impounded by a governmental agency, or is not currently licensed.

Junk or Salvage Yard An establishment which is maintained, operated, or used for storing, keeping, buying, or selling junk or for the maintenance or operation of an automobile graveyard which is defined as being any establishment which is maintained, used, or operated, for storing, keeping, buying, or selling ten (10) or more wrecked, scrapped, ruined, dismantled or inoperative motor vehicles, but 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. Such term also includes garbage dumps. See State Statute K.S.A. 68-2203(b) (c).

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

Lot A parcel or tract of land (legally described or platted), which is on record in the office of the register of deeds. For purpose of these regulations, a lot shall have a frontage upon a public street or road.

1. **Area** A total horizontal area within the lot lines of a lot, including road right-of-way contained in the legal description.
2. **Corner** A lot abutting upon two or more streets at their intersection. Such lot shall be deemed to front on that street on which the lot has its least dimension.
3. **Coverage** That percentage of a lot, which when viewed directly from above, would be covered by structure or structures, or any part thereof excluding projecting roof eaves.
4. **Depth of** The distance between the midpoints of the front lot line and the midpoint of the rear lot line.
5. **Double Frontage** An internal lot having a frontage on two non-intersecting streets.
6. **Internal** Any lot which does not constitute a corner lot.
7. **Width** The mean horizontal distance between the side lot lines, measured at right angles to the lot depth. Where side lot lines are not parallel, the minimum width of a lot shall be measured at the front yard setback line, but in no case shall the front line be less than required by the district regulations.

Lot Line A boundary line of a lot

1. **Front** A boundary line of a lot, which coincides with a road right of way. This shall not include alleys.
2. **Rear** This line that is most distant from, and is, or is most nearly parallel to the front lot line. If a rear lot line is less than 10 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line of at least 10 feet long lying wholly within the lot parallel to the front line.
3. **Side.** A lot line, which is neither, a front line nor a rear lot line.

Lot of Record A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Register of Deeds, or parcel of land, the deed to which was recorded prior to the adoption of these regulations.

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

Manufactured Home A dwelling unit fabricated on or after June 15, 1976, in an off-site manufacturing facility for installation or assembly at the building site, bearing a seal certifying that it is built in compliance with the Federal Manufacture Housing Construction and Safety Standards Code.

1. **Residential Design** A manufactured home on a permanent foundation that has minimum dimensions of 22 body feet in width, a pitched roof, and siding and roofing materials that are customarily used on site-built homes.
2. **Permanent Foundation** A manufactured home mounted on and securely attached to masonry or concrete foundation which extends around the full perimeter of the manufactured home and which meets standards set by the County Engineer. Such homes shall have all traveling and towing gear removed.

Mobile Home A transportable structure larger than three hundred and twenty (320) square feet in floor area, designed to be used as a year-around residential dwelling and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 16, 1976. (See 42 USC 5401 et seq)

1. **Double Wide.** A mobile home that consists of two (2) or more sections that are transported separately and assembled at the site into one (1) structure of a width of not less than twenty (20) feet.

2. **Single Wide.** A mobile home that consists of one (1) section with the main body, exclusive of expansions or extensions that is not more than sixteen (16) feet in width.

Modular Home A manufactured residential structure built to a nationally recognized and accepted construction standard published by the Building Officials Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets this standard.

Motel. See Hotel definition.

Motor Vehicle

1. **Repair Shop.** A building or portion of a building, arranged, intended or designed to be used for the making repairs to motor vehicles, excluding body repair and painting.
2. **Body Shop.** A building or portion of a building, arranged, intended or designed to be used for vehicle body repairs including painting.
3. **Storage Yard.** A building or premises where operable, inoperable, abandoned, wrecked or junked vehicles are stored while waiting further disposition.

Nonconforming Lot of Record. An unimproved lot, which does not comply with the lot size requirements for any permitted use in the district in which it is located.

Nonconforming Use or Structure. The use of any building or premises, which are lawfully used at the time of the effective date of these regulations, which do not conform to the requirements of these regulations. This definition shall have the same application to any amendments thereto.

Nursing Home, Retirement Home or Convalescent Home. An institution licensed by the state for the reception, board, care or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholic or narcotics addiction.

Parking Space. An all weather surfaced area on private or public property, either within or outside a building, suitable in size and location to store one standard automobile.

Person. An individual, firm, trust, partnership, association or corporation.

Plat. A map, plan or lay out of a city, township, section or subdivision indicating the location and boundaries of individual properties.

Premises. A parcel together with all buildings and structures thereon. See Building Site.

Private Club. An association organized and operated either for or not-for-profit for persons who are bona fide members paying annual dues, which owns, hires, or leases premises, the use of which is restricted to such members and their guests. The affairs and management of such association are conducted by a board of directors, executive committee, or similar body chosen

by the members at their annual meeting. Food, meals, and beverages may be served on such premises provided adequate dining space and kitchen service is secondary and incidental to the promotion of other common objectives of the organization, and further provided that such sale or service of alcoholic beverages is in compliance with all Federal, State, and County laws.

Public Sewer or Water System. Any system operated by a municipality or other governmental agency or a public utility for the disposal of wastes and the furnishing of water.

Quarry. An open excavation where the works are visible at the surface; a place or pit where stone, slate, marble, etc., is dug out or separated from a mass of rock.
(*Black's Law Dictionary with Guide to Pronunciation Fourth Edition by Henry Campbell Black, M. A. West Publishing Co. 1951*)

Recreational Vehicle. A vehicular type unit built on or for the use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted or drawn by another vehicle and which may be licensed as an RV by the State of Kansas.

Rehabilitation Home. A residential building which is used by an organized group, licensed or regulated by the State of Kansas to supervise the rehabilitation of the individual occupants. Sometimes known as "halfway" houses for the rehabilitation of wayward juveniles, drug or alcoholic addicts or former offenders.

Restaurant. A public eating establishment, except drive-ins, in which the primary function is the preparation and service of food upon the premises.

Rooming House. A building or portion thereof, other than a hotel, where lodging of three or more persons is provided for compensations.

Screening. Decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such structures or evergreen vegetation

Service Station. Any building or premises used solely or principally for the storage, dispensing, sale, or offering for retail sale, any automotive fuels, of lubricants and accessories.

Sign. Any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as are used to designate an individual firm, profession, business or commodity and which are visible from any public street or from the air.

Story. That portion of a building included between the surface of any floor and the surface of the floor above it, or if there be no floor above it, the space between the floor and the ceiling next above it.

Street or Road. That area of land platted and dedicated for public use, or lawfully used, as a public thoroughfare for vehicular travel and which provides principal vehicular and pedestrian access to adjacent properties.

Structure. Anything fabricated, assembled, constructed or erected by the skill of man, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, including, but not limited to, buildings, advertising signs, billboards, trash burners, radio/television towers, but not including fences, driveways, hard surfaced walks and terraces, or public items such as utility poles, street light fixtures, and street and traffic signs.

Structural Alterations. Any change in the supporting members of a building, such as bearing wall or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of these regulations, the following shall not be considered a structural alteration:

1. Attachment of a new front where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support wall are not materially changed.
4. Repair or replacement of non-structural members.

Tavern. An establishment in which cereal malt beverages are sold or served to customers for consumption on the premises.

Tourist Home. A dwelling in which overnight accommodations are provided or offered for transient guests for compensation.

Urban Access Corridor. Land within one (1) mile of a paved County Road or Highway.

Urban Reserve Area. Land within one (1) mile of any incorporated city in Lyon County.

Use. The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any nonconforming use.

Use Regulations. The provisions of these regulations that identify permitted, special and conditional uses, impose use limitations, and regulate accessory and temporary uses, and home occupations.

Uses, Temporary. See Article 8, Section 803.

Yard. An open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided therein. In measuring a yard, the depth of the yard shall be the minimum horizontal distance between the lot line and the main building.

1. **Front.** A yard extending across the front of a lot between the side yard lines and being the minimum horizontal distance between the front property line and the main building or any projection thereof, other than the projection of steps or entranceway. Covered porches shall be considered part of the main building and shall not project into a required

front yard. On a corner lot, each yard that abuts a street shall be considered a front yard.

2. **Rear.** A yard extending across the rear of a lot between the side lot lines and being the minimum horizontal distance between the rear lot line and the rear of the main building or any projections other than steps, unenclosed balconies, or unenclosed porches. Where no rear line exists or is less than ten (10) feet, a line ten (10) feet in length and parallel to the front yard shall be drawn between the side lines and the rear yard measured from there. On a corner lot the rear yard shall be considered as parallel to the street upon which the lot has its least dimension.
3. **Side.** A yard extending from the front lot line to the rear lot line, and being the minimum horizontal distance between the side lot line and the side of the main building or any projection thereof.

Zoning Administrator/Director/Director/Director. The person or persons authorized and empowered by the Governing Body to administer the requirements of these zoning regulations.

LYON COUNTY ZONING REGULATIONS

ARTICLE 3. DISTRICTS, BOUNDARIES AND GENERAL PROVISIONS

301. DISTRICT CLASSIFICATIONS

In order to classify, regulate and restrict the location of structures and various uses of land, including height, intensity, yards and open spaces, that portion of Lyon County which falls under the jurisdiction of these regulations is divided into the following districts:

- (A), Agriculture District
- (R), Residential District
- (B), General Business District
- (I-1), Light Industrial District
- (1-2), Heavy Industrial District
- (PUD), Planned Unit Development District

302. ZONING MAPS

The boundaries of the districts are shown on the Official Zoning District Maps, which are filed in the office of the Lyon County Zoning Administrator/Director. Each of the said zoning maps, and information shown thereon is as much a part of these zoning regulations as if such notations, references, and other information were specifically set forth herein.

303. ACTIVITIES GOVERNED BY THESE REGULATIONS

- A. New Structures.** All non-agriculture structures built after the adoption of these regulations and all non-agriculture structures moved from one site to another shall comply with the provisions of these regulations.
- B. Existing Structures.** If the use of any structure existing at the time of adoption of these regulations shall change its use, it shall comply with the provisions of these regulations.
- C. Structural Alterations.** Structural alterations shall not be made to a legal non-conforming use. (See Article 11.)
- D. Open Land.** Any use of open land and any existing use of open land changed to another use after the adoption of these regulations shall comply with the provisions of these regulations.

304. RULES WHERE UNCERTAINTY MAY ARISE

When uncertainty exists with regard to the boundaries of the zoning districts as shown on the Zoning Maps, the following rules shall apply:

- A. Where boundary lines are shown as approximately following streets and roadways, the boundary will be the centerline of such street or roadway.
- B. Where boundary lines are shown as approximately following property lines or section lines, such lines shall be construed to be the boundary.
- C. Where a boundary follows a stream, lake or other body of water, such boundary line shall be deemed to be at the centerline of such stream, lake or other body of water.

305. PROPERTIES WHICH PREVIOUSLY WERE ZONED AS R-O, OUTER RESIDENTIAL

Any property which was zoned as R-O, Outer Residential under the provisions of the previous zoning regulations will be considered as having a Special Use Permit under the Agriculture District, Table 403 (4), authorizing their use and may continue to exist as such rather than be considered as a non-conforming use.

306. EXISTING OFF-STREET PARKING

No structure or use already established on the effective date of these regulations shall be enlarged unless the minimum off street parking spaces and loading space, which would be required by Article 9, is provided for such enlargement.

307. CONSTRUCTION OF IMPROVEMENTS DOWNSTREAM FROM AN EXISTING WATERSHED DAM.

Construction of improvements downstream from an existing watershed dam shall be safely above prescribed flood routing levels, as shown by flood routing and breaching studies, to implement the intent of the Comprehensive Plan and to coordinate with County Watershed District objectives, the following additional requirements shall be met as conditions of special use permit approval for such improvements:

- A. Applicants for such improvements found to be within the boundaries of an existing watershed district shall be referred to the relevant watershed district board or soil conservation services office for review and comments, and shall be made subject to the special use permitting procedures.
- B. Upon receipt of comment from the watershed district board, the Planning Commission shall consider the subject special use permit application at its next regularly scheduled meeting.
- C. The Planning Commission shall require, as a condition of permit approval, the developer to prepare relevant routing and breaching studies, or an update of an existing study, if applicable.

LYON COUNTY ZONING REGULATIONS

ARTICLE 4. AGRICULTURE AND RESIDENTIAL ZONING DISTRICTS

401. INTENT OF THE (A), AGRICULTURE DISTRICT

The (A), Agriculture District is intended to provide locations for the furtherance of agriculturally oriented activities in the County. In an agricultural area it is necessary to retain prime agriculture land for agriculture purposes, since this land is one of the most valuable of all natural resources and irreplaceable. The intent of this district is to retain certain areas of land for agriculture uses exclusively. Other agriculturally used lands, primarily in urbanizing areas, are proposed to be used for other purposes than agriculture in the future and are so shown in some instances. Once the determination is made concerning what lands are best suited for agricultural uses, any rezoning of these lands into other uses must be carefully reviewed and rezoned only from actual necessity. This district is also intended to permit the combination of rural residential living with limited animal husbandry on parcels not less than six and two-thirds (6 2/3) acres.

402. INTENT OF THE (R), RESIDENTIAL DISTRICT

Residential Districts are intended to allow rural residential living. Residential districts shall be allowed near incorporated and unincorporated places in the County, provided that the nearest point of any such district from any such place shall be no farther than one (1) mile. The (R) district classification shall also be allowed within Urban Access Corridors as defined by the Comprehensive Plan and Land Use Map. Residential districts beyond one mile of an incorporated or unincorporated place or outside of the Urban Access Corridors may be allowed on the condition that the applicant shall submit a subdivision plat for a minimum of twenty (20) residential lots; and further, a development agreement shall be executed with the Governing Body for construction and maintenance of local streets.

403. ALLOWABLE USES

Only those uses listed on Table 403 shall be permitted in either the Agriculture or Residential Districts. Uses that are allowed by Special Use must make application to the Planning Board who will hold a public hearing and make a recommendation to the Governing Body, who will make the final approval or denial. Some allowable and Special Uses have one or more conditions listed. All of such conditions must be complied with as if they were set out within the chart.

**TABLE 403
ALLOWABLE AND SPECIAL USES**

X= Allowed outright

S= Allowed by Special Use (After approval of the Planning Board and Governing Body)

C= Allowed with certain specified conditions (See list at end of table)

No.	USE	A	R
1.	SALVAGE YARDS	S C (1)	
2.	AVIATION FIELDS, AIRPORTS OR HELIPORTS	S	S
3.	ALL AGRICULTURE USES INCLUDING FARM DWELLINGS AND ACCESSORY BUILDINGS	X	C (7)
4.	SINGLE FAMILY DWELLINGS-INCLUDES RESIDENTIAL DESIGN MANUFACTURED HOMES ON PERMANENT FOUNDATIONS AND MODULAR HOMES ON PERMANENT FOUNDATIONS	S	X
5.	BUILDINGS OR USE OF LAND FOR FEDERAL, STATE, COUNTY OR LOCAL GOVERNMENT PURPOSES	S	S
6.	CEMETERIES	S	
7.	CHURCHES	S	S
8.	COMMERCIAL FEED LOTS	S C (2)	
9.	DAY CARE FACILITIES	X	X
10.	HOT MIX PLANT OR CONCRETE PLANT –TEMPORARY USES	S	
11.	DOG KENNEL	S	
12.	DRIVE IN THEATRES	S	
13.	DWELLING GROUPS		S C (3)
14.	FIRE STATIONS	S	S
15.	4H, BOY SCOUTS, GIRL SCOUTS, AND CAMPFIRE GIRL CAMPS	S	S
16.	FUR BEARING ANIMAL FARMS	S	
17.	GROUP HOMES	X	X
18.	GUN CLUBS, SKEET SHOOT, OR TARGET RANGE	S	
19.	HOSPITALS, SANITARIUMS, NURSING HOMES AND RETIREMENT HOMES	S	S
20.	PENAL OR CORRECTIONAL INSTITUTIONS	S	
21.	LIVESTOCK SALES BARN	S	
22.	OIL AND GAS EXPLORATION	X	
23.	MOBILE HOMES OR MANUFACTURED HOMES (ACCESSORY)	S C (4)	
24.	MOBILE HOMES OR MANUFACTURED HOMES	S	S
25.	MOBILE HOME PARKS (SEE SECTION 404 FOR SPECIAL REQUIREMENTS)	S	
26.	MULTIPLE FAMILY DWELLINGS		S
27.	MUNICIPAL PARKS, PLAYGROUNDS AND COMMUNITY CLUB HOUSES	S	S
28.	PARKING OFF PREMISES	S	
29.	PRIVATE RECREATIONAL AREA INCLUDING COUNTRY CLUBS, SWIMMING POOLS, GOLF COURSES MINIATURE GOLF, GOLF DRIVING RANGES, AND GO CART TRACKS	S	
30.	PRIVATE ORGANIZATIONS, FRATERNITIES, SORORITIES, AND LODGES NOT INCLUDING THOSE WHOSE ACTIVITIES ARE PROVIDING OF SERVICES CUSTOMARILY CARRIED ON AS A BUSINESS	S	

Article 4 Agriculture and Residential Zoning Districts

**TABLE 403 (Continued)
ALLOWABLE AND SPECIAL USES**

X= Allowed outright

S= Allowed by Special Use (After approval of the Planning Board and Governing Body)

C= Allowed with certain specified conditions (See list at end of table)

No.	USE	A	R
31.	PROFESSIONAL OFFICES	S	S
32.	PROPANE STORAGE YARDS	S	
33.	PUBLIC, PAROCHIAL OR PRIVATE SCHOOLS	S	S
34.	RIDING STABLES	S	
35.	ROADSIDE STANDS FOR SALE OF AGRICULTURE PRODUCTS BY THE PRODUCER OF THE AGRICULTURE PRODUCTS	S C (5)	
36.	ROCK QUARRY (SEE ARTICLE 10 FOR REQUIREMENTS)	S	
37.	SEASONAL DWELLINGS	S	
38.	SEWAGE DISPOSAL PLANTS, REFUSE DISPOSAL, SANITARY LANDFILLS	S	
39.	TELECOMMUNICATION, RADIO AND TELEVISION TRANSMITTING TOWERS	S C (6)	
40.	UTILITY SUBSTATIONS, PUMPING STATIONS, WATER RESERVOIRS, TELEPHONE EXCHANGES, WATER OR SEWAGE TREATMENT PLANTS.	S	S
41	WIND ENERGY CONVERSION SYSTEMS (WECS) (SEE SECTION 808)	S	S

CONDITIONS REQUIRED ABOVE.

1. (a) Salvage Yards shall be located on no less than ten (10) acres of land and at least 1,320 feet from a residential district or farmstead. (b) Yard must be screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of a street or highway on the interstate system or any other state, county, or local street or road or from adjoining property. (c) No junk or salvaged materials shall be loaded, unloaded, stored, either temporarily or permanently outside the enclosed building, fence, or wall or within public right-of way. (d) Burning of any material shall be done only in daylight hours and with approval of the fire department, except as prohibited by the Kansas Department of Health and Environment. (e) The applicant shall maintain a valid state license to operate an auto salvage yard and if the license lapses for a period of three (3) months or if the license is revoked by the state, then the special use shall terminate, the use shall immediately cease, and all salvage materials shall be removed from the site within sixty (60) days. (f) Salvage yards legally existing as of the effective date of these regulations may continue, but not expand in area unless a Special Use Permit is issued complying with these regulations.
2. Such use must be at least 1,000 feet from any dwelling not on the same property and one mile from any residential zoned district.
3. Must comply with all current State of Kansas Regulations.

Article 4 Agriculture and Residential Zoning Districts

4. One mobile home or manufactured home may be allowed as an accessory dwelling to a farm of 40 acres or more as long as it is occupied by family related by blood or marriage to the occupant of the main dwelling or by a person or persons employed on the farm. The permit shall be good for one year and must be renewed annually. Such mobile home or manufactured home shall not be used as rental income and must be removed when no longer used as approved by the Planning Board and Governing Body.
5. Any sign advertising the product shall not exceed 50 square feet in area and shall be temporary.
6. All such towers shall include a drawing showing the projected collapse area of the tower, approval of the FAA for the height desired, and an approval letter by the State Historical Preservation Officer.
7. Limited animal husbandry allowed in old Plymouth town site.

404. SPECIAL MANUFACTURED HOME PARK (MOBILE HOME PARK) REGULATIONS

A Manufactured Home Park (Mobile Home Park) may be allowed by Special Use as per Table 403 subject also to the following minimum conditions:

- A. Each boundary of the Manufactured Home Park shall be at least fifty (50) feet from any existing residential dwelling.
- B. Each Manufactured Home Park shall be located on a well-drained tract, properly graded to prevent stagnated water from ponding.
- C. Each space for a manufactured home shall be at least 4,000 square feet in area and be clearly defined and marked.
- D. Each manufactured home shall be located on its space so that it is at least fifteen (15) feet from any other manufactured home or building within the park, except that such homes may be set so as to be no less than ten (10) feet end to end.
- E. All manufactured home spaces shall face a driveway with a width of not less than twenty (20) feet, and shall have unobstructed access to a public roadway or highway. All dead end driveways shall have an approved turnaround or cul-de-sac.
- F. Each manufactured home space shall provide a minimum of two off driveway parking stalls.
- G. Each Manufactured Home Park shall provide easily accessible playground space of at least twenty-five hundred (2,500) square feet or twenty-five (25) square feet per manufactured home, whichever is the greatest.

- H. All driveways and roadways within the park shall be all weather surfaced, maintained and adequately lighted.
- I. Each Manufactured Home Park shall be connected to an approved public or private water supply and sewage system, and public electrical utility system. Public natural gas supply shall be provided where available. All water and sewage systems must be approved by the Lyon County Health Department and/or the Kansas Department of Health and Environment. Construction may not start on any phase of the Park until such systems have been approved and approval has been filed with the Zoning Administrator/Director. Where there is no water and/or sewage system available for the individual spaces, the size of each space shall be determined by the Planning Board upon receipt of recommendation of the Lyon County Health Department.
- J. Storm shelters adequate to serve all occupants of the Manufactured Home Park shall be provided unless exempted by the Planning Board and the Governing Body.

SECTION 405. INTENSITY OF USE

Each dwelling or other structure or use authorized in either of the (A), Agricultural or (R), Residential District shall be upon lots or tracts containing the following minimum areas measured in square feet.

**TABLE 405
INTENSITY OF USE**

USE	A, AGRICULTURE DISTRICT	(R), RESIDENTIAL DISTRICT
AGRICULTURE	40 ACRES	NA
SINGLE FAMILY DWELLING-FARM USE	40 ACRES	NA
OTHER PERMITTED USES IN AN AGRICULTURE DISTRICT	NOT LESS THAN REQUIRED BY THE PLANNING BOARD	NA
SINGLE FAMILY DWELLING- SPECIAL USE	6 2/3 ACRES	3 ACRES
TWO FAMILY DWELLING	NA	3 ACRES PLUS 11,500 SQUARE FEET PER UNIT
MULTIPLE-FAMILY DWELLING	NA	3 ACRES PLUS 3,000 SQUARE FEET PER UNIT
OTHER USES PERMITTED IN A RESIDENTIAL DISTRICT	NA	NOT LESS THAN REQUIRED BY THE PLANNING BOARD

NA=NOT APPLICABLE

Note! Areas shown for the (R), Residential District are the minimum acceptable where a private sewage system is provided. Where a Public Sewage system is available the minimum area shall be that deemed by the Planning Board as a minimum for the intended use.

SECTION 406 SETBACK REGULATIONS

Minimum setback for all structures shall conform to the following table. Setbacks shall be measured from the public street right-of-way. Road classifications will allow for future development of these roads with minimal impact on county residents. Corner lots that border two (2) roads shall abide by the respective road classifications.

**TABLE 406
SETBACK REGULATIONS**

ROAD CLASSIFICATION	MINIMUM FROM RIGHT-OF-WAY	MINIMUM FROM SIDE PROPERTY LINE	MINIMUM FROM REAR PROPERTY LINE
SECONDARY ROAD	50 FEET	50 FEET	50 FEET
URBAN ACCESS CORRIDORS (AS DEFINE BY REGULATION)	75 FEET	50 FEET	50 FEET
FEDERAL AND STATE HIGHWAY	125 FEET	50 FEET	50 FEET
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SECTION 407a MINIMUM YARD WIDTH

1. EXISTING FARMSTEAD AND NEW CONSTRUCTION

In the (A), Agriculture District, there is no minimum yard width for permitted agriculture uses. There shall be a minimum yard width of 300 feet, measured at the building line for all non-farm dwellings. All other special uses permitted will be as approved by the Planning Board. In the (R), Residential District the minimum yard width for permitted single family and two family dwellings shall not be less than two hundred (200) feet. The minimum width, for Special Uses permitted, will be as approved by the Planning Board.

SECTION 407b MINIMUM ROAD FRONTAGE

1. EXISTING FARMSTEAD

The minimum road frontage in a (A) Agriculture or (R) Residential District shall be 30 feet. The minimum road frontage, for Special Uses permitted, other than residential structures, will be as approved by the Planning Board.

SECTION 408. HEIGHT REGULATIONS

There shall be no height restrictions for permitted agriculture uses and single-family dwellings in the (A), Agriculture or (R), Residential District. All other uses either permitted outright or by special use may be built to a height approved by the Planning Board.

SECTION 409. USE LIMITATIONS

- A. No vehicle shall be parked in an (R); Residential District for a period in excess of 72 hours, if such vehicle is unlicensed for the current year and the payment of personal

property taxes is not current. The 72 hours are cumulative and need not be in succession. (See Article 8 for exceptions for covered vehicles and restoration of a vehicle.)

- B. On a corner lot, no fence, wall, hedge/shrub, or other structure projecting more than thirty-six (36) inches in height, measured along the crown of the road, shall be erected, placed, or maintained within the sight triangle. The sight triangle that area formed by the intersecting street right-of-way and a straight line joining said street right-of-way lines at points which are thirty (30) foot distance from the intersection of the streets.

SECTION 410. OFF STREET PARKING

Regulations relating to required off street parking for uses in the (A), Agriculture and (R), Residential Districts are set forth in Article 9, of these regulations.

SECTION 411. ACCESSORY USES

Regulations relating to accessory uses in the (A), Agriculture and (R), Residential Districts are set forth in Article 8, of these regulations.

SECTION 412. SIGN REGULATIONS

Allowable signs and regulations for the (A), Agriculture and (R), Residential Districts are set forth in Article 12, of these regulations.

SECTION 413. HOME OCCUPATIONS

Home Occupations allowed and requirements for such use in (A), Agriculture and (R), Residential Districts are set forth in Article 8, of these regulations.

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LYON COUNTY ZONING REGULATIONS

ARTICLE 5 (B), GENERAL BUSINESS DISTRICT

501. INTENT OF THE (B), GENERAL BUSINESS DISTRICT

It is the intent of the (B), General Business District to provide locations for various types of retail trade, service business and office uses, which are necessary to the County, and to provide for the regulating of density and intensity of use. It is intended that except in rare instances, these districts will be located on highways or major thoroughfares. Each such district will require ingress and egress to the highway or thoroughfare, so the location of the districts must be carefully determined. In no case are these districts intended to “strip” the thoroughfares of the county.

502. ALLOWABLE USES

Only those uses listed on Table 502 shall be permitted in the (B), General Business District. Uses that are allowed by Special Use must make application to the Planning Board who will hold a public hearing and make a recommendation to the Governing Body, who will make the final approval or denial. Some allowable and Special Uses have one or more conditions listed. All of such conditions must be complied with as if they were set out within the chart.

**TABLE 502
ALLOWABLE AND SPECIAL USES**

X= Allowed outright

S= Allowed as Special Use (After approval of Planning Board and Governing Body)

C= Allowed with certain specified conditions

#	USE	TYPE
1.	AUCTION SALES BUT NOT INCLUDING LIVESTOCK	X
2.	AUTOMOTIVE PARTS AND MACHINERY SERVICE	X
3.	BAKERIES AND CONFECTIONARIES	X
4.	BANKS AND SAVINGS AND LOAN ASSOCIATIONS	X
5.	BARBER SHOPS AND BEAUTY SHOPS	X
6.	BEER PARLORS, TAVERNS, NIGHTCLUBS, AND PRIVATE CLUBS	S
7.	BICYCLE SHOPS AND MOTOR-CYCLE SHOPS-SALES AND SERVICE	X
8.	BOOK BINDING	X
9.	BOWLING ALLEYS	X
10.	BUS, CAB AND RAILROAD STATIONS	S
11.	CAR WASH	X
12.	CLINICS, INCLUDING ANIMAL	X
13.	DRESSMAKING, MILLINERY, OR TAILORING	X
14.	DRUGSTORES	X
15.	DRY CLEANING PLANTS EMPLOYING NO MORE THAN 3 EMPLOYEES	X
16.	ENTERTAINMENT ORIENTED BUSINESS	S
17.	FEED STORES	X
18.	FLORIST	X

TABLE 502 (Continued)
ALLOWABLE AND SPECIAL USES

X= Allowed outright

S= Allowed as Special Use (After approval of Planning Board and Governing Body)

C= Allowed with certain specified conditions

#	USE	TYPE
19.	FOOD STORAGE LOCKERS	S
20.	FRUIT AND VEGETABLE MARKETS	X
21.	GREENHOUSE, NURSERY AND GARDEN SUPPLIES	X
22.	GROCERY, MEAT MARKETS	X
23.	HEALTH CLUBS	X
24.	KENNELS, BOARDING AND BREEDING	S
25.	LAWN AND GARDEN SERVICES	X
26.	LODGE HALLS, FRATERNAL ORGANIZATIONS	X
27.	MACHINERY SHOPS	S
28.	MEDICAL, DENTAL, OPTICAL CLINICS AND OFFICES	X
29.	MOTELS, HOTELS	X
30.	MOTOR VEHICLE REPAIR	S
31.	MOTOR VEHICLE SALES	X
32.	OIL AND GAS EXPLORATION DRILLING AND PRODUCTION	S
33.	PACKAGE LIQUOR STORE	X
34.	PAINTING AND DECORATING SHOPS	X
35.	PARKING LOTS	X
36.	PAWN SHOPS	X
37.	PHOTOGRAPHIC STUDIOS	X
38.	POOL AND BILLIARD HALL	S
39.	PROFESSIONAL OFFICE	X
40.	PUBLIC BUILDINGS OR USES	X
41.	RADIO/TELEVISION STATIONS	X
42.	RESTAURANTS, INCLUDING DRIVE INS	X
43.	RETAIL SALES	X
44.	RECREATIONAL ACTIVITIES	X
45.	ROOFING -WEATHERPROOFING SALES AND SERVICE	X
46.	SALES AND SHOWROOMS	X
47.	SALE OF DAIRY PRODUCTS FROZEN AND SEMI-FROZEN	X
48.	SHEET METAL, PLUMBING, HEAT AND AIR CONDITIONING SHOPS	S
49.	SCHOOLS, BUSINESS AND PROFESSIONAL	X
50.	SELF SERVICE LAUNDRIES	X
51.	SERVICE STATIONS	S
52.	SIGN SHOPS	X
53.	STORAGE BUILDINGS	S
54.	REPAIR AND SERVICING OF HOUSEHOLD APPLIANCE AND ELECTRICAL EQUIPMENT	X
55.	TELECOMMUNICATION TOWERS	S

**TABLE 502 (Continued)
ALLOWABLE AND SPECIAL USES**

X= Allowed outright

S= Allowed as Special Use (After approval of Planning Board and Governing Body)

C= Allowed with certain specified conditions

#	USE	TYPE
56.	THEATERS INCLUDING DRIVE INS	X
57.	TRAVEL TRAILER PARKS	S (1)
58.	TRUCK WASH	S
59.	UNDERTAKING ESTABLISHMENTS-FUNERAL HOMES	X
60.	UPHOLSTERING AND FURNITURE REPAIR SHOPS	X
61.	USE CAR SALES AND SERVICE, NOT INCLUDING SALVAGE OR WRECKING OF ANY KIND	X
62.	UTILITY SUBSTATIONS AND TELEPHONE EXCHANGES	S
63.	VETERINARY CLINICS	X (2)
64.	WHOLESALE ESTABLISHMENTS	X

CONDITIONS REQUIRED ABOVE.

1. Site Plan must be submitted showing the complete layout of the park, with stall sizes, drive access, any permanent structures and also pre-approval of the Lyon County Health Department for Sewage and Water systems.
2. A Special Use permit is required where the clinic is also used as a boarding or breeding kennel.

SECTION 503. SETBACK REGULATIONS

Minimum front, side and rear yards shall conform to the following table. Front yard setbacks shall be measured from the public street right-of-way.

**TABLE 503
SETBACK REGULATIONS**

USE	MINIMUM FROM RIGHT-OF-WAY	MINIMUM FROM SIDE PROPERTY LINE	MINIMUM FROM REAR PROPERTY LINE
ALL PERMITTED USES	50 FEET	15 FEET	25 FEET
OTHER USES IN A B COMMERCIAL DISTRICT	AS APPROVED BY THE PLANNING BOARD	AS APPROVED BY THE PLANNING BOARD	AS APPROVED BY THE PLANNING BOARD

NOTE! 1. CORNER LOTS SHALL PROVIDE THE SAME SETBACKS ON BOTH STREETS. 2. THERE SHALL BE A SIDE AND/OR REAR SETBACK OF 75 FEET FOR ANY STRUCTURE AND 25 FEET FOR ANY PARKING LOT FOR ANY BUSINESS USE, WHICH ABUTS A RESIDENTIAL DISTRICT.

SECTION 504. MINIMUM YARD FRONTAGE

In the (B), General Business District, there shall be a minimum yard width for permitted uses of at least 100 feet, unless specifically reduced by the Planning Board. The minimum width, for Special Uses permitted, will be as approved by the Planning Board.

SECTION 505. HEIGHT REGULATIONS

There shall be no height restrictions for permitted uses in the (B), General Business District. All other uses permitted by special use may be built to a height approved by the Planning Board.

SECTION 506. OFF STREET PARKING

Regulations relating to required off street parking for uses in the (B), General Business District are set forth in Article 9, of these regulations.

SECTION 507. ACCESSORY USES

Regulations relating to accessory uses in the (B), General Business District are set forth in Article 8, of these regulations.

SECTION 508. SIGN REGULATIONS

Allowable Signs and regulations for the (B), General Business District are set forth in Article 12, of these regulations.

SECTION 509. SCREENING REQUIRED ADJACENT TO RESIDENTIAL DISTRICTS

Whenever a (B), General Business District is adjacent to an (R), Residential District, screening to protect the residential use from the effect of the commercial use shall be installed. Screening shall consist of a fence, wall or evergreen plantings at least six (6) feet in height and having a visual density of 90% solid. Screening located adjacent to the front yard of an adjacent residential use shall not exceed four (4) feet in height. All screening shall be erected within three (3) feet of the adjacent property line. Evergreen screening of a type and size specified by the Planning Board may be allowed at the time of rezoning.

LYON COUNTY ZONING REGULATIONS

ARTICLE 6. INDUSTRIAL DISTRICTS

SECTION 601. INTENT

It is the intent of the Industrial Districts to provide areas for both light and heavy industrial type uses and other compatible uses.

SECTION 602. INTENT OF THE (I-1), LIGHT INDUSTRIAL DISTRICT

The Intent of the (I-1), Light Industrial District is to provide areas for the manufacturing, processing, and fabrication of products and other compatible uses that require little or no outside storage. The effect on adjoining property is one created primarily by traffic generated by goods and employees.

SECTION 603. INTENT OF THE (I-2), HEAVY INDUSTRIAL DISTRICT

The Intent of the (I-2) Heavy Industrial District is to provide areas for industrial type uses that require large areas of outdoor storage of raw and/or finished materials and for those uses which produce or store materials and or goods that may be noxious or offensive due to smoke, dust, noise, odor, fumes, or explosiveness.

SECTION 604. ALLOWABLE USES

Only those uses listed on Table 604 shall be permitted in the (I-1), Light Industrial or (I-2) Heavy Industrial Districts. Uses that are allowed by Special Use must make application to the Lyon County Planning Board who will hold a public hearing and make a recommendation to the Governing Body, who will make the final approval or denial. Some allowable and Special Uses have one or more conditions listed. All of such conditions must be complied with as if they were set out within the chart.

**TABLE 604
ALLOWABLE AND SPECIAL USES**

X= Allowed outright

S= Allowed as Special Use (After approval of Planning Board and Governing Body)

C= Allowed with certain specified conditions

#	USE	I-1	I-2
1.	AIRPORTS AND AIRCRAFT STORAGE AND MAINTENANCE	S	X
2.	ARSENAL		X
3.	ASPHALT OR CONCRETE MIX PLANT	S	X
4.	ASSEMBLY OR REPAIR OF ELECTRICAL OR MECHANICAL APPLIANCES	X	X
5.	AUCTION SALES INCLUDING LIVESTOCK	X	X
6.	BOTTLED GAS RETAIL	X	X
7.	BOTTLING PLANTS	X	X
8.	BUILDING MATERIAL, SALES, STORAGE INCLUDING LUMBER YARDS	X	X
9.	COMMERCIAL FEED LOTS		S (1)
10.	COMPOSTING PLANTS		X

Article 6 Industrial Districts

TABLE 604 (Continued)
ALLOWABLE AND SPECIAL USES

X= Allowed outright

S= Allowed as Special Use (After approval of Planning Board and Governing Body)

C= Allowed with certain specified conditions

#	USE	I-1	I-2
11.	CONSTRUCTION OR AGRICULTURAL EQUIPMENT SALES AND STORAGE	X	X
12.	ELECTRICAL GENERATING PLANTS	S	X
13.	EXTERMINATING SERVICE	X	X
14.	FARM SUPPLIES, INCLUDING LIVESTOCK FEED	X	X
15.	FAT RENDERING		S
16.	FEED, GRAIN STORAGE AND SALES	X	X
17.	FERTILIZER MANUFACTURE		S
18.	FOOD STORAGE LOCKERS	X	X
19.	FOOD STORAGE OR DISTRIBUTIONS	X	X
20.	FOUNDRIES		X
21.	GAS, PETROLEUM DRILLING AND REFINERY PLANTS		S
22.	GENERAL CONTRACTORS BUSINESS AND STORAGE YARDS (INCLUDING PLUMBING AND MECHANICAL)	X	X
23.	GREENHOUSE, NURSERY AND GARDEN SUPPLIES	X	X
24.	LANDSCAPE CONTRACTING SERVICES	X	X
25.	LAUNDRY, DRY-CLEANING PLANTS	X	
26.	LIGHT MANUFACTURING, FABRICATION, PROCESSING	X	X
27.	LIVESTOCK WHOLESALE	S	X
28.	MACHINE SHOP, MILLWORK	X	X
29.	MANUFACTURING, FABRICATION OR PROCESSING OF PRODUCTS WHICH ARE CONSIDERED NOXIOUS OR OFFENSIVE DUE TO SMOKE, DUST, ODOR, NOISE, FUMES OR EXPLOSIVENESS		X
30.	MEAT PACKING PLANTS		X
31.	MOTOR VEHICLE BODY SHOP	X	X
32.	MOTOR VEHICLE STORAGE YARD	S	X
33.	MOTOR VEHICLE SALVAGE YARD		X (2)
34.	PROPANE STORAGE YARDS		S
35.	RAILROAD STORAGE YARDS		X
36.	RESEARCH LABORATORIES	X	X
37.	SANITARY LANDFILL		S
38.	SEWAGE DISPOSAL PLANTS		S
39.	SHEET METAL, PLUMBING, BLACKSMITH SHOPS	X	X
40.	SMELTERING ORE OR METAL		S
41.	SOYBEAN PROCESSING PLANT		X

TABLE 604 (Continued)
ALLOWABLE AND SPECIAL USES

X= Allowed outright

S= Allowed as Special Use (After approval of Planning Board and Governing Body)

C= Allowed with certain specified conditions

#	USE	I-1	I-2
42.	TRUCK WASH	S	X
43.	TRUCK STORAGE YARDS	X	X
44.	UTILITY MAINTENANCE YARDS		X
45.	UTILITY SUBSTATIONS, PUMPING STATIONS, WATER RESERVOIRS, AND TELEPHONE EXCHANGES	X	X
46.	WASTE DISPOSAL OR TRANSFER STATION		X
47.	WATER PLANT	X	X
48.	WAREHOUSES	X	X
49.	WHOLESALE STORAGE OF GASOLINE OR OTHER PETROLEUM PRODUCTS		X

CONDITIONS REQUIRED ABOVE.

1. Must be located at least 1,000 feet from any dwelling and one mile from any Residential District.

2. (a) Auto Salvage Yards shall be located on no less than ten (10) acres of land and at least 1,320 feet from a residential district or farmstead. (b) Yard must be screened by natural objects, plantings, fences or other appropriate means so as not to be visible from the main traveled way of a street or highway on the interstate system or any other state, county, or local street or road, or from adjoining property. (c) No junk or salvaged materials shall be loaded, unloaded, stored, either temporarily or permanently outside the enclosed building, fence, or wall or within public right-of way. (d) Burning of any material shall be done only in daylight hours and with approval of the fire department, except as prohibited by the Kansas Department of Health and Environment. (e) The applicant shall maintain a valid state license to operate an auto salvage yard and if the license lapses for a period of three (3) months or if the license is revoked by the state, then the special use shall terminate, the use shall immediately cease, and all salvage materials shall be removed from the site within sixty (60) days. (f) Salvage yards legally existing as of the effective date of these regulations may continue, but not expand in area, unless a Special Use Permit is issued complying with these regulations.

SECTION 605. SETBACK REGULATIONS

Minimum front, side and rear setbacks shall conform to the following table.

**TABLE 605
SETBACK REGULATIONS**

USE	MINIMUM FROM RIGHT-OF-WAY	MINIMUM FROM SIDE PROPERTY LINE	MINIMUM FROM REAR PROPERTY LINE
ALL PERMITTED USES IN EITHER THE I-1 OR I-2 DISTRICT	100 FEET	15	20 FEET
ALL SPECIAL USES IN EITHER THE I-1 OR I-2 DISTRICT	AS APPROVED BY THE PLANNING BOARD	AS APPROVED BY THE PLANNING BOARD	AS APPROVED BY THE PLANNING BOARD

NOTE! 1. CORNER LOTS SHALL PROVIDE THE SAME SETBACKS ON BOTH STREETS. 2. THERE SHALL BE A SIDE AND/OR REAR SETBACK OF 75 FEET FOR ANY STRUCTURE AND 25 FEET FOR ANY PARKING LOT FOR ANY INDUSTRIAL USE, WHICH ABUTS A RESIDENTIAL DISTRICT.

SECTION 606. MINIMUM YARD FRONTAGE/ROAD FRONTAGE

In the both the (I-1), Light Industrial District and the (I-2) Heavy Industrial District, there shall be a minimum yard width/road frontage for permitted uses of at least 100 feet, unless specifically reduced by the Planning Board. The minimum width/frontage, for Special Uses permitted, will be as approved by the Planning Board.

SECTION 607. HEIGHT REGULATIONS

There shall be no height restrictions for permitted uses in the either Industrial District. All other uses permitted by Special Use may be built to a height approved by the Planning Board.

SECTION 608. OFF STREET PARKING

Regulations relating to required off street parking for uses in the (I-1), Light Industrial District and the (I-2) Heavy Industrial District are set forth in Article 9, of these regulations.

SECTION 609. ACCESSORY USES

Regulations relating to accessory uses in (I-1), Light Industrial District and the (I-2) Heavy Industrial District are set forth in Article 8, of these regulations.

SECTION 610. SIGN REGULATIONS.

Allowable signs and regulations for (I-1), Light Industrial District and the (I-2) Heavy Industrial District are set forth in Article 12, of these regulations.

SECTION 611. SCREENING REQUIRED ADJACENT TO RESIDENTIAL DISTRICTS

Whenever an (I-1), Light Industrial or (I-2) Heavy Industrial District is adjacent to an (R), Residential District, screening to protect the residential use from the effect of the industrial use shall be installed. Screening shall consist of a fence, wall or evergreen plantings at least six (6) feet in height and having a visual density of 90% solid. Screening located adjacent to the front yard of an adjacent residential use shall not exceed four (4) feet in height. All screening shall be erected within three (3) feet of the adjacent property line. Evergreen screening of a type and size specified by the Planning Board may be allowed at the time of rezoning.

LYON COUNTY ZONING REGULATIONS

ARTICLE 7. PUD, PLANNED UNIT DEVELOPMENT

701. INTENT

It is the intent of the PUD, Planned Unit Development District to encourage innovation in development by permitting greater variety and flexibility in type, design, and layout of buildings and the use of land; to encourage more efficient use of land using modern land development methods; encourages development which protects the value of property and to provide a procedure which relates to the type, design and development of the property. The PUD is an overlay zone. The developer shall submit preliminary and final development plans in accordance with the provisions of this article.

702. GENERAL PROVISIONS

- A. A planned unit development shall be in general conformity with the provisions of the Comprehensive Plan adopted for Lyon County, and shall not have an adverse affect on adjoining property.
- B. A planned unit development may be established for residential use, commercial use or industrial use or any combination thereof.
- C. Minimum size of any PUD tract shall be 3 acres
- D. A Preliminary Plan shall be submitted for the entire tract of land to be developed, however the Final Plan of development may be submitted in stages.
- E. Yard setbacks and heights for development shall be consistent with the district in which the project is located, but may be varied with approval of the Planning Board.
- F. Off street parking shall be provided for all uses within the PUD in accordance with the parking required by Article 9, of these regulations.
- G. Development must begin within eighteen (18) months of the date of the Final approval by the Governing Body. The time period may be extended upon application to and approval from the Planning Board upon showing of good cause by the developer. Failure to start within the eighteen (18) months of the date of approval by the Governing Body shall void the approval unless the time has been extended by the Planning Board.
- H. When a non-residential PUD abuts a residential district, a solid or semi-solid screen 6 to 8 feet in height and with no less than 90% density shall be erected within three (3) feet of the property line separating the PUD from the residential district.
- I. The PUD shall include plans for development and maintenance of any common open spaces, private streets, drives, and utilities.

703. APPLICATION

The application for a PUD is a two-step process. A Preliminary Plan must be submitted to the Planning Board for approval and public hearing the same as for any other rezoning request. The approval of the Planning Board shall be submitted to the Governing Body for approval. The developer may then submit a Final Plan for any portion or the complete project to the Planning Board. Approval of the Final Plan by the Planning Board shall then be submitted to the Governing Body for approval. Upon approval of the Preliminary Plan by the Governing Body, they shall approve a resolution designating the tract with the overlay PUD and amend the official zoning map.

704. PRELIMINARY PUD

The applicant shall submit an application for rezoning the same as for any other rezoning application. The application shall include five (5) copies of any required drawings, plans, or specifications. The application for a preliminary PUD shall include:

- A. The complete legal description of the property.
- B. Either, contours at two (2) foot intervals if any new public streets are involved or spot elevations if no new streets are required.
- C. General location, size and use of all proposed structures.
- D. Drawing showing location of adjoining streets, entrances, driveways, screening (if required), setbacks, open spaces and parking facilities.
- E. Approval of the Lyon County Health Department for water and sewer facilities proposed.
- F. If the development is proposed to be completed in stages, a plan of development shall be submitted showing the approximate time of development proposed for each stage.

705. FINAL PLAN

After approval of the Preliminary Plan, the applicant shall submit a final plan for the entire development or for a portion of the area approved. The request for a Final Plan shall include drawings showing all approval and conditions of the approved Preliminary Plan. A Final Plan must be in substantial compliance with the approved Preliminary Plan with only minor changes allowed. If there are substantial changes, the Planning Board shall require submission of an amended Preliminary Plan of development. If a Final Plan is in substantial compliance with the preliminary approval a public hearing need not be held for the plan. The Planning Board's approval of the Final Plan shall be submitted to the Governing Body for final approval and acceptance of any public right-of-ways and/or utility easements.

706. RECORDING

The Final Plan shall include space for signatures of approval of the Planning Board Chairperson and the Governing Body and shall be filed for record with the Lyon County Register of Deeds.

LYON COUNTY ZONING REGULATIONS

ARTICLE 8. SUPPLEMENTARY REGULATIONS

801. GENERAL

The regulations set forth in this article, supplement and/or qualify the district requirements found elsewhere in these regulations.

802. ACCESSORY USES

Accessory uses are permitted in any zoning district in connection with any principal use, which is permitted.

A. Definitions. An accessory use is a structure or use which:

1. Is subordinate to and serves a principal building and or principal use, and
2. Is subordinate in area, extent or purpose to the principal building served, and
3. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served, and
4. Is located on the same lot as the principal building or principal use served.

B. Permitted Accessory Uses. Any structure or use that complies with the terms of 802 (A) above may be allowed as an accessory use or structure and may be included, but is not limited to the following list of examples:

1. A structure for storage incidental to a permitted use.
2. A child's playhouse.
3. A private swimming pool and bathhouse.
4. A guest house (without kitchen facilities) or rooms for guests in accessory building provided such facilities are used for the occasional housing of guests of the occupants of the principal building, and not as rental units for permanent occupancy as housekeeping units.
5. Statuary, arbors, trellises, barbecue ovens, flagpoles, fences, walls and hedges, and other artifacts used in landscaping.
6. Fallout shelters provided that they shall not be used for any principal or accessory use not permitted in the zoning district.
7. Signs, when specifically permitted by these regulations.
8. Storage of major recreational equipment such as boats or camping trailers; provided that they shall not be utilized for living purposes, except for the convenience of temporary lodging only, and when parked on a residential lot shall be located not less than five feet from the front lot line.
9. Restaurants, drug stores, gift shops, clubs and lounges and newsstands when located in a permitted hotel or motel.
10. Employee restaurants and cafeterias when located in a permitted business or industrial building.
11. Outdoor storage shall not be permitted as an accessory use in residential districts

except as a temporary or seasonal activity.

C. Location Requirements.

1. No detached accessory building hereafter constructed shall be located within a required front yard or be located within (5) feet of any dwelling existing or under construction on the building site. No single accessory building, in a residential district, shall occupy more than 30 percent, nor shall all such buildings collectively occupy more than 40 percent of the required yard spaces.
2. No accessory buildings shall be located closer than five (5) feet to any lot line; in the case of a corner lot, no accessory building shall project closer to the street side yard than the front yard abutting.

803. TEMPORARY USES PERMITTED

The following uses of land are permitted in each zoning district unless specifically restricted to particular zoning districts and are subject to the regulations and time limits, which follow, and to the other applicable regulations and information require by the Zoning Office of the district in which the use is permitted:

- A. Temporary asphalt or concrete batching plants are permitted in any district, when being used as part of a local construction project only.
- B. Temporary buildings for use incident to construction, which buildings must be removed upon completion or abandonment of the construction work.
- C. Christmas tree sales in any district except residential for a period not to exceed 60 days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations provided that no tree shall be displayed within the required sight triangle.
- D. Seasonal sale of farm produce grown on the premises in a single-family residential district to continue for as long as the permit allows, not more than six months per year. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
- E. A carnival or circus may temporarily be located in any district. Such use need not comply with the front yard requirements, provided that structures or equipment that might block the view of operators of motor vehicles on the public streets shall not be located within 30 feet of the intersection of the curb line of any two streets. Also, it shall keep the sight triangle clear.
- F. Promotional activities of retail merchants involving the display of goods and merchandise may be conducted outside of enclosed buildings for a period of not more than two consecutive weeks in any three month period and retail business may display merchandise of a type generally sold within the building in the area immediately adjacent

to the building subject to the following conditions.

1. No portion of the display shall be on public owned property.
2. No food or drink may be displayed outside the building except in accordance with standards, if any, established by the applicable health agency.
3. These provisions shall in no way be deemed to authorize the outdoor display or the sale of used furniture, used appliances, used plumbing, used house wares, used building material or similar display or sale in any business districts unless permitted by other sections of these regulations.

G. The periodic conduct of what is commonly called "garage or yard sales" which do not exceed a period of more than five days during a six-month period.

H. Fireworks stand complying with all State and County regulations regarding such use including safety features and time frames. Must provide site map, pay fees to county clerk's office and obtain permits.

804. HOME OCCUPATIONS AUTHORIZATION

Home occupations that are customarily incidental to the principal use of a residential building shall be permitted provided the residential appearance of the building is maintained and no undue traffic or parking problems are created. A Temporary Use permit is required.

A. **Definition.** A business, profession, occupation or trade conducted for gain or support entirely within a residential building, or within a structure that is accessory to a residential building.

B. **Restrictions and Limitations.** In addition to all of the use restrictions and limitations applicable to the district in which it is located, home occupations shall be permitted subject to the following restrictions:

1. The home occupation shall be conducted entirely within the principal residential building or in a permitted private garage or accessory structure thereto.
2. In no way shall the appearance of the structure or the conduct of the occupation within the structure so altered that it may reasonably be recognized as serving a non-residential purpose (either by color, materials of construction, lighting, sounds or noises, vibrations, etc.).
3. No mechanical equipment is used which makes any loud, unnecessary or unusual noise, or any noise which annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of others.
4. No outdoor display or storage of material.
5. Goods or stock for sale must be stored in enclosed areas
6. No commodity is sold on the premises except that which is prepared on the premises.
7. No more than one employee other than persons occupying the dwelling shall be employed.
8. Not more than 20 percent of the net floor area of the dwelling may be devoted to the occupation. No signs displayed except as permitted in these regulations or required by

State law in conjunction with a particular occupation.

- C. **Home Occupations Permitted.** Customary home occupations include, but are not limited to, the following list of occupations provided, however, that each listed occupation shall be subject to all requirements of this article.
1. Artists, authors, sculptors or composers.
 2. Barber and beauty shops.
 3. Boarding homes for children and day care homes.
 4. Dressmakers, seamstresses, or tailors.
 5. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc.
 6. Music teachers provided that instructions shall be limited to two pupils at any time, except for occasional groups.
 7. Office facilities for architects, engineers, attorneys, real estate or insurance agents, brokers and members of similar professions.
 8. Office facilities for salesmen, sales representatives, and manufacturer's representatives, when no exchange of tangible goods is made on the premises.
 9. Photographic studios.
- D. **Home Occupations Prohibited.** Permitted home occupations, for example, shall not in any event be deemed to include:
1. Animal kennels or hospitals.
 2. Auto and other vehicle repair.
 3. Dancing schools.
 4. Funeral homes.
 5. Massage parlors.
 6. Medical or dental clinics or hospitals.
 7. Nursery schools and day care centers, unless specifically permitted by the district regulations.
 8. Renting of trailers or equipment.
 9. Restaurants.
 10. Small grocery stores.
 11. Retail sales of any type unless specifically permitted in Section C above.

805. ADDITIONAL HOME OCCUPATIONS WITHIN THE (A), AGRICULTURAL DISTRICT

No Zoning Permit is required. Additional home occupations may be authorized within the (A), Agricultural District on tracts 40 acres or more provided that:

- A. Such use is either agriculturally related, is a service business or a light manufacturing business, and
- B. There are no more than two additional employees, other than the occupants, associated with the business, and
- C. Such use does not create noise perceptible at any adjoining property line other than noise

that is normal in nature to the agricultural district, and

- D. There is no outside storage of any manufactured materials, unless it is screened from public view, and
- E. There is no retail sale of material, on the premises, other than that which is produced on said premises.

806. MISCELLANEOUS

- A. Number of Structures on One Lot. Except for one and two-family uses, there may be more than one principal building per lot, provided that all setbacks are observed.
- B. Platted Building or Setback Lines. If a recorded subdivision plat imposes a front building or setback different than the front yard required by the district in which the subdivision is located, the recorded setback shall prevail.
- C. Yard Requirements for Open Land. If a tract is occupied by a permitted use without structures, then only the required front yard would be necessary for such use, unless such is waived by the Planning Board.
- D. Permitted Obstructions in Required Yards. Every part of a required yard shall be open to the sky, unobstructed, except for allowable accessory buildings, and except for:
 - 1. Unenclosed porches and decks open to the sky, and not more than three (3) feet above grade, may extend no more than ten (10) feet into a required front or rear yard, and or no more than two and a half (2 1/2) feet into a required side yard.
 - 2. Bay windows may extend no more than eighteen (18) inches into a required yard.
 - 3. Cornices, canopies, eaves, other ornamental features, fireplaces, flues may extend no more than two and a half (2 1/2) feet into a required yard.
- E. Commercial or Industrial Access. No land zoned for either Agriculture or Residential shall be used as access to or from any commercial or industrial district, except as may be approved by a PUD.
- F. Required Street Frontage. Except for agricultural structures, or approved PUD's, no building or structure shall be built except upon a lot or tract that has frontage on a public street or roadway.
- G. Sight Triangle. No structure over 36 inches in height shall be located within 30 feet of the right-of-way intersection of two adjoining streets.

807. UNLICENSED VEHICLES ALLOWED CONDITIONALLY

Any motor vehicle which is unlicensed may be allowed in any district within an enclosed building Also, no more than nine (9) unlicensed vehicles may be stored outside, except that any vehicle stored in a required front or side yard must be screened from public view.

808. COMMERCIAL WIND ENERGY CONVERSION SYSTEMS (WECS)

Commercial Wind Energy Conversion Systems (WECS), when located in the unincorporated portion of Lyon County, are subject to the following:

- A. Provide name, address and phone number of the developer, the project manager, the operational manager, all contractors authorized to work on the project, and the owner of the project if different from the developer.
 - 1. A renewal permit will be required each year to ensure compliance.
- B. The development plan required by these Regulations shall contain the following information:
 - 1. The nature and scope of the project: including a plot and development plan showing the location of the project, scale and north arrow and two maps showing project location and vicinity. One map at 1:100,000 scale, and one map at 1:2,000 scale (USGS scale), acreage of the site, physical dimensions and project boundaries, ingress and egress locations, location of proposed road crossings or right-of-way encroachments, storm water management and erosion control including 1% annual chance floodplain boundaries.
 - 2. Location of all existing buildings, structures, homes within ½ mile of the project boundary, electrical transmission lines and facilities, and utilities, utility easements, underground pipelines and underground utilities within the project boundary.
 - 3. Information detailing the type, size, maximum and minimum height, rotor size, rotor material, color, rated power output, performance, safety and noise characteristics of each proposed wind turbine model, tower, and electrical transmission equipment. Provide tower/turbine details that assure the tower shall not be lattice/type or other design that provide perches. All details on any structure involved in this development.
- C. Provide information detailing anticipated volume and designated route for construction traffic, including oversized loads and heavy equipment, with proposed methods of assurance regarding maintenance and repair to public roads, bridges or culverts during construction. Provide information regarding the traffic control plan for designated routes or construction activities within road right-of-way in accordance with the Uniform Manual for Traffic Control Devices. Provide plans and drawings that have construction details for installation of entrances, road crossings or right-of-way encroachment. Detail anticipated volume and routes for facility operational traffic. As approved by the County Engineer.
- D. Provide a copy of the Phase One Environmental Screening Report in accordance with industry standards.
- E. Provide an accurate computer generated visual simulation from vantage points as agreed to by the developer and Lyon County staff.
- F. Provide a safety plan detailing expected public agency/emergency services support during emergencies.

- G. Provide a certificate of insurance indicating coverage of General Liability of not less than \$1,000,000.00 per occurrence for contractors working within public right-of-way.
- H. Provide a decommission plan and land reclamation plan detailing recovery or removal of structures and underground installation specific to the proposed method of assurance regarding maintenance and repair to public roads, bridges or culverts during development process. The company shall provide to Lyon County a bond or other security of sufficient funds to cover the planned cost of removal and reclamation. The amount of the bond or other security shall be adjusted for inflation on the anniversary date of the permit each year. The bond or security shall be in favor of Lyon County and will remain in effect until the facility is decommissioned.
- I. The facility shall meet the following design requirements:
1. Turbine blades shall have a minimum ground clearance of 40 feet at the lowest point of rotation and calculated for all directions.
 2. Towers shall be setback from public roadways a minimum of one times the tip height plus 75 feet from the road right of way.
 3. Towers shall be setback a minimum of 1,000 feet from existing residences.
 4. Towers shall be setback from existing overhead utilities a minimum of one times the tip height plus 40 feet.
 5. Towers shall be only permitted on sights that are under lease, all property within the 1000 foot control zone shall be leased or the developer must have a legal easement on the adjoining property prohibiting building. (Note; Lyon County does not regulate agricultural structures and the only way to ensure no building will occur within the zone of interference is to ensure a binding easement that is transferable to all successors is required.)
 6. Electrical Collect System lines shall be installed underground, except for connection to transmission lines or factors related to culturally or environmentally sensitive areas that dictate aboveground installation. As approved by the Planning Board.
 7. No advertisements or logos will be allowed on any structure.
- J. All costs associated with the application shall be the responsibility of the WECS developer/applicant.

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LYON COUNTY ZONING REGULATIONS

ARTICLE 9. OFF-STREET PARKING AND LOADING

901. OFF-STREET PARKING

Off-street parking facilities as required by this article shall be provided for any new building and for any new use established, additions to existing use, or any change in manner of use which results in increased capacity.

A. General Provisions.

1. Utilization: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.
2. Parking space dimension: A required off-street parking space shall be not less than eight (8) feet six (6) inches in width and not less than nineteen (19) feet in length, exclusive of access drives or aisles, ramps, or columns.
3. Access: Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
4. Open and enclosed parking: Off-street parking spaces open to the sky may be located in any yard, except that in residential districts no such parking spaces shall be located in a required front yard or a required side yard adjacent to a street. Enclosed buildings and carports containing off-street parking shall be subject to the yard requirements applicable in the district in which located.

B. Design and Maintenance.

1. Design: Off-street parking spaces may be open to the sky or enclosed in a building.
2. Surfacing: All open off-street parking areas except required parking spaces accessory to a single-family dwelling, shall be graded and otherwise improved with an all weather surface
3. Screening: All off-street parking areas containing more than six parking spaces should be effectively screened on each side that adjoins residential district by a wall, fence or densely planted compact evergreen hedge not less than six feet no more than eight feet in height. Parking areas shall be arranged and designed so as to prevent damage to, or intrusion into, such wall, fence or hedge.
4. Lighting: Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to interfere with the residential use.
5. Repair and service: No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities.
6. Computation: When determination of the number of off-street parking spaces required by these regulations results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.
7. Collective provisions: Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the

Article 9 Off-Street Parking and Loading

- separate requirements for each such use, and provided that all regulations covering the location of accessory parking spaces in relation to the use served are adhered to.
8. Location: All parking spaces required to serve buildings or uses shall be located on the same zoning lot as the structure or use served unless a conditional use permit is obtained under Section 903.
 9. Employee parking. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

902. REQUIRED SPACES

Minimum off-street parking spaces accessory to the uses hereinafter designated shall be provided as per the following Table.

**TABLE 902
REQUIRED OFF STREET PARKING**

USE	OFF STREET PARKING SPACES REQUIRED
RESIDENTIAL: Dwellings Nursing Homes Manufactured Home Park Dormitories, Boarding Homes, Fraternities, Sororities	2 spaces for each dwelling unit 1 space for each 3 beds 2 space per mobile home unit One space for each 2 persons
CHURCHES	One space for each 4 seats
SCHOOLS: Public or Private Elementary or Jr. High, High School or College	2 spaces per class room plus drop off and pick up space 1 space for each 15 students plus 1 space for each 2 employees
ASSEMBLY: Restaurants, Taverns, Private Clubs, Theaters Funeral Homes	1 space for each 3 seats based on maximum capacity
PROFESSIONAL OFFICES INCLUDING DOCTORS AND CLINICS	1 space for each 400 square feet of floor area
FURNITURE AND LARGE APPLIANCE STORES	1 space for each 400 square feet of floor area
RETAIL SALES	1 space for each 200 square feet of floor area
MANUFACTURING, ASSEMBLY PLANT OR OTHER INDUSTRIAL USES	1 space for each two employees on a maximum shift
PERSONAL SERVICE INCLUDING BEAUTY AND BARBER SHOPS	1 space for each 150 square feet of area
BOWLING ALLEYS	5 spaces for each lane plus parking required for any assembly area
AUTOMOBILE OR TRUCK WASH	2 holding spaces per stall plus drying area
MOTEL OR HOTEL	1 for each guest room

Parking spaces for other permitted uses not listed above shall be provided in accordance with the determination of the Zoning Administrator/Director/Director with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use.

903. CONDITIONAL USE FOR PARKING

In order to provide required off-street parking areas, the Board of Zoning Appeals, hereinafter referred to as the "Appeals Board", may grant a special use permit for the establishment of parking areas in any zoning district under the following provisions:

- A. Location.** Parking area must be within 300 feet of the boundary of the use for which the parking is provided.
- B. Use.** The parking area shall be used for vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials, or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.
- C. Improvements.** All design and maintenance requirements of Section 901B above shall be complied with.

The Appeals Board shall determine the necessity of additional improvements in order to protect adjacent property owners and the public interest. Such improvements shall include, but not be restricted to proper setbacks, screening wall, grass, shrubs, trees and maintenance.

904. OFF-STREET LOADING AND UNLOADING

Loading and unloading space shall be provided off-street and on the same premises with every building, structure or part thereof, hereafter erected, established or enlarged and occupied for goods display, retail operation, department store, market, hotel, mortuary, laundry, dry cleaning, manufacturing activities, or other uses involving the receipt or distribution of materials or merchandise by motor vehicle. The loading and unloading space or spaces shall be so located to avoid undue interference with public use of streets, alleys and walkways.

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LYON COUNTY ZONING REGULATIONS

ARTICLE 10. QUARRY REGULATIONS

1001. PERMIT REQUIRED

A separate Quarry Operations Permit shall be obtained when any of the following conditions exist:

- A. The initial quarrying operation from a previously undisturbed site.
- B. The resumption of resource extraction and accompanying crushing operations following a previous suspension of operations for a period greater than twenty-four (24) months.
- C. The resumption of previously suspended quarrying operations by a new producer. A new producer shall include any change of ownership.

1002. PROOF OF OWNERSHIP, LEASEHOLD AND PROPERTY DESCRIPTIONS

The applicant shall provide such proof of ownership or leasehold ownership as may be required by the County Zoning Administrator/Director, and shall be signed by both the Quarry Operator and the landowner.

The application shall include a legal description of that portion of the leasehold or land ownership proposed by the requested quarrying operation. In addition to the legal description, the applicant shall provide an 8 1/2 by 11 inch copy of the current USGS map, enlarged to minimum scale of 1"=500', upon which has been overlain the boundary of the described quarry location.

1003. QUARRY OPERATIONS PLAN

A Quarry Operations Plan shall be submitted with the application, which shall show the physical sequence of quarry operations proposed for the life of the quarry.

The Plan shall be prepared at a scale and shall include, but not be limited to the following:

- A. Plan for quarry sequencing.
- B. Plan using USGS maps showing quarry floor elevations and surface drainage patterns during operations.
- C. Public road access points.
- D. Proposed stockpile area locations.
- E. Proposed crusher locations.
- F. Proposed scale and scale house location

- G. Location of existing buried and overhead utility lines and poles with dimensions shown to the nearest property line.
- H. Distance to any streams, constant or intermittent that is on the proposed quarry property, and any adjoining property.
- I. Description of methods of dust control on both public roads and onsite.
- J. Location of all filter strips.
- K. Powder magazine location and security shall comply with all federal guidelines.
- L. Notion that Seismic-monitoring records shall be available to any County Official that requests them.
- M. Hours of operation.

1004. PRE-BLASTING SURVEYS

The operator shall conduct a Pre-blasting survey of all structures located within one (1) mile of the quarry location. A copy of the survey will be furnished to the County Engineer and shall be approved prior to the issuance of the Quarry Operations Permit. A personal visit shall be made of each property within the one (1) mile area and should include inspections of structures if so permitted.

The Pre-blasting survey shall include at a minimum the following:

- A. Map showing locations of landowners and homeowners contacted.
- B. Address of all landowners and homeowners contacted.
- C. Description of structures visited along with any video or photographs taken.
- D. Plan of notification of any blast if so requested by a landowner within the Pre-blast area.

1005. PERMITTING AND REGULATIONS COMPLIANCE

In addition to these regulations, the Quarry Operator shall be required to comply with all local, State and Federal regulations concerning occupational safety, blasting, drainage, fire prevention and operation permits. Such agencies shall include; Environmental Protection Agency, Bureau of Alcohol and Firearms, Sate Fire Marshal’s Office, Local Fire Department, Kansas Department of Health and Environment, and Division of Water Resources.

1006. UTILITY AND PIPELINE COMPLIANCE

In addition to these regulations, the Quarry Operator shall be responsible for complying with all restrictions and regulations imposed by utility or pipeline companies having easements adjacent to or across the permitted site.

The Quarry Operator shall submit copies of all correspondence between the Quarry Operators and any utility or pipeline company to the Zoning Administrator/Director, who shall place such correspondence in the permit file of the Quarry Operator.

1007. MISCELLANEOUS REQUIREMENTS

A. Setbacks for Quarry Operations.

1. *Quarry Face.* Excavations of the quarry face may occur as follows:
 - a. A minimum distance of 100 feet from any public right-of-way
 - b. A minimum of 50 feet from any adjacent property line, and
 - c. A minimum of 660 feet to the nearest structure associated with a residence, and
 - d. Within 1,320 feet to the nearest structure associated with a residence all shots shall be pre-planned using the Scaled Distance Equation.
2. *Stockpile.* The following distance shall be maintained from the base of any stockpile or quarried material or overburden material and any adjacent property line or public right-of-way.
 - a. Located so as not to be within the sight triangle of a public intersection.
 - b. A slope factor of 3 to 1 with a minimum of 50 feet from any adjacent property line, and
 - c. A minimum of 660 feet to the nearest structure associated with a residence.

B. Water Quality Tests.

Prior to commencement of operations, the Quarry Operator shall comply with all State and Federal Water Quality Regulations and Standards.

C. Dust Control.

A Quarry Operator shall maintain on-site and off-site dust control at all times.

1. *On-site.* Dust control shall be by surfacing, watering, or chemical dust control methods. Sufficient on-site dust control shall be maintained to minimize the effect of dust generated by the operation on adjacent roadways and area properties.
2. *Off-site.* Dust control shall be maintained on all adjacent County roadways for a distance of 80 feet from each Quarry entrance, and for a distance of 600 feet either side of a residence or business within 1 mile of the Quarry entrance. Such dust control shall be chemical dust control methods, penetrating asphalt or by double asphalt surface treatment surfacing of the roadway or as approved by the County Engineer and may be accomplished by County forces with all labor and material cost charged to the Quarry Operator.
3. The County Engineer shall approve any alternate method of dust control.

D. Approval of Major Haul Routes.

Prior to the transport of any quarried materials to major projects or purchasers, the Quarry Operator shall have all proposed hauling routes approved by the County Engineer. For the purpose of these regulations, a major project or purchaser is defined as any project, or location for which continuous, multiple, truck hauling in excess of 100 loads per day is required for three (3) or more continuous days.

E. Seismic Monitoring.

The Quarry Operator shall be required to monitor during the first month of operation the explosive energy expended during quarry operations. Seismic metering shall be conducted at the entrance of the nearest residence in four (4) directions from the quarry face by the use of one seismograph and the use of The Scaled Distance Equation.

F. Fly rock Control.

Quarry Operators shall be required to control, by careful blasting operations, the transmission of “fly rock” (rock or shale pieces or particles caused by blasting) to adjacent right-of-ways or property.

The County Engineer may from time to time, inspect right-of-ways and property adjacent to the quarry and, if excessive fly rock is found, the Quarry Operator shall be so notified by certified mail and shall remove the fly rock within three (3) working days. Permission to enter on and inspect private properties must be obtained from the landowner.

The Quarry Operator shall, at intervals of not more than thirty (30) days, conduct an inspection and remove fly rock having a greater dimension of one-half (1/2) inch from adjacent right-of-ways and properties within two (2) days of said inspection. Permission to enter on and inspect private properties must be obtained from the landowner.

G. Inspection Release Statement.

The Quarry Operator shall provide a statement to the County Engineer granting permission for the County Engineer or his employees to inspect the premises, at any time during normal business hours, for non-compliance of these regulations.

H. Notification of Leasehold Ownership Change.

The Quarry Operator shall, within five (5) days of any change in leasehold ownership, notify the County Zoning Administrator/Director/Director, who shall meet

with the new operators and obtain a written statement that they will abide by the regulations and terms of the original permit. If no such written agreement is obtained, the permit shall be revoked and the quarry operation stopped until such time as a new permit has been issued.

I. Bonds.

The Quarry Operator shall submit a Certificate or Issuance of a Restoration Bond by the State of Kansas to the County Zoning Administrator/Director.

A bond in the amount of a minimum of \$200,000 shall be presented, with the application for permit payable to Lyon County, to cover any cost that the County may expend, including but not limited to, removal of fly rock. A surety shall not cancel a bond without giving notice in writing of such cancellation to Lyon County, through the Zoning Administrator/Director. Said cancellations shall take effect ten (10) days after receipt of such notice; however said surety shall remain liable for any injury or damage incurred prior to the effective date of such cancellations. If a Bond is cancelled **all Quarry Operations shall cease immediately.**

J. Insurance.

The Quarry Operator shall provide, with the application to the Zoning Administrator/Director, a Certificate of Comprehensive Liability Insurance in the amount of \$5,000,000. (Note! A lesser amount may be approved by the Planning Board, upon specific written request of the operator).

This liability policy shall be pre-paid for one (1) year, and renewals or extensions of same shall be provided to the Zoning Administrator/Director thirty (30) days prior to any renewal of the permit application on an annual basis. The Insurance Company is required to notify the Zoning Administrator/Director at least ten (10) days prior to cancellation of any required Insurance.

The applicant shall comply with all other requirements that may be set forth by State or Federal Laws, including Workman's compensation Insurance. If the applicant has no insurance as listed by this regulation, **all Quarry Operations shall cease immediately**

1008. QUARRY RESTORATION PLAN

The Quarry Operator shall prepare or have prepared a Quarry Restoration Plan, which is in accordance with State regulations.

1009. APPLICATION FEES.

A non-refundable fee, as determined by resolution from time to time by the Governing Body, shall accompany the submittal of the Application for Quarry Operations. An Annual Renewal Fee, as determined by resolution from time to time by the Governing Body, shall accompany all renewal applications, which must be submitted to the Zoning Administrator/Director on, or before, the anniversary date of the original permit issuance.

An inspection fee, as determined by resolution from time to time by the Governing Body, shall be paid to the Lyon County Treasurer for each required inspection. No more than two (2) required inspections shall be required within one (1) year.

Payment of all fees shall be by cash, cashier’s check, certified check or corporation checks made payable to the Lyon County Treasurer.

1010. REQUIRED ZONING ACTION

The owner and/or operator are advised that application for Quarry Operations Permit will not be accepted until all required Zoning Regulations are met.

1011. PENALTIES.

The County Engineer, or his designated employees, shall have the right to enter upon the property being quarried for the purpose of making general and detailed inspections of the operation to insure conformance of the operation with the requirements of these regulations and the Quarry Operating Plan and Quarry Restoration Plan submitted by the operator and made a part of the original application or of subsequent approved amendments, thereto.

If the operator, after operations begin, shall violate or fail to comply with any of the above regulations, they shall upon written notification by the Zoning Administrator/Director or County Engineer, immediately cease all quarry operations pending resolution of the conflict.

The operator shall provide any information requested by either the Zoning Administrator/Director or County Engineer within ten (10) days of written notice, and if there is any failure to provide the information or to comply with any of the terms contained herein or any State or Federal law, the Zoning Administrator/Director shall suspend the Permit of Operations indefinitely.

Until such time as all regulations are again complied with or any other information is supplied to bring the quarry operation back into compliance with the regulations a renewal or new permit will not be issued by the Zoning Administrator/Director.

LYON COUNTY ZONING REGULATIONS

ARTICLE 11. NONCONFORMING USES

1101. NONCONFORMING LOTS OF RECORD

- A. Even though the lot area, width or depth of the area is less than the minimum required by these regulations for the district, any of the following specified lots or parcels of land may be used as a building site for dwelling purposes in a residential district if all other requirements of Section 1102 (B) below are met; provided, that no more than one dwelling unit shall be placed upon any such lot or parcel:
1. Any lot shown on a subdivision plat recorded prior to April 1, 2003.
 2. Any parcel of land purchased prior to April 1, 2003, by the present owner or by a person from whom the present owner acquired it through testamentary disposition or intestate succession, where no adjacent land is owned, by the same person.
 3. Any lot or parcel of land where the deficiency is due exclusively to the condemnation of a portion thereof for a public purpose or the sale thereof to any agency or political subdivision of a city or the State or Federal government.
- B. Construction permitted by Section 1101 (A) above shall comply with all other regulations applicable in the residential zoning district in which the lot in question is located.

1102. NONCONFORMING STRUCTURES

- A. Authority to Continue.** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable lot size requirements and/or the applicable bulk regulations, may be continued, so long as it remains otherwise lawful, subject to the restrictions in Sections 1102(B) through 1102(D).
- B. Enlargement, Repair, Alterations.** Any such structure described in Section 1102(A) may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
- C. Damage or Destruction.** In the event that any structure described in Section 1102(A) is damaged or destroyed, by any means, to the extent of more than 50 percent of its assessed valuation, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.

- D. Moving.** No structure described in Section 1102(A) shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

1103. NONCONFORMING USES

- A. Authority to Continue.** Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in Sections 1103(B) through 1103(J).
- B. Ordinary Repair and Maintenance.** Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use; provided, however, that this subsection shall not be deemed to authorize any violation of Section 1103(C) through 1103(I) of these regulations.

Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition provided that such restoration will not be in violation of Section 1103(F) of these regulations.

- C. Structural Alteration.** No structure that is devoted in whole or in part to a nonconforming use shall be structurally remodeled unless the entire structure and use thereof shall thereafter conform to all regulations of the zoning district in which it is located.
- D. Extension.** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:
1. Extension of such use to any structure or land area other than one occupied by such nonconforming use on the effective date of these regulations or on the effective date of a subsequent amendment heretofore that causes such use to become nonconforming.
 2. Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations or on the effective date of a subsequent amendment heretofore that causes such use to become nonconforming; provided, however, that such use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.

- E. Enlargement.** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- F. Damage or Destruction.** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than 50 percent of its assessed valuation, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 50 percent or less, no repairs or restoration shall be made unless a zoning permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- G. Moving.** No structure that is devoted in whole or in part to a nonconforming use, shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located after being so moved. No nonconforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless such use shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- H. Change in Use.** If no structural alterations are made other than those necessary to repair or maintain the structure as described in Section 1102(B), a nonconforming use of a structure may be changed to another nonconforming use of the same or higher restrictive classification. When a nonconforming use has been changed to any permitted use, it shall not thereafter be changed back to a nonconforming use.
- I. Abandonment or Discontinuance.** When a nonconforming use of land, not involving a structure, or involving only a structure which is accessory to the nonconforming use of land, is discontinued or abandoned, for a period of six consecutive months (regardless of any intent not to abandon or to resume such use), such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.
- When a nonconforming use of a part or all of a structure which was not designed and intended for any use which is permitted in the zoning district in which such structure is located, is discontinued or abandoned for a period of 12 consecutive months (regardless of any intent not to abandon or to resume such use), such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such structure shall comply with the regulations of the zoning district in which such structure is located.
- J. Nonconforming Accessory Uses.** No use, which is accessory to a principal nonconforming use, shall continue after such principal use shall cease or terminate.

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LYON COUNTY ZONING REGULATIONS

ARTICLE 12. SIGNS

1201. PURPOSE

The purpose of the Sign Regulations is to control the size, number and location of signs and other advertising devices. It is further intended to permit only these signs, which are essential and reasonable for the conduct of business and industry within Lyon County, and to prevent unreasonable numbers, size and illumination of signs.

1202. DEFINITIONS

Definitions of terms used in this Article shall be as follows, unless the context otherwise indicates:

Advertising Sign An advertising sign shall mean any structure, object or device, erected, maintained or used for advertising purposes related to the permitted principal use of the premises upon which it is located. This definition includes the terms “sign”, “roof-signboard”, “sign board”, “advertising display”, but does not include the term “billboard”.

Billboard An advertising sign, board or panel constructed for the purpose of displaying posters, pictures, printed or painted advertising matter elsewhere than the premises, which such is located.

Bulletin Board A sign, normally with a transparent cover, upon which information such as hours or operation or posters are attached.

Controlled Outdoor Advertising Routes Controlled Outdoor Advertising Routes are those areas visible by a person of normal visual acuity from State and Federal highways. A map of such areas is available in the County Zoning Office. A permit from Kansas Department of Transportation is required in these areas prior to requesting a permit from Lyon County.

Directional Sign A sign for directional purposes only. It may be 32 sq. ft. in size. Such a sign must not be in the road right-of-way or sight triangle.

Front Footage The frontage of the lot on which the sign is located.

Flashing Sign Any illuminated sign on which the lighting is not constant at all times.

Pole Sign Any sign not attached to a building, other than a billboard, erected and supported upon the ground and attached to the ground permanently.

Projecting Sign Any sign, other than a wall sign that is supported by the wall of a building and projects out from such wall.

Roof Sign Any sign erected, constructed and placed upon the roof of a building with the principal support on the roof or exterior walls.

Sight Triangle A sight triangle is defined as a triangular area required for visibility near any intersection or a public road or driveway opening onto a public road.

Temporary Sign A sign, banner, pennant, special flag, balloon or other air or gas filled devices intended for short-term use.

Wall Sign All flat signs of permanent construction that is attached flat up against any wall of a building.

1203. SIGNS PERMITTED IN THE (A), AGRICULTURAL DISTRICT AND THE (R), RESIDENTIAL DISTRICT

- A. Un-illuminated signs for home occupations attached to the wall of the structure or free standing.
 - 1. Only one such sign located on the same property as the principal use.
 - 2. No such sign shall exceed thirty-two (32) square feet in area.
 - 3. Location of such sign shall not be in the right of way, in the sight triangle, or in an easement.
 - 4. Ground signs shall be permanently anchored to the ground and be no more than eight (8) feet in height or more than twelve (12) feet in length.

- B. Bulletin Boards and signs for churches and other public and semi-public buildings allowed in the Agricultural and or Residential districts subject to the following:
 - 1. Only one such sign or bulletin board located on the same property as the principal use.
 - 2. No such sign or bulletin board shall exceed thirty-two (32) square feet in area.
 - 3. Location of such sign or bulletin board shall not be in the right of way, in the sight triangle, or in an easement.
 - 4. Ground signs shall be permanently anchored to the ground and be no more than eight (8) feet in height or 12 feet in length.

- C. Signs identifying subdivisions or other development areas shall not exceed sixteen (16) square feet in size.

- D. Signs for structures permitted by Special Use in these districts shall be as approved by the Planning Board and Governing Body and shall be identified and located at the time of the application for the Special Use Permit.

1204. SIGNS PERMITTED IN THE B, BUSINESS DISTRICT, THE (I-1), LIGHT INDUSTRIAL DISTRICT, AND THE (I-2) HEAVY INDUSTRIAL DISTRICT

- A. In the “B”, “I-1”, and “I-2” Districts advertising signs which advertise only the service, articles or products offered upon the premises where such signs are located are allowed subject to the following restrictions:
 - 1. There shall be no more than two signs per street frontage for any business or industry allowed.
 - 2. The total square footage of all such signs on any one frontage shall not exceed seven

- hundred (700) square feet in area.
3. Wall signs shall not project more than five (5) feet above the top of the wall.
 4. Pole signs shall not exceed forty (40) feet in height or two hundred fifty (250) square feet in surface area.
 5. No sign shall be erected upon or project over any public street or right-of-way.
 6. No sign shall be erected on or over any public utility easement.
 7. Any sign erected within fifty (50) feet of the intersection of two streets or within three (3) feet of a driveway shall have the bottom of the sign at least eight (8) feet above the ground below it.
 8. Lighting on all signs shall be allowed provided that the design is such that all glares are prevented from being on a street or adjacent property.
 9. Any sign within two hundred (200) feet of a residence shall be a wall sign only and attached flat against the wall of the structure.

B. Billboards.

In addition to the signs allowed in Section 1204(A), above, Billboards may be allowed outright in the Industrial Districts only when in conformance with the following:

1. No billboard shall be located closer than fifty (50) feet to any property line, and at least two hundred (200) feet from the property line of a property, which is, zoned (R), Residential District.
2. No billboard shall exceed thirty (30) feet in height above the ground level where they are erected.
3. No billboard shall exceed five hundred (500) square feet in area.
4. No billboard shall be erected within five hundred (500) feet of another billboard.

1205. MISCELLANEOUS SIGNS.

A. Signs in PUD, Planned Unit Development Districts shall be as approved by the Planning Board and Governing Body upon initial application of the PUD.

B. Temporary Signs.

Temporary signs may be erected in the “B”, “I-1”, or “I-2” Districts subject to the following:

C. Nonconforming Signs.

Any existing sign which does not conform to these requirements may be continued but may not be replaced except in conformance with these regulations

D. Portable Signs/Vehicle Signs.

Portable signs are prohibited except as authorized as a temporary sign by Section D of this article. Signs which are painted on any motor vehicle or trailer shall be considered as an illegal portable sign if such vehicle and or trailer are parked at a location, other than the business which they advertise, or at the home of the operator, for other than making deliveries or while performing work at such location. Any such vehicle or trailer when parked at the place of business that they advertise must be currently licensed and in operating condition.

E. Political Signs.

Political Signs may be erected in any district subject to the following conditions.

1. Such signs shall not be located in, or over any public right-of-way
2. All political signs shall be removed within five (5) days after the election to which they apply.
3. Any sign deemed by the Zoning Administrator/Director to be a traffic or safety hazard shall be removed within twenty-four (24) hours after notification by the Administrator.

F. Real Estate Signs.

Real Estate Signs not exceeding four (4) square feet in area which advertise the sale, rental or lease of the premises upon which it is posted, are exempt from the provisions of the sign regulations, provided that such sign must be removed upon the sale, rental or lease of the property.

G. Permits/Fees.

Except for Temporary, Political, Allowed Home Occupation, and Real Estate signs, no sign of any type shall be erected without prior written approval of the Zoning Administrator/Director. Such permit application shall be on a form prescribed by the Zoning Administrator/Director and shall be accompanied by a fee as determined by resolution from time to time by the Governing Body.

LYON COUNTY ZONING REGULATIONS

ARTICLE 13. BOARD OF ZONING APPEALS

1301. AUTHORIZATION

A Board of Zoning Appeals is hereby established as prescribed by law, and hereinafter in this Article will be referred to as the "Appeals Board."

1302. MEMBERSHIP

The Planning Board shall act as and set as the Board of Zoning Appeals. The Appeals Board shall annually elect one of its members as chair. The Appeals Board may also select from among their members a vice-chairman and such other officers as the Board shall consider necessary. The Appeals Board shall appoint a secretary, who need not be a member of the Appeals Board, to maintain its records and keep minutes of all proceedings before the Appeals Board.

1303. JURISDICTION

The Appeals Board shall have the following jurisdiction and authority:

- A. To hear and decide appeals subject to the procedure and standards set out in Section 1307 where it is alleged there is error in any order, requirement, decision or determination (hereinafter referred to collectively as "decision") made by the Zoning Administrator/Director under these regulations.
- B. To hear and pass upon applications for variances from the regulations and restrictions imposed by these regulations in the manner and subject to the procedure and standards set out in Section 1308.
- C. To hear and decide applications for conditional use permits in the manner and subject to the procedure and standards set out in Section 1307.
- D. To hear and decide all matters referred to it upon which it is required to pass by these regulations.

1304. MEETINGS

The Appeals Board shall establish a meeting date of at least once each month to hear all applications before it.

1305. HEARINGS AND RULES

All hearings that these regulations require the Appeals Board to conduct shall be open to the public. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. The Appeals Board shall keep minutes of its proceedings showing evidence presented, findings of fact, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The Appeals Board shall also keep records of its hearings and other official actions. Every rule or regulation and every order, requirement, decision or determination of the Appeals Board shall be filed without unreasonable delay in the office of the County Clerk and shall be open to public inspection during reasonable business hours. The

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Appeals Board shall adopt and print its own rules of procedure not in conflict with the provisions of these regulations or the applicable Kansas statutes.

1306. FINALITY AND JUDICIAL REVIEW OF DECISIONS

All decisions and findings of the Appeals Board, on appeal or upon an application for a conditional use permit or a variance, shall be final decisions, and shall, in all instances, be subject to judicial review. Any person or department of the government, jointly or separately aggrieved by any decision of the Appeals Board may present to the District Court having jurisdiction, a petition duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief thereof. Such petition shall be presented to the Court within thirty (30) days, after the date of filing the decision in the office of the Zoning Administrator/Director.

1307. APPEALS

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

- A. Time for Appeals.** Appeals shall be taken within forty-five (45) days after a decision has been made by filing an application for appeal with the Zoning Administrator/Director. Such application shall specify the grounds for such appeal. Upon receipt of an application for appeal, the Zoning Administrator/Director shall forthwith transmit to the Appeals Board all of the papers constituting the record upon which the decision being appealed was based.
- B. Stay of Proceedings.** An appeal shall stay all legal proceedings in furtherance of the action unless the Zoning Administrator/Director certifies to the Appeals Board, after the application for appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Appeals Board, or by a court of record on application, on notice to the Zoning Administrator/Director and on due cause shown.
- C. Hearing and Notice.** The Appeals Board shall select a reasonable time and place for the hearing of the appeal. Public notice of the time, place, date, and subject of such hearing shall be published once in the official newspaper at least twenty (20) days prior to the date of the hearing. A copy of such notice shall be mailed to each party making the appeal, each person on the ownership list, and to the Appeals Board. The Appeals Board may by rule provide a similar notice by mail twenty (20) days prior to the hearing date to all owners of land located within 1,000 feet of the property, which is the subject of the hearing. When required, such a list of names and addresses shall be provided by the applicant. Any interested party may appear and be heard at the hearing in person, by agent, or by attorney.
- D. Decision.** The Appeals Board may affirm or reverse, wholly or partly, or may modify the

order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Zoning Administrator/Director, and may issue or direct the issuance of a permit. The concurring vote of four members of the Appeals Board shall be necessary to reverse any order, decision, or determination of the Zoning Administrator/Director under these regulations. The Appeals Board shall render a written decision on the appeal without unreasonable delay after the close of a hearing, and in all cases, within forty-five (45) days after the close of the hearing.

E. Records. The Zoning Administrator/Director shall maintain complete records of all actions of the Appeals Board with respect to appeals, and shall keep the Governing Body informed on a current basis of the disposition of each case.

1308. VARIANCES

The Appeals Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest. Variances may be authorized only in those specific instances enumerated in Section 1308(C) and then only when the Appeals Board has made findings of fact, based upon the standards set out in Section 1308(D), that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee or occupant of land or structures. Any such variance shall not permit any use not permitted by these regulations in the zoning district in which the variance is requested.

A. Application. An application for a variance. Together with an application for a zoning permit, shall be filed in duplicate with the Zoning Administrator/Director who shall forward immediately a copy of each to the Secretary of the Appeals Board. The application shall contain the following information as well as such additional information as may be prescribed by rule of the Appeals Board:

1. The particular requirements of these regulations that prevent the proposed use or construction.
2. The characteristics of the subject property, which prevent compliance with, said requirements of these regulations.
3. The reduction of the minimum requirements of these regulations that would be necessary to permit the proposed use or construction.
4. The particular hardship, which would result if said particular requirements of these regulations, were applied to the subject property.

B. Hearing and Notice. The Appeals Board shall select a reasonable time and place for the hearing. Notice, including public notice, of such hearing shall be given in the manner required for hearings on appeals by Section 1307(C). Such notice shall contain the date, time, and place of the hearing, the street address, or common description of the property involved, and a brief description of the relief sought. Any interested party may appear and be heard at the hearing in person, by agent, or by attorney.

C. Authorized. Variances from the provisions of these regulations shall be granted by the

Appeals Board only in accordance with the standards set out in Section 1308(D), and may be granted only in the following instances and in no others:

1. To vary the applicable lot area, lot width, and lot depth requirements.
2. To vary the applicable bulk regulations, including maximum height, lot coverage and minimum yard requirements.
3. To vary the applicable off-street parking and off-street loading requirements.
4. To vary sign height and size.

D. Standards.

1. The Appeals Board shall not grant a variance unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented which support conclusions that:
 - 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 zoning district, and is not created by an action or actions of the property owner or 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 these regulations from which a variance is requested will constitute unnecessary hardship upon a 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. Granting the variance desired will not be opposed to the general spirit and intent of these regulations.
2. In determining whether the evidence supports the conclusion required by Section 1308 (D) (1), the Appeals Board shall consider the extent to which the evidence demonstrates that:
 - a. The particular physical surroundings, shape, or topographical condition of the specific property involved would result in a practical difficulty or unnecessary hardship upon or for the owner, lessee or occupant, as distinguished from a mere inconvenience, if the provisions of these regulations were literally enforced,
 - b. The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant or applicant to make more money out of the property;
 - c. The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property

is located; and

- d. The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

E. Conditions and Restrictions. In granting a variance, the Appeals Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to comply with the standards set out in Section 1308(D). To reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations. Failure to comply with any of the conditions or restrictions placed on a variance shall constitute a violation of these regulations

F. Decisions and Records. The Appeals Board shall render a written decision on an application for a variance without unreasonable delay after the close of hearing, but in all cases, within forty-five (45) days from the close of the hearing. The Zoning Administrator/Director shall maintain complete records of all actions of the Appeals Board with respect to application for variances and keep the Governing Body informed.

G. Period of Validity. No variance granted by the Appeals Board shall be valid for a period of longer than 180 days from the date on which the Board grants the variance, unless within such 180-day period, a zoning permit is obtained and the construction, moving or remodeling of a structure is started. The Appeals Board may grant additional extensions not exceeding 180 days each, upon written application, without notice or hearing.

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LYON COUNTY ZONING REGULATIONS

ARTICLE 14. AMENDMENTS

1401. GENERAL PROVISIONS FOR AMENDMENTS

The regulations imposed, and the districts created under the authority of these regulations, may be amended from time to time by the Planning Board following a public hearing and the approval by the Governing Body. No such amendment shall be adopted except in accordance with the procedures of this Article.

- A. Proposal.** Amendments may be proposed: (1) by the Governing Body, (2) by the Planning Board or (3) upon application by, or on the behalf of, the owner of the property affected, but only in accordance with the procedure set forth in Section 1401(B). When the Governing Body proposes an amendment, it shall transmit its proposal to the Planning Board for a public hearing and recommendation thereon.
- B. Application.** When the owner of the property affected proposes an amendment to any of these regulations or to any zoning district created thereby, an application for such amendment shall be filed with the Zoning Administrator/Director/Director. The application shall be in such form and contain such information as shall be prescribed from time to time by the Planning Board, but shall in all instances contain the following information:
1. The applicant's name and address.
 2. The precise wording of any proposed amendment to the text of these regulations.
 3. In the event that the proposed amendment would change the zoning classification of any property:
 - a. The legal description and street address of the property,
 - b. The name and mailing address of the owner(s) of the property,
 - c. The present zoning classification and existing uses of the property,
 - d. The dimensions of the property and the area stated in square feet or acres or fractions thereof,
 - e. Name and mailing address of all property owners within 1000 feet of the boundary of the requested property line which has been compiled by a registered abstractor or licensed title insurance agent, and
 - f. Shall be signed by both the applicant and the owner of record, if not the applicant.
- C. Public Hearing.** The Planning Board shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by the Planning Board. The Planning Board shall select a reasonable hour and place for such public hearing, and it shall hold such hearing within forty-five (45) days from the date on which the proposed amendment is received or initiated by the Planning Board. An applicant for an amendment may waive the requirement that such hearing be held within forty- five (45) days.

D. Notice of Hearing. Publication notice of a hearing on a proposed amendment shall be published in the official county newspaper. At least twenty (20) days shall elapse between the date of such publication and the date set for such hearing. Such notice shall state the date, time and place of the hearing and shall contain a statement regarding the proposed changes in regulations or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any property, or the boundaries of any zoning district, such notice shall contain the legal description or give a location where the complete legal description may be viewed, street address or general location of such property, its present zoning classification, and the proposed classification. When a proposed amendment will affect the classification of specific property, the Zoning Administrator/Director/Director shall mail written notice of the public hearing, containing the same information as the published notice thereof, to the owner(s) of all property within 1,000 feet of the boundaries thereof, at least twenty (20) days prior to the date of such hearing. Failure to receive such notice shall not invalidate any subsequent action taken by the Planning Board or the Governing Body. The Planning Board may give such additional notice to other persons as it may from time to time provide by its rules.

E. Conduct of Hearing. The hearing shall be conducted and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Planning Board may from time to time vote to prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Board may request a report on any proposed amendment from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person(s) prior to or at the public hearing.

The Planning Board may make recommendations on proposed amendments to specific properties which affect only a portion of the land noted in the public hearing notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the said notice. A recommendation for a zoning classification of lesser change than that set forth in the notice shall not be valid, however without republication and, where necessary, re-mailing of notices unless the Planning Board shall have previously established a table or publication available to the public which designates what zoning classifications are lesser changes within the published zoning classifications.

For action on zoning amendments, a quorum of the Planning Board must be more than one-half of all the members. A vote either for or against an amendment by a majority of all the Planning Board members present constitutes a recommendation of the Planning Board, whereas a vote either for or against an amendment by less than a majority of all planning board members present constitutes a denial of the request.

F. Report by Planning Board. Within 15 days after the close of a public hearing on a proposed amendment, the Planning Board shall submit a report to the Governing Body. A copy of this report shall also be filed with the Clerk and with the Zoning Administrator/Director/Director and such copies shall be kept available for public

inspection. A copy of the report shall also be mailed to the owner or his designated agent of the property affected by the proposed amendment. Such report shall contain a recommendation as to whether the proposed amendment should be approved or disapproved and specific written determinations on the items listed in Sections 1401(G) or 1401(H) and on such other items as the Planning Board may consider relevant. The report submitted to the Governing Body shall be accompanied by a copy of the record of the hearing on the proposed amendment.

G. Amendments to Text. When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the report of the Planning Board shall contain a statement as to the nature and effect of such proposed amendment and determinations to the following items:

1. Whether such change is consistent with the intent and purposes of these regulations; and
2. Whether the proposed amendment is made necessary because of changed or changing conditions in the zoning districts affected and, if so, the nature of such changed or changing conditions.

H. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning classification of any specific property, the report of the Planning Board shall then contain statements as to the present classification, the classification under the proposed amendment, and the reason for seeking such reclassification, and determinations as to the following items:

1. Whether the change in classification would be consistent with the intent and purpose of these regulations;
2. Whether every use that would be permitted on the property reclassified would be compatible with the uses permitted on other property in the immediate vicinity;
3. Whether adequate sewer and water facilities, and all other needed public services, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
4. The general amount of vacant land that currently has the same zoning classification as is proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available or not available for development;
5. In the event that the property as reclassified would be available for business or manufacturing uses, whether such uses, particularly in the area in question, are required to provide business or manufacturing services or employment opportunities.
6. Whether the proposed amendment would correct an error in the application of these regulations as applied to the subject property;
7. 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; and
8. Whether the proposed amendment would be in accordance with and further enhance the implementation of the Comprehensive Plan.

1402. ADOPTION OF AMENDMENTS BY THE GOVERNING BODY

When the Planning Board submits a recommendation, the Governing Body may:

- A. Approve such recommendations by adoption of a Resolution, or
- B. Override the Planning Board recommendation by a 2/3 majority vote of the membership of the Governing Body, or
- C. Return the same to the Planning Board for reconsideration along with a statement specifying the basis of the governing body’s failure to approve or disapprove.

The Planning Board, after reconsidering the above item may resubmit its original recommendations giving the reasons therefore or submit new and amended recommendations. Upon receipt of such recommendation. The Governing Body may adopt or revise and adopt such recommendation by resolution, or it may disapprove the proposed amendment. In case a written protest against a proposed zoning or rezoning of land lying within three miles of the boundary of any city having adopted a zoning ordinance is received from the governing body of such city, the Governing Body shall not adopt the proposed zoning change except by a record vote of all members and after a statement of the reasons for such action being spread upon its records.

1403. FILING OF PROTEST

If a written protest against a proposed amendment shall be filed in the office of the Clerk within fourteen (14) days after the date of the conclusion of the hearing by the Planning Board on the proposed amendment pursuant to the published notice, which protest is duly signed and acknowledged by the owners of twenty (20) percent or more of any real property proposed to be rezoned, or by the owners of twenty (20) percent or more of the total area, excepting public streets and ways, located within 1,000 feet of the boundaries of the property proposed to be rezoned, then such amendment shall not be passed except by a unanimous vote of the Governing Body.

1404. SPECIAL USES

Because of particular conditions associated with their activities, certain use are not permitted outright in districts, but are permitted as "special uses" when their proposed location is supplemented by additional requirements such as to make the use considered compatible with the surrounding property, the neighborhood and the zoning jurisdiction. The procedures for approval of a special use shall be the same as for an amendment to a zoning district which is set forth in Sections 1001 through 1002 of this Article with the additional requirement that all conditions further imposed upon the special use be made a part of the effectuating resolution.

The Planning Board may recommend a special use, if permitted in a district, only if the following requirements have been met:

- A. That the location of the proposed use is compatible to other land uses in the general neighborhood and does not place an undue burden on the existing transportation and

service facilities in the vicinity.

- B. That the proposed use is such that it is necessary to require greater standards than listed in the district, in order to correlate the proposed use to other property and uses in the vicinity.
- C. That the site will be served by streets of capacity, sufficient to carry the traffic generated by the proposed use.
- D. That the proposed use, if it complies with all conditions upon which the approval is made contingent will not adversely affect the property in the vicinity.
- E. The Board may provide that approval is contingent upon acceptance and observance of specified conditions, including but not limited to:
 - 1. Conformity to plans and drawings submitted with the application.
 - 2. Special yards, open space, buffer strips, walls, fences, hedges, landscaping.
 - 3. Performance standards relative to noise, vibration, air or water pollution, or other potentially dangerous or objectionable environmental conditions.
 - 4. Limits on time of day for conduct of specified activities. A period in which the approval shall be exercised or otherwise shall lapse.
 - 5. Guarantees as to compliance with the terms of approval.
- F. **Period of Validity.** No special use permits granted by the Planning Board shall be valid for a period longer than 180 days from the date in which the Governing Body grants the special use, unless within such 180-day period, a zoning permit is obtained and the erection or alteration of a structure is started, or an occupancy certificate is obtained and a use commenced. The Governing Body may grant additional extensions, upon written application without notice or hearing.

1405. CHANGE OF OFFICIAL MAP

The amending resolution shall describe the change of boundary to be amended and shall order the official Zoning Map(s) changed to reflect the amendment, and shall amend the section of the resolution originally incorporated the same and shall reincorporate the map as amended.

1406. ANNUAL REVIEW

In order to properly maintain these regulations, the Planning Board shall annually hold a public review at their regular meeting in May to consider amendments, if any, to these regulations. Such amendments shall follow the procedures of Article 14 for amendments to the text. However the Planning Board may make recommendations for amendments to the text at any time they feel appropriate subject to complying with all requirements of Article 14.

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Article 14 Amendments

LYON COUNTY ZONING REGULATIONS

ARTICLE 15. ADMINISTRATION

1501. OFFICE OF THE ZONING ADMINISTRATOR/DIRECTOR

A Zoning Administrator/Director shall be appointed by the Governing Body. The Zoning Administrator/Director shall be authorized to expend such funds to employ assistants and to carry out his duties under these regulations as shall be budgeted and approved from time to time by the Governing Body.

- A. Duties of the Zoning Administrator/Director. The Zoning Administrator/Director, or his duly designated and acting deputy, shall enforce these regulations, and in addition thereto and in furtherance of said authority, he shall:
1. Approve and issue all zoning permits and occupancy certificates and make and maintain records thereof.
 2. Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these regulations.
 3. Receive, file, and forward to the Planning Board the records and applications for all rezoning, text changes, appeals, variances, and conditional uses.
 4. Maintain permanent and current records of the zoning regulations, including but not limited to all zoning maps, amendments, conditional uses, variances, appeals and applications thereof and records of hearings and possible zoning text revisions.
 5. Maintain for distribution to the public a supply of copies of the zoning map(s), the compiled text of the zoning regulations, and any rules of the Planning Board. A fee may be charged to defray the cost of printing and distribution.
 6. Provide such clerical and technical assistance as may be required by the Planning Board and other agencies and officials in the exercise of their duties relating to these regulations.

1502. INTENT TO BUILD AND OCCUPANCY CERTIFICATES

A. **Intent to Build.** Intent to Build permits shall be obtained from the Zoning Administrator/Director prior to the construction, building, moving, remodeling or reconstruction of any structure or the improvement of land, except for uses as defined. Any Intent to Build issued in conflict with the provisions of these regulations shall be null and void.

1. *Application.* Every application for an Intent to Build shall be on a form provided by the Zoning Administrator/Director and shall be completed, signed and accompanied by the following:
 - a. A drawing, in duplicate, of the piece or parcel of land, lot(s), or block(s), or parts or portions thereof, drawn to scale showing the actual dimensions of the area according to the recorded plat of such land.
 - b. A drawing, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator/Director, showing the location, ground area,

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height, and bulk of all present and proposed structures, drives and parking lots, loading space, the building lines in relation to lot lines, waste disposal areas; the use to be made of such present and proposed structures on the land; and such other information as may be required by the Zoning Administrator/Director for the proper enforcement of these regulations.

- c. Complete legal description of the property involved in the application.

Applications for property located in a business or industrial district may be required to be accompanied by a drawing, which shows all structures, streets, streams and other significant features within 200 feet of the proposed site.

2. *Issuance.* Intent to Build permits shall be either issued or refused by the Zoning Administrator/Director within five business days after the receipt of an application thereof or within such further period as may be agreed to be the applicant. When the Zoning Administrator/Director refuses to issue an Intent to Build, he/she shall advise the applicant in writing of the reasons for the refusal.
3. *Intent to Build Revoked.* An Intent to Build issued in accordance with the provisions of these regulations, may be revoked by the Zoning Administrator/Director if he/she finds that prior to the completion of the structure for which the Intent to Build was issued, there is a departure from the approved plans, specifications and/or requirements or conditions required under the terms of the Intent to Build, or the same was issued under false representation, or that any other provisions of these regulations are being violated.
4. *Stop Order.* Failure, refusal or neglect of any property owner, or his/her authorized representative to apply for and secure a valid Intent to Build, including the payment of the prescribed fee shall be reason for the issuance of a "stop order" by the Zoning Administrator/Director, provided said owner or authorized representative shall have been notified in writing at least forty-eight (48) hours prior to the issuance of said stop order that he/she 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 Intent to Build, the fee for the issuance of a subsequent Intent to Build shall be doubled.
5. *Period of Validity.* Intent to Build permits shall become null and void 180 days after the date on which it is issued unless within said period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. If the construction or work is abandoned or suspended for any 180-day period after such an Intent to Build is issued, then application must be made for a new Intent to Build.

B. Occupancy Certificates. No 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 purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Zoning Administrator/Director certifying that the proposed use or occupancy complies with all the provisions of these regulations.

1. *Application.* Every application for an Intent to Build shall be deemed to be an application for

an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or structures where no Intent to Build is required shall be filed with the Zoning Administrator/Director and be in such form and contain such information as the Zoning Administrator/Director shall provide by general rule.

2. *Issuance.* No occupancy certificate for a structure or addition thereto constructed, built, moved, remodeled, or reconstructed after the effective date of these regulations shall be issued until such work has been completed and the premises inspected and certified by the Zoning Administrator/Director to be in full and complete compliance with the plans and specifications upon which the Intent to Build was issued. Furthermore, no occupancy certificate for a new use of any structure or land shall be issued until the premises have been inspected and certified by the Zoning Administrator/Director to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six months from its date pending the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within ten days after the receipt of an application therefore, or after the Zoning Administrator/Director is notified in writing that the structures or premises are ready for occupancy.

1503. ENFORCEMENT

Any person violating the provisions of the Zoning Regulations is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than five hundred dollars (\$500.00) or by confinement in the county jail for not more than six months, or by both fine and confinement. Each and every day that such violation continues shall constitute a separate offense.

1504. FEES

Any application for an Intent to Build, occupancy certificate, appeal, variance, conditional use permit, amendment (change in zoning district) or special use, shall be accompanied by such fee as shall be officially specified by resolution from time to time by the Governing Body.

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