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DEFINITIONS

10.1 Definitions

10.1.1 For these regulations, certain terms or words used herein shall be interpreted or defined as follows, unless the context indicates otherwise:

Accessory building. A building that: (1) is located on the same lot as the principal building served; (2) is clearly incidental to and customarily associated with the principal building served; (3) is subordinate in GFA, extent, or purpose to the principal building served; and (4) is constructed on a permanent foundation. This includes accessory structures and accessory dwelling units.

Accessory dwelling unit. A subordinate self-contained dwelling unit is attached or detached from the principal building and located on the same lot as a principal building allowed under the Single-family Detached and Agricultural Parcel Types.

Accessory structure. A detached subordinate building is located on the same lot or groups of lots as the principal building and serves a function customarily incidental to the primary use. Customary accessory structures include garages, carports, outbuildings, and small storage sheds.

Accessory use. A subordinate use serves an incidental function to that of the primary use of the premises. Customary accessory uses include garages, sheds, swimming pools, barbecue ovens, air conditioners, fireplaces, and satellite dishes.

Administrative Permit. A review process and approval by the Zoning Administrator (ZA).

Agricultural land The use of a tract of land for the production of plants, animals or horticultural products, including but not limited to: Forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products.

Agricultural structure. Any structure used exclusively in connection with an Agricultural use, including but not limited to: the harvesting, storage, drying, or raising of agricultural commodities, and including office space, dwellings, and the storage of equipment necessary for carrying out farming operations.

Airport or heliport. Any landing area, runway, or other facility designed, used or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, tie-down areas, hangers, other necessary uses, and open spaces.

Alley. A dedicated public Right-of-Way, other than a street, provides only a secondary means of access to abutting property.

Alter or alteration. Any change, addition or modification in construction, or use of a structure.

Amendment. The process of change or alteration to the Zoning Regulations in one of the following forms:

- a. a comprehensive revision or modification of the Zoning Regulations text or maps;
- b. a text change in the Zoning Regulations;
- c. the approval of a Conditional Use Permit as provided in these regulations; or
- d. a change in the maps, i.e., the Parcel Type designation of a particular parcel or parcels (this form is also known as a "rezoning" and includes overlay zoning approval).

Artisanal Production. The production of quality, hand-made goods, such as housewares and toys, made via a process characterized by minimal automation, little division of labor, and a small number of highly skilled craftsmen.

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

Bed and Breakfast. A residential structure other than a hotel or lodging house, where for compensation and prearrangement for definite short-term periods, sleeping rooms, and meals are provided for one or more persons.

Benchmark. Surveying mark made in some object which is permanently fixed in the ground showing the height of that point in relation to sea level. See Monument.

Block. A piece or parcel of land entirely surrounded by public highways, streets, streams, railroad Rights-of-Way, parks, or a combination thereof.

Board of Zoning Appeals (LCPAB). Created by the Governing Body and has the statutory authority to hear and determine appeals and variances to these zoning regulations. Conditional uses cannot be acted upon, but exceptions can be determined. For Lyon County, it refers to the Lyon County Planning and Appeals Board.

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

Building envelope. The three-dimensional space within which a structure is permitted to occupy. Height, floor area ratio, setbacks, lot coverage, and similar restrictions establish the building envelope.

Building height. The vertical distance from the grade at the front door to the highest point of the built structure.

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.

Building setback line. A line within a lot or other parcel of land indicating the limit beyond which a building or structure may not be erected. (See "yard").

Bulk regulations. Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations are specified in each building standard according to allowed Parcel Types in a District. Bulk regulations include regulations controlling:

- a. Minimum and maximum height. See "building height."
- b. Maximum lot coverage. See "lot coverage."
- c. Minimum size of yard and setbacks. See "yard" and "building setback."

Bump-out/ bulb-out/ curb extension. Curb lines and sidewalks extended into the on-street parking lane to narrow the roadway and provide additional pedestrian space at key locations, thus increasing pedestrian visibility, shortening crossing distances, and slowing turning vehicles, significantly improves pedestrian crossing.

Business and professional office. Any building or part thereof used by one or more persons engaged in the practice of a recognized profession and any office used primarily for accounting, correspondence, research, editing, or administration.

Commercial Confined Animal Feeding Operation. As defined by the State of Kansas.

Comprehensive Plan. The currently adopted Joint Comprehensive Plan for the City of Emporia and Lyon County (PlanELC).

Conditional use. Use of any building, structure, or parcel of land that, by its nature, is perceived to require special care and attention in siting to assure compatibility with surrounding properties and uses. Conditional uses created after the effective date of these regulations are allowed only after public notice, hearing, and approval as prescribed in these regulations. They may have special conditions and safeguards attached to assure that the public interest is served.

Conditional Use Permit. A written document of certification permitting the construction, alteration, or establishment of a conditional use created after the effective date of these regulations.

Condominium. Multi-unit structures with each unit under separate ownership and each owner owning only air space are occupied by their unit. All owners jointly own all common areas and land.

Daycare facilities. Definitions for facilities that provide care for children are established by Kansas State Law and promulgated by regulations of the Kansas Department of Health and Environment (KDHE) and the Kansas Department for Children and Families (DCF). Standards for such definitions may be periodically amended by changes to state regulations, and such changes are incorporated by reference herein. Daycare facilities are permitted on the Agricultural Parcel Type and may be permitted by conditional use on other Parcel Types.

- a. *Adult daycare home or center.* A facility which offers or provides a program of supplementary care to related or unrelated adults outside their own homes on a regular basis for a part of the twenty-four (24) hours in one or more days of the week.
- b. *Child care center.* A facility which provides care and educational activities for thirteen (13) or more children two (2) weeks to sixteen (16) years of age for more than three (3) and less than twenty-four (24) hours per day including day time, evening, and nighttime care; or which provides before and after school care for school-age children and licensed by the State as a child care center. A facility may have fewer than thirteen (13) children and be licensed as a center if the program and building meet child care center regulations defined by the State of Kansas.
- c. *Daycare home.* A home in which care is provided for a maximum of ten (10) children in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a day care home.
- d. *Family day care home.* A home in which care is provided for a maximum of six (6) children in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a family daycare home.
- e. *Group daycare home.* A home in which care is provided for a maximum of six (6) children in compliance with the definitions and regulations of the State of Kansas and licensed by the State as a group daycare home.
- f. *Preschool.* A daycare facility providing educational experiences for children of less than kindergarten age, but who are thirty (30) months of age or older, and operating in compliance with the definitions and regulations of the State of KS and licensed by the state as a preschool.

Density. Floor Area Ratio. The ratio of the constructed floor area of a principal building to the total area of the lot. Also, the number of homes in any given location.

Development Corridor. Land within one mile of designated paved County Roads or Highways that have been identified as priority areas for infill development. See Appendix for Lyon County map of Development Corridor.

Disability. Shall mean, with respect to a person:

- a. A physical or mental impairment which substantially limits one or more of such person's major life activities;
- b. Having a record of having such an impairment; or
- c. Is regarded as having such an impairment.
- d. Such term does not include current illegal use of or addiction to a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. Sec. 802).

Distance. Horizontal distances unless otherwise designated.

District. A discrete neighborhood area based on existing landmarks, nodes, edges, and paths. Current edges are formed by the railroad tracks and Interstate 35, as well as other natural neighborhood transitions. Districts are used to define development intensity and character through Parcel Types.

Drinking Establishment. Premises licensed as a drinking establishment by the state of Kansas, open to the public and selling alcoholic liquor by the individual drink, for consumption on the licensed premises, in accordance with K.S.A. 41-2642 and amendments thereto. For purposes of these regulations, a drinking establishment shall be regulated the same as a tavern.

Driveway. A surfaced area specifically designated and reserved on the lot for the vehicles' movement from one lot to another or a lot to a public street.

Dwelling. A building or portion thereof, not including mobile homes, which is designed and used exclusively for residential purposes.

- a. *Single-family.* A residential building having accommodations for and occupied exclusively by one (1) family.
- b. *Two-family.* A residential building having accommodations for and occupied exclusively by two (2) families independently.
- c. *Multiple.* A residential building having accommodations for and occupied by more than two (2) families, independently.
- d. *Attached single family.* A series of no more than four (4) single-family dwelling structures, which are joined at one (1) or more sides by a common wall and where the units are completely independent of each other, including the parcel of land upon which each unit is built.
- e. *Seasonal.* Residence intended for occasional occupancy.

Dwelling unit. One (1) or more rooms in a residential building or residential portion of a building are arranged, designed, used, or intended for use by not more than one (1) family, including cooking space and lawful sanitary facilities reserved for the occupants.

Easement. An interest in land held by someone other than the owner that entitles the holder to a specific limited use or right.

Engineer. The term Engineer shall have the following meanings and applications:

- a. The appointed Engineer for the unincorporated area subject to these regulations, is the County Engineer.
- b. When the context so requires, Engineer shall mean a Professional Engineer licensed in the State of Kansas.
- c. Further, the term Engineer shall also mean a Kansas licensed Land Surveyor when the context of these regulations relates to functions or responsibilities required by Kansas State Law or regulation to be performed by a licensed Land Surveyor.

Exception. An exception from a provision in these regulations is only allowed as an exception granted by the Appeals Board when such exception is specifically authorized in these regulations.

Exterior building lighting. Lights attached to the building facade to create an ambient light for pedestrians, increase safety by illuminating potential danger to passersby, and highlight building features and architectural styling. Exterior Building Lighting shall be attached up to twelve (12') feet above grade and be full cutoff fixtures to avoid casting direct light on any residential property. So no glare is visible to traffic on a public street.

Fabrication. That part of manufacturing which relates to stamping, cutting, or otherwise shaping processed materials into objects and may include the assembly of standard component parts, but does not include extracting, refining, or other initial processing of basic raw materials.

Facade Transparency. The portion of a building facade facing the public Right-of-Way shall have clear glass between three (3') and eight (8') feet above grade.

Family. One (1) or more persons related by blood, marriage, or adoption, pursuant to legal guardianship; living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit. There shall be a presumption that five (5) or more unrelated people living together as a single housekeeping unit are not a family.

Farming activities. Farming activities include any and all soil tillage operations essential for crop production, pasture grazing, pasture burning, spraying, fertilizer, manure application, conservation land treatment, harvesting crops, and 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, wildfowl raising, duck and geese raising, fish farming, fur bearing animal raising, beekeeping, worm raising, nursery operations, and timber harvesting.

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 has a chance to occur in any one (1) year of one (1%) percent, otherwise referred to as a one hundred (100)-year floodplain.

Floor Area (for computing off-street parking requirements). Floor area shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or the centerline of the wall separating two (2) buildings or uses and shall include all areas except that space used for storage.

Frontage. All the property on one (1) side of a street between two (2) intersecting streets (crossing or terminating) measured along the street line. Where a street is dead-ended, the frontage shall be considered as all that property abutting on one (1) side between an intersecting street and the dead-end of the street.

Garage, private. An accessory building to residential uses is designed or used to store motor-driven vehicles owned and operated by the occupants of the building to which it is an accessory.

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

Governing Body. The elected governmental unit with jurisdiction in the zoned area. For the area unincorporated area of Lyon County, the Governing Body is the Board of County Commissioners of Lyon County, Kansas.

Grade. Adjacent ground elevation is the lowest point of elevation of the finished surface of the ground, pavement, or sidewalk within the area between the building and the property line, or when the property line is more than five (5') feet from the building, between the building and a line five (5') feet from the building.

Greenhouse. A structure with a translucent roof or sides in which the temperature and humidity can be regulated to cultivate delicate or out-of-season plants, including hydroponic growing.

- a. *Private.* A building or part of a building whose roof and sides are made largely of glass or other transparent or translucent material. The temperature or humidity can be regulated to cultivate plants as a hobby or for residential use but not for commercial sales.
- b. *Commercial.* An agricultural enterprise using a controlled environment (temperature and humidity) for the commercial cultivation and production of plants.

Gross Floor Area (GFA). The total floor area within the building envelope.

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 the residents of the home. Such a dwelling shall be licensed as a group home by the State of Kansas.

Group home, large. A group home occupied by more than ten (10) residents, including staff.

Home occupation. 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, and customarily incidental to the primary use of such residential building and shall be permitted provided the residential appearance of the building is maintained. No undue traffic or parking problems are created. See Section 7.5 for restrictions and limitations.

Hotel. A building or structure is kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are offered for pay. Primarily to transient guests and four (4) or more rooms are used for the accommodation of such guests, regardless of whether such building or structure is designated as a cabin, motel, or other lodging unit types.

Industrial manufacturing and processing, High-intensity. Wholesale and warehousing use as well as those industrial uses that include fabrication, manufacturing, assembly, or processing of materials that are hazardous or objectionable because of the emission of smoke, gas, odor, dust, noise, the vibration of the earth, soot, or lighting to the degree that is offensive when measured at the property line of the subject property.

Industrial manufacturing and processing, Low-intensity. Wholesale and warehousing use as well as those industrial uses that include fabrication, manufacturing, assembly, or processing of materials that are in refined form and that do not in their transformation create smoke, gas, odor, dust, noise, the vibration of the earth, soot, or lighting to the degree that is offensive when measured at the property line of the subject property.

Intensity. The degree or level of concentration to which land is used for commercial, industrial, or any other non-residential purpose.

Junk or salvage yard. An establishment that is maintained, operated, or used for storing, keeping, buying, or selling junk or for an automobile graveyard's maintenance or operation. Defined as any establishment that is maintained, used, or operated for storing, keeping, buying, or selling ten (10) or more salvage, wrecked, scrapped, ruined, dismantled, or inoperative motor vehicles. This shall not include any location where motor vehicle bodies are placed along stream banks for 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 Agricultural. Such term also includes garbage dumps. See State Statute K.S.A. 68-2203(b) (c).

Kennel. Any establishment, lot, place, area, building, or structure where dogs and other domesticated animals are boarded, housed and cared for, for the commercial purpose of breeding, hunting, racing, training, renting, buying, selling, or any other economic venture.

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.

Loading or unloading space. An off-street space or berth, on the same tract, contiguous with the principal building or group of buildings for the temporary parking of commercial vehicles for loading and unloading of merchandise or materials.

Lot. Parcel or tract of land (legally described or platted), which is on record in the Register of Deeds' Office. For this regulation, a lot shall have a frontage upon a public street.

- a. **Area.** A horizontal plane is bound by the front, side, and rear lot lines, excluding any road Right-of-Way or road easements. The total area within the property lines of a lot or tract.
- b. **Corner.** A lot abutting upon two (2) or more streets at their intersection. A corner lot shall be deemed to front upon that street on which it has its least dimension. A corner tract made up of more than one platted lot shall conform to all requirements established for a corner or other lot and shall be deemed to front upon that street on which one or more of such platted lots, which would individually not be classified as corner lots, front.
- c. **Coverage.** That percentage of a lot that would be covered by any impervious surface, including a structure or structures, parking areas, or any part thereof, excluding projecting roof eaves.
- d. **Depth.** The mean horizontal distance between the front and rear lot lines.

- e. *Double frontage.* A lot having a frontage on two (2) non-intersecting streets as distinguished from a corner lot.
- f. *Interior.* A lot whose sideline or lines do not abut upon any street.
- g. *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.
- h. *Zoning-* A parcel or tract of land (legally described or platted), which is on record in the Register of Deeds' Office. For this regulation, a lot shall have a frontage upon a public street.

Lot lines. The lines bounding a lot as defined herein.

- a. *Front.* A boundary line of a lot coincides with a road Right-ofWay, and shall not include alleys.
- b. *Rear.* The most distant line is, or is most nearly parallel to the front lot line. If a rear lot line is less than ten (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 ten (10') feet long lying wholly within the lot parallel to the front line.
- c. *Side.* A lot line, which is neither a front line nor a rear lot line.

Lot of Record. A lot which is a part of a subdivision, which has been recorded in the Office of the Register of Deeds of Lyon County or a lot described by metes and bounds, the description of which has been recorded in the Office of the Register of Deeds of Lyon County, prior to April 21, 1965.

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 Manufactured Housing Construction and Safety Standards Code.

- a. *Residential design.* Manufactured home on a permanent foundation with minimum dimensions of twenty-two (22') body feet in width, a pitched roof, and siding and roofing materials customarily used on site-built homes.
- b. *Permanent foundation.* A manufactured home mounted on and securely attached to masonry or concrete foundation that extends around the full perimeter of the manufactured home and meets standards set by County regulations. Such homes shall have all traveling and towing gear removed.

Manufacturing. Any method of processing, developing, fabricating, or assembling either raw materials, semi-finished materials, or parts into a semi-finished or finished product.

Mobile food vendor. Any person who owns, controls, manages or is otherwise engaged in the business of selling prepared, prepackaged or unprepared, unpackaged food or foodstuffs of any kind from a mobile vending facility on private property.

Mobile home. Mobile home means a factory-built structure or structures more than eight (8') feet in width or more than thirty-six (36') feet in length, equipped with the necessary service connections and made to be readily movable as a unit or units on its or their running gear and designed to be used as a dwelling unit without a permanent foundation. The phrase "without a permanent foundation" indicates that the support system is constructed with the intent that the mobile home placed thereon may be moved from time to time at the owner's convenience.

Mobile home park. Any area, piece, parcel, tract, or plot of ground equipped as required by these regulations for support of mobile homes and used or intended to be used by one or more occupied mobile homes, but under no circumstances shall the mobile home spaces be sold or offered for sale individually. The term mobile home park does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for sale.

Monument. A device used to mark and identify the corners of the boundaries of subdivisions, blocks and lots and the intersection points, tangent, and curvature of the street Right-of-Way. Monuments are steel or iron bars or pipes at least a half ($\frac{1}{2}$ ") inch in diameter and at least twenty-four (24") inches long bearing the surveyor's identification cap. These regulations create three (3) categories of monuments, as follows, with each monument conforming to the standards for boundary surveys as established by the Kansas Board of Technical Professions and further meeting the following requirements applicable to the category of monument:

- a. *Monument.* A thirty-six (36") inch long, five-eighths ($\frac{5}{8}$ ") inch diameter solid bar to identify the corner boundaries of subdivision blocks. Monument locations shall be marked by a steel fence post. Exterior monuments shall be encased in concrete using a twelve (12") inch long, four (4") inch diameter section of PVC pipe.
- b. *Lot Pin.* A solid bar to mark the corners, curvature points and tangent of lots.
- c. *Control Marker.* A pipe to mark the curvature points, tangent, and intersection of the centerline of street Right-of-Way. Control markers for point of intersection shall be thirty-six (36") inches long, five-eighths ($\frac{5}{8}$ ") inch diameter pipe.

Motor vehicle

- a. *Repair shop.* A building or portion of a building, arranged, intended, or designed to make repairs to motor vehicles, excluding body repair and painting.
- b. *Body shop.* A building or portion of a building, arranged, intended, or designed to be used for vehicle body repairs, including painting.
- c. *Storage yard.* A building or premises where operable, inoperable, salvage, abandoned, wrecked, or junked vehicles are stored while waiting further for disposition.

Nonconforming lot of record. An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of subdivision regulations and neither said lot or parcel complies with the lot width or area requirements for any permitted uses in the District in which it is located.

Nonconforming structure. An existing structure that does not comply with the lot coverage, height, or yard requirements that apply to new structures in the Zoning District in which it is located.

Nonconforming use. An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning District in which it is located.

Nursery. Any land used to raise trees, shrubs, flowers or other plants for retail sale on-site.

Owner. Any person, agent, firm, or corporation having a legal or equitable interest in the property.

Parcel Type. The classification of a lot established to allow for detailed regulation of the use, height, area, size, and intensity of use of buildings, land, and open space. Regulations are defined and illustrated for each Parcel Type through Building Standards.