



# Planning & Zoning Department

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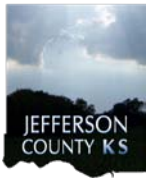
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## **Jefferson County Planning Commission Agenda**

**Tuesday, August 16, 2011  
7:00 P.M.**

- Item 1. Call to Order**
- Item 2. Agenda Approval**
- Item 3. Approval of July 19, 2011 minutes.**
- Item 4. Continuation from June 21 and July 19, 2011 meetings: Discussion regarding the adoption of a Use Table into the Jefferson County Zoning Regulations.**
- Item 5. Public Comment**
- Item 6. General Business**
- Item 7. Adjournment**



## Memo

To: Jefferson County Planning Commission  
From: Duane Buscher, County Planner I  
Date: August 16, 2011  
Re: **Use Table Continuation**

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### **I. Use Table – Commercial Use Categories**

While the moratorium in place in the County (Resolution 2011-004) is specific to Conditional Use Permits in the commercial and industrial zoning districts, the County also set a more goal for the Planning Staff to conduct a comprehensive review of these regulations and to ensure consistency with the purpose of the Regulations:

“WHEREAS, the Board of County Commissioners are now directing the Planning and Zoning Staff and Jefferson County Planning Commission to review the regulations to meet the intended purposes as set out in Article 1, Section 102.”

Staff has reviewed each of the uses listed in the last three use categories of the Use Table, which are the commercial categories—Commercial (retail sales, services, and office); Commercial (wholesale and other); and Industrial—and attempted to place them into the most appropriate zoning district context. Determining the uses allowed by right in the commercial zoning districts (CP-1, CP-2, CP-3, IP-1, and IP-2) was a fairly straightforward process since they are listed in each respective article.

The more arduous task was the review of each particular commercial use in the remaining zoning districts (AG, RR, SR, LL, R-1, V-1); depending on the type of use and its intensity, certain commercial uses are simply not appropriate in certain districts, which would mean either requiring a CUP or not allowing them at all. Staff relied on both the historical precedent for commercial uses/activities in each zone and, in the spirit of the moratorium, has remained cognizant of the following two purposes of the Zoning Regulations in order to help guide the process of filling in the table (emphasis added):

Article 1, Section 1-102 (Purpose), #2 and #3:

2. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the **values**

**inherent in each zone;**\* while encouraging the redevelopment and revitalization of the cities within the County.

3. To **conserve good agricultural land** and **protect it from** the intrusion of **incompatible uses**, but not to regulate or restrict the primary use of land for agricultural uses.

\*Staff used the "Application" section of each individual zoning district to determine the "values inherent in each zone."

In addition to remaining consistent with the purpose of the Regulations, staff also made a concerted effort to maintain the spirit of how the County has been historically zoned. The Zoning Regulations in place from 1977 to 1995 did not allow all uses in all districts with a CUP and included a Use Table to reflect that policy. The County has always used the CUP process as a mechanism to manage the level of intensity and potential adverse impacts of certain uses. However, the commercial zoning districts were abolished when the Regulations were updated in 1995. This meant that all commercial uses had to be filtered through the CUP process, which is the origin of the following language in Article 23, Section 23-101:

It is the intent of this Article to require a Conditional Use Permit for **all proposed land uses**, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. As such, it is acknowledged that **any property owner** may seek a Conditional Use Permit for **any of the types of land uses** indicated herein for **any property** within the unincorporated portion of Jefferson County." (Emphasis Added).

Since the County re-established commercial zoning districts when the Regulations were updated in 2009, this language is no longer relevant. As such, the proposed Use Table and Regulation amendments do not allow all uses in all districts with a CUP—similar to the 1977 Regulations—which is a fundamental change to the intent of Article 23 (this is discussed in greater detail later in the memo). However, many uses are still eligible for a CUP in the Agricultural and Rural Residential districts. This is important to note since 97% of the County is currently zoned either Agricultural or Rural Residential,<sup>1</sup> it grants property owners the opportunity to utilize their land in a variety of different ways.

For example, the Agricultural zoning district is intended to "provide a full range of agricultural activities on land used for agricultural purposes" (Section 2-101). Quarrying and mining operations extract minerals and natural resources that could be used for growing crops and raising livestock. While such activities may not appear to be in line with the "values inherent" in the Agricultural district, there are several quarries that currently operate on Agriculturally zoned ground with a CUP. This is not only because Agricultural districts are the most likely areas of the County to contain the resources that the mining industry extract, but it is also where there may be enough land available to mitigate the potential adverse affects to the environment,

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<sup>1</sup> This figure only accounts for land that is currently zoned in the County, which does include government-owned land, such as the land owned by the Army Corp of Engineers.

adjacent property owners, and the general public. As such, there are conditions on each quarry currently operating in the County and there are also standards for quarries in Article 23 of the Regulations.

Quarrying and mining operations is a good example of a use that should require a CUP because it is “of an extremely sensitive nature due to the intensity or environmental impacts associated with the normal operation of the business or activity” (Section 23-101). Staff recognized this fact and in line with historical precedent, kept quarrying and mining activities solely within the CUP realm. The current draft of the Use Table allows them with a CUP in three commercial districts (CP-3, IP-1 and IP-2) and only two non-commercial districts (Agricultural and Rural Residential).

Thus, not only does the Use Table clarify where uses are allowed by right, as an accessory or with a CUP, it is the best realization of the intent and purposes of the Regulations.

## II. Use Table Article

### *Purpose of the Article*

A draft of the article that corresponds to the Use Table is included in your packets. The sections contained in this article are intended to clearly define the form, function, and purpose of the Use Table. The article makes it clear that the Use Table is intended to be used as a reference. In addition, the text of the proposed article also addresses the following issues:

- Unlisted uses;
- Identifies the responsibilities of the Zoning Administrator and the Planning Commission in interpreting and enforcing the Table;
- Potential conflicts between the Table and other provisions in the Regulations;
- Defines the terms associated with the symbols used in the Table.

### *Where to place the Use Table Article in the Zoning Regulations*

Staff offers three different options for placement of the Use Table within the Regulations:

- 1) *Insert it in Article 1 after Section 1-105 (“Districts”).* This is staff’s recommended option because it is both logical and easy to implement. It is logical because it would directly follow the introduction of the zoning districts in Section 1-105 and precede the specific zoning district regulations contained in Articles 2-15. It also requires minimal restructuring or renumbering of the Regulations as it only affects the sections of Article 1 that follow. On the other hand, the disadvantage of placing it here is that Article 1 already covers a lot and is dominated by the Purpose and Definitions sections, 1-102 and 1-104, respectively. The Use Table is intended as an important reference and should therefore be easy to locate in the Regulations. It might seem buried if it is located toward the end of Article 1.

- 2) *Insert it as the new Article 2, and re-number the remainder of the Regulations.* This option may be both the most logical and difficult way to insert the Use Table article. Creating a standalone article in this place would create a distinct point of reference for readers rather than something that gets lost in the shuffle of Article 1. However, placing it here would also mean renumbering nearly 90% of the Regulations, which would be a very tedious and time-consuming task, not to mention that they were recently updated in 2009.
- 3) *Add it to the end of the Regulations as Article 33.* This option is pretty self-explanatory. While it would certainly be the easiest to implement it may not represent a very logical flow for the Regulations.

The legal review of the proposed text amendments should shed some light on the most appropriate option for incorporating the Use Table article into the Regulations.

### III. Amending Article 23

After an extensive and intensive review of the Conditional Use Permit sections of Article 23 (Sections 23-101 through 23-106), staff proposes making the following changes. (A draft of the proposed amended Article 23 is included in the packet.)

First, during the discussion of the Use Table in the June 2011 Planning Commission meeting, the Board agreed with staff's rationale that not all uses should be eligible for a CUP in any zoning district. Staff proposes amending the following language in the second paragraph of Article 23, Section 23-101, which includes striking the second sentence completely:

It is the intent of this Article to require a Conditional Use Permit for ~~all-proposed~~ **certain** land uses, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. ~~As such, it is acknowledged that any property owner may seek a Conditional Use Permit for any of the types of land uses indicated herein for any property within the unincorporated portion of Jefferson County.~~

The second change is to replace Section 23-105, "Conditional Uses Enumerated," with Section 23-106, "Supplementary Use Regulations."<sup>2</sup> This is an important change for two reasons. First, the enumerated list is no longer necessary because the Use Table clearly lists where and for which uses a CUP is required. Second, while the phrase "Supplementary Use Regulations" appears in the title of Article 23, there is no corresponding section title within the Article itself. This amendment seeks to rectify that issue by establishing a "Supplementary Use Regulations" section and therein placing those uses that have additional requirements in order to be approved in the County. This section would include the any use that the County determines should have specific standards as well as uses that are already listed in Article 23 (in the current

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<sup>2</sup> The current Section 23-106, "Continuance of a Conditional Use" would be renumbered as 23-105.

Section 23-105) with additional conditions such as Boarding and Breeding Kennels, Commercial Wind Energy Conversion Systems, and Quarries, etc.

#### **IV. Updated Draft of Definitions to be Added to Article 1**

During the June 2011 meeting, the Board directed staff to add or amend the following terms to the list of definitions that was presented at that time:

- Agricultural Products: Commissioner Hammond suggested adding language to the proposed definition that would prohibit illicit or controlled substances as an agricultural product.
- Quarry
- Recycling Center
- Salvage Yard: Staff did not include a definition for this term because it already appears in Article 1 under the definition for "Junkyard."
- Landfill
- Disability: Staff defined this term by reference to State Statute within the definition for "Group Home."
- Dwelling, Multi-family

Staff also deemed it necessary to add the following terms to the list:

- Quarrying or Mining
- Recyclable Material

Staff has highlighted the terms that were changed or added to the list.

#### **IV. Legal Review and Public Hearing**

The review of the Use Table and the amendments to Articles 1 and 23 should be complete by the conclusion of the current meeting (August 16, 2011). Staff will make any necessary revisions as directed by the Board following said meeting, and will then pass a draft of the proposed amendments along for the legal review. In order to hold the public hearing for the September 20, 2011, the amendments would need to be publication-ready by August 22, 2011 in order to meet the statutory notification requirement. There are only four working days between August 16 and August 22 and staff feels that this would not be an adequate timeframe to complete both the final revisions and the legal review. Therefore, staff anticipates that the October 18, 2011 meeting will be the soonest date to hold a public hearing to consider adoption of the Use Table and the amendments to Articles 1 and 23. However, this should afford enough time to complete the legal review and bring everything in front of the Board one last time before publication, which would need to be ready by September 26, 2011.

Finally, it should be noted that the moratorium is set the expire on September 3, 2011.

Key: P = Permitted by Right C = Conditional Use A = Accessory Use * = Use Specific Standard † = Use as Defined by these Regulations – = Use Not Permitted	Zoning Districts											*Use Specific standards	†Use as defined by these Regulations
	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2		
<b>AGRICULTURAL</b>													
Agricultural Purposes <sup>†</sup>	P	A	A*	A	A	A	A	A	A	A	A	23-109(2)(c)	1-104(7)
Agricultural, Accessory	A	A	A*	A	A	A	A	A	A	A	A	23-109(2)(c)	
Agricultural Sales and Services, General <sup>†</sup>	C	C	C	C	C	C	P	P	P	P	P		1-104(??)
Agricultural Sales and Services, Limited <sup>†</sup>	A	A	A*	A	A	A	A	A	A	A	A	23-109(2)(c)	1-104(??)
Fuel Storage, Non-retail	A	A	A	-	-	-	C	C	C	C	C		
Grain storage	P	A	A*	-	-	-	C	C	C	C	C	23-109(2)(c)	
<b>RESIDENTIAL</b>													
Single-family dwelling	P	P	P	P	P	P	-	-	-	-	-		
Multi-Family dwelling <sup>†</sup>	-	-	C*	C*	C*	C*	-	-	-	-	-	23-105(47)	1-104(71)
Guest House	A	A	A	A	A	A	-	-	-	-	-		
Accessory Apartment	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(47)	
Manufactured Home <sup>†</sup>	P*	-	-	-	-	C	-	-	-	-	-	23-109(1)(c)	1-104(134)
Manufactured Home, Residential Design <sup>†</sup>	P*	P*	P*	P*	P*	P*	-	-	-	-	-	17-102(4)	1-104(143)
Manufactured Home Park	-	C*	C*	-	-	-	-	-	-	-	-	Article 24	
Manufactured Home Subdivision	-	C*	C*	-	-	-	-	-	-	-	-	Article 25	
Mobile Home <sup>†</sup>	-	-	-	-	-	-	-	-	-	-	-	23-111(1)	1-104(146)
Modular Home	P*	P*	P*	P*	P*	P*	-	-	-	-	-	17-102(4)	
Adult Care Home <sup>†</sup>	-	C*	C*	C*	-	-	-	C*	C*	C*	-		1-104(??)
Group Boarding Home	C*	C*	C*	-	-	-	-	C*	C*	C*	-	23-105(28)	
Group Home <sup>†</sup>	P	P	P	P	P	P	-	C	C	C	-		1-104(??)
Recreational Vehicle <sup>†</sup>	A*	A*	A*	A*	A*	A*	-	-	-	-	-	23-110(2)	1-104(169)
Residential Center	-	C*	C*	-	-	-	C*	C*	C*	C*	C*	23-105(28)	
Shipping/Storage Container <sup>†</sup>	A	A*	-	-	-	-	-	-	-	-	-	23-109(2)(g)	23-109(1)(j)
<b>PUBLIC &amp; CIVIC</b>													
Attendant Care Facility	C*	C*	C*	C*	-	-	-	C*	C*	C*	-		
Camps, retreat centers and similar	C	C	C	-	C	-	-	-	C	C	C		
Cemeteries, mausoleums or crematories	C	C	C	-	-	-	-	C	C	C	C		
Churches and church-related facilities	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(??)	
Community Facilities, Publicly or Privately owned	C	C	C	C	C	C	C	C	C	C	C		
Day Care Home	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(28)	
Detention Center	-	-	-	-	-	-	-	-	C*	C*	C*	23-105(28)	
Group Day Care Home	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(28)	
Hospital	-	-	C	-	-	-	C	C	C	C	C		
Long-term Care Facility	-	-	C	-	-	-	-	C	C	C	-		
Nature Preserves and Parks	P	P	P	P	P	P	P	P	P	P	P		

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	<b>AG</b>	<b>RR</b>	<b>SR</b>	<b>R-1</b>	<b>LL</b>	<b>V-1</b>	<b>CP-1</b>	<b>CP-2</b>	<b>CP-3</b>	<b>IP-1</b>	<b>IP-2</b>			
Oil and/or gas Storage Facilities	P	P	C	C	C	C	C	C	C	C	C	C		
Railroad rights-of-way	P	P	P	P	P	P	P	P	P	P	P	P		
Recreational or Sports-related Facilities†	C	C	-	-	-	-	C	C	P	P	P	P		1-104(168)
Schools	C	C	C	C	C	C	C	C	C	C	C	C		
Secure Care Center	-	C	C	-	-	-	-	-	C	C	-	-		
Secure Residential Treatment Facility	-	C	C	-	-	-	-	-	C	C	-	-		
Wind energy conversion system, Commercial†	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(13)	1-104(212)
Wind energy conversion system, Small†	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	17-102(5)	1-104(214)
Utility, Major†	C	C	C	C	C	C	C	C	C	C	C	C	23-105(4)	1-104(?)
Utility, Minor†	P	P	P	P	P	P	P	P	P	P	P	P	23-105(4)	1-104(?)
Utility maintenance shops and yards	C	C	C	C	C	C	C	C	C	C	C	C		
<b>COMMERCIAL - RETAIL SALES, SERVICES &amp; OFFICE</b>														
Animal Hospital or Clinic	C	C	C	C	C	C	-	P*	P*	P*	P*	P*		
Automotive Sales and Service	-	-	-	-	-	-	-	-	P	P	P	P		
Bed and Breakfast	C	C	C	C	C	C	-	-	-	-	-	-		
Car Wash	-	-	-	-	-	-	-	P	P	P	P	P		
Car Wash, Accessory	-	-	-	-	-	-	-	-	A*	A*	A*	A*	23-109(3)(k)	
Club, Membership	C	C	C	-	-	-	-	C	C	C	C	C		
Drinking Establishments	-	-	-	-	-	-	-	C	C	-	-	-		
Funeral Home or Mortuary	-	-	-	-	-	-	-	-	P	P	P	P		
Grocery store or supermarket	-	-	-	-	-	-	-	P	P	P	P	P		
Home Occupations†	A*	A*	A*	A*	A*	A*	-	-	-	-	-	-	23-109(2)(e)	23-109(2)(d)
Hotels	-	-	-	-	-	-	-	-	P	P	P	P		
Kennels, Boarding & Breeding	C*	C*	C*	-	-	-	-	C*	C*	C*	C*	C*	23-105(36)	
Lawn and garden supply, including storage yards	C	C	-	-	-	-	-	P	P	P	P	P		
Lumber yard	-	-	-	-	-	-	-	P	P	P	P	P		
Manufactured home and trailer sales and service, including display yard	-	-	-	-	-	-	-	P	P	P	P	P		
Monument engraving, finishing and sales	C	C	-	-	-	-	-	P	P	P	P	P		
Office, General	C	C	-	-	-	-	P	P	P	P	P	P		
Package Liquor Store	-	-	-	-	-	-	-	-	-	-	-	-		
Printing and Copying, Retail	-	-	-	-	-	-	P	P	P	-	-	-	23-105(50)	
Real Estate Sales Office, limited†	-	P*	P*	P*	P*	P*	-	-	-	-	-	-	17-102(3)	17-102(3)
Reception Hall	C	C	C	C	C	C	-	P	P	P	P	P		



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	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2		
Restaurant, including drive-through and drive-up establishments	-	-	-	-	-	-	-	P	P	P	P		
Retail, Convenience†	-	-	-	-	-	-	P	P	P	-	-		8-102(3)
Retail, General†	-	-	-	-	-	-	-	P	P	P	P		9-102(4)
Retail Greenhouses, nurseries, hydroponic farms	C	C	C	-	-	-	-	P	P	-	-		
Riding Stable	C	C	C	-	-	-	-	P	P	P	-		
Sexually Oriented Businesses	P*	-	-	-	-	-	P*	P*	P*	P*	P*	23-112	
Shipping/Storage Container	-	-	-	-	-	-	A	A	A	A	A		
Telecommunications Tower, Major	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(52)	
Telecommunications Tower, Minor	A	A	A	A	A	A	A	A	A	A	A		
Truck Stops and/or Terminals	-	-	-	-	-	-	-	-	P	P	P		
<b>COMMERCIAL - WHOLESALE &amp; OTHER</b>													
Airport, landing field, helipad	C	C	C	-	-	-	C	C	C	C	C		
Auction Sales Yard	C	C	-	-	-	-	-	P	P	P	P		
Boat Sales, Service, and Storage	-	-	-	-	-	-	-	P	P	P	P		
Bus barns or lots	-	-	-	-	-	-	-	-	P	P	P		
Commercial Parking Lots and Loading Spaces	C	C	C	-	-	-	-	-	P	P	P		
Commercial Stockyard, Feedlot, and Livestock Sales Yard	C	-	-	-	-	-	-	-	C	C	C		
Farm machinery sales and service, including storage yard	C	C	-	-	-	-	-	-	P	P	P		
Rail passenger stations	C	C	-	-	-	-	C	C	C	C	C		
Rental equipment centers	-	-	-	-	-	-	-	P	P	P	P	9-102(3)	
<b>INDUSTRIAL</b>													
Book or publishing plants	-	-	-	-	-	-	-	-	C	C	P		
Ceramic, pottery or concrete ornament product processing, sales and/or yard	C	C	-	-	-	-	-	-	-	P	P		
Cold storage and ice plants	-	-	-	-	-	-	-	-	-	-	P		
Furniture refinishing	-	-	-	-	-	-	-	-	-	-	P		
Industrial machinery sales and service	-	-	-	-	-	-	-	-	-	-	P		
Junkyard and Salvage Yard	C	C	-	-	-	-	-	-	C	C	C		
Laboratories, research, experimental, or testing	-	-	-	-	-	-	-	-	-	P	P		
Landfills - Sanitary, C&D or other	C	C	-	-	-	-	-	-	C	C	C		
Machine shops	C*	C*	-	-	-	-	-	-	-	-	P	17-106(3)	
Manufacturing	C*	C*	-	-	-	-	-	-	C*	P	P	17-106(3)	
Metal fabrication	C*	C*	-	-	-	-	-	-	-	-	P	17-106(3)	
Oil and/or gas well drilling operations	P	P	C	-	-	-	-	-	C	C	C		

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	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2		
Plastic extrusion	-	-	-	-	-	-	-	-	-	-	-	17-106(3)	
Quarrying or mining activities	C*	C*	-	-	-	-	-	-	C*	C*	C*	23-105(51)	
Rail switching/classification yard	C	C	-	-	-	-	-	C	C	C	C		
Railroad Facilities	C	C	-	-	-	-	-	C	C	C	C		
Recycling Center	C	C	-	-	-	-	-	-	C	P	P		
Self-Storage	C	C	C	-	-	-	-	-	P	P	P		
Warehousing	-	-	-	-	-	-	-	-	C	P	P		
Waste tire collection, storage or processing	C	C	-	-	-	-	-	-	C	C	C		
Wholesaling	C	C	-	-	-	-	-	-	C	P	P		

**Sections:****2-101 Purpose****2-102 Application****2-103 Use Categories****2-104 Use Table**

**2-101 Purpose:** The Use Table in this Article lists the uses allowed within the zoning districts in these Regulations, except for the Airport Overlay (AO), Floodplain (FP), and the Floodwater Retarding Dam Breach Impact (FRD) Districts. The Use Table is intended to be consistent with the purpose of these Regulations as specified in Section 1-102 herein, particularly Sections 1-102(2) through (3):

**Section 1-102(2):** To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone; while encouraging the redevelopment and revitalization of the cities within the County.

**Section 1-102(3):** To conserve good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the primary use of land for agricultural uses.

The Use Table is provided as a complement to the specific use regulations established within each respective zoning district as well as any other use specific provisions of these Regulations.

**2-102 Application:** The Use Table is intended for reference and does not necessarily reflect all of the regulations that may apply to particular uses or zoning districts. The following symbols indicate where and under what conditions, if any, uses are allowed in each particular zoning district.

1. **Symbols:** The symbols in the Use Table are as follows:
  - a. **'P' = Permitted by Right.** Uses allowed as of right, subject to compliance with all other applicable local, State and Federal regulations, including the provisions and requirements within these Regulations.
  - b. **'C' = Conditional Use.** Uses that may be permitted if reviewed and approved in accordance with the provisions set forth in Article 23, Section 23-102 and it complies with all other applicable local, State and Federal regulations, as well as any conditions imposed by the Governing Body.
  - c. **'A' = Accessory Use.** Where permitted within a zoning district as a use that is clearly incidental to, and customarily and commonly associated with the main permitted use of the premises, and subject to compliance with all other applicable local, State and Federal regulations, including the provisions and requirements within these Regulations.
  - d. **'\*' = Use Specific Standard.** Whether permitted by right, conditional use permit or as an accessory use, subject to compliance with standards and conditions that are specific to the use. The column entitled 'Use Specific Standard' in the Use Table indicates the Article or Section(s) in which these standards are located.

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- e. '†' = **Use as Defined by these Regulations.** Certain uses may have meanings that pertain specifically to these Regulations. Most of the uses listed in the Use Table are defined in Article 1, Section 1-104, while uses not herein defined shall have their ordinary and customary meaning in relation to the context.
- f. '–' = **Use Not Permitted,** indicates that the listed use is not allowed in the respective zoning district but is not necessarily construed to mean that said use is prohibited by these Regulations. Prohibited uses are listed in Article 23, Section 23-111.
2. **Unlisted Uses:** For uses not specifically listed in these Regulations or not included in the Use Table or in the zoning district use regulations, the Zoning Administrator shall have the authority to determine the appropriate zoning district or districts that allow the use based on the use's similarity to uses that are listed. If no similar use determination can be made, the Planning Commission shall have the authority to initiate an amendment to the text of these Regulations to clarify where such uses will be allowed.
3. **Conflict:** In the event of conflict between the Use Table and the use regulations found within the individual zoning district articles of these Regulations, the text of the individual zoning district regulations shall prevail.

**2-103 Use Categories:** The uses listed in the Use Table are grouped into one of the following use categories:

1. Agricultural
2. Residential
3. Public & Civic
4. Commercial – Retail Sales, Service & Office
5. Commercial – Wholesale and Other
6. Industrial

2-104 Use Table

Key: P = Permitted by Right C = Conditional Use A = Accessory Use * = Use Specific Standard † = Use as Defined by these Regulations – = Use Not Allowed	Zoning Districts											*Use Specific standards	†Use as defined by these Regulations
	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2		
<b>AGRICULTURAL</b>													
Agricultural Purposes†	P	A	A*	A	A	A	A	A	A	A	A	23-109(2)(c)	1-104(7)
Agricultural, Accessory	A	A	A*	A	A	A	A	A	A	A	A	23-109(2)(c)	
Agricultural Sales and Services, General†	C	C	C	C	C	C	P	P	P	P	P		1-104(??)
Agricultural Sales and Services, Limited†	A	A	A*	A	A	A	A	A	A	A	A	23-109(2)(c)	1-104(??)
Fuel Storage, Non-retail	A	A	A	-	-	-	C	C	C	C	C		
Grain storage	P	A	A*	-	-	-	C	C	C	C	C	23-109(2)(c)	
<b>RESIDENTIAL</b>													
Single-family dwelling	P	P	P	P	P	P	-	-	-	-	-		
Multi-Family dwelling†	-	-	C*	C*	C*	C*	-	-	-	-	-	23-105(47)	1-104(71)
Guest House	A	A	A	A	A	A							
Accessory Apartment	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(47)	
Manufactured Home†	P*	-	-	-	-	C	-	-	-	-	-	23-109(1)(c)	1-104(134)
Manufactured Home, Residential Design†	P*	P*	P*	P*	P*	P*	-	-	-	-	-	17-102(4)	1-104(143)
Manufactured Home Park	-	C*	C*	-	-	-	-	-	-	-	-	Article 24	
Manufactured Home Subdivision	-	C*	C*	-	-	-	-	-	-	-	-	Article 25	
Mobile Home†	-	-	-	-	-	-	-	-	-	-	-	23-111(1)	1-104(146)
Modular Home	P*	P*	P*	P*	P*	P*	-	-	-	-	-	17-102(4)	
Adult Care Home†	-	C*	C*	C*	-	-	-	C*	C*	C*	-		1-104(??)
Group Boarding Home	C*	C*	C*	-	-	-	-	C*	C*	C*	-	23-105(28)	
Group Home†	P	P	P	P	P	P	-	C	C	C	-		1-104(??)
Recreational Vehicle†	A*	A*	A*	A*	A*	A*	-	-	-	-	-	23-110(2)	1-104(169)
Residential Center	-	C*	C*	-	-	-	C*	C*	C*	C*	C*	23-105(28)	
Shipping/Storage Container†	A	A*	-	-	-	-	-	-	-	-	-	23-109(2)(g)	23-109(1)(j)
<b>PUBLIC &amp; CIVIC</b>													
Attendant Care Facility	C*	C*	C*	C*	-	-	-	C*	C*	C*	-		
Camps, retreat centers and similar	C	C	C	-	C	-	-	-	C	C	C		
Cemeteries, mausoleums or crematories	C	C	C	-	-	-	-	C	C	C	C		

**ARTICLE 2**

**USE TABLE**

	Zoning Districts											*Use Specific standards	†Use as defined by these Regulations	
	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2			
<b>Key:</b> P = Permitted by Right C = Conditional Use A = Accessory Use * = Use Specific Standard † = Use as Defined by these Regulations - = Use Not Allowed														
Churches and church-related facilities	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(??)		
Community Facilities, Publicly or Privately owned	C	C	C	C	C	C	C	C	C	C	C			
Day Care Home	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(28)		
Detention Center	-	-	-	-	-	-	-	-	C*	C*	C*	23-105(28)		
Group Day Care Home	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(28)		
Hospital	-	-	C	-	-	-	C	C	C	C	C			
Long-term Care Facility	-	-	C	-	-	-	-	C	C	C	-			
Nature Preserves and Parks	P	P	P	P	P	P	P	P	P	P	P			
Oil and/or gas Storage Facilities	P	P	C	C	C	C	C	C	C	C	C			
Railroad rights-of-way	P	P	P	P	P	P	P	P	P	P	P			
Recreational or Sports-related Facilities†	C	C	-	-	-	-	C	C	P	P	P		1-104(168)	
Schools	C	C	C	C	C	C	C	C	C	C	C			
Secure Care Center	-	C	C	-	-	-	-	-	C	C	-			
Secure Residential Treatment Facility	-	C	C	-	-	-	-	-	C	C	-			
Wind energy conversion system, Commercial†	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	C*	23-105(13)	1-104(212)	
Wind energy conversion system, Small†	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	A*	17-102(5)	1-104(214)	
Utility, Major†	C	C	C	C	C	C	C	C	C	C	C	23-105(4)	1-104(?)	
Utility, Minor†	P	P	P	P	P	P	P	P	P	P	P	23-105(4)	1-104(?)	
Utility maintenance shops and yards	C	C	C	C	C	C	C	C	C	C	C			
<b>COMMERCIAL - RETAIL SALES, SERVICES &amp; OFFICE</b>														
Animal Hospital or Clinic	C	C	C	C	C	C	-	P*	P*	P*	P*			
Automotive Sales and Service	-	-	-	-	-	-	-	-	P	P	P			
Bed and Breakfast	C	C	C	C	C	C	-	-	-	-	-			
Car Wash	-	-	-	-	-	-	-	P	P	P	P			
Car Wash, Accessory	-	-	-	-	-	-	-	-	A*	A*	A*	23-109(3)(k)		
Club, Membership	C	C	C	-	-	-	-	-	C	C	C			
Drinking Establishments	-	-	-	-	-	-	-	C	C	-	-			
Funeral Home or Mortuary	-	-	-	-	-	-	-	-	P	-	-			

**ARTICLE 2**

**USE TABLE**

	Zoning Districts											*Use Specific standards	†Use as defined by these Regulations	
	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2			
<b>Key:</b> P = Permitted by Right C = Conditional Use A = Accessory Use * = Use Specific Standard † = Use as Defined by these Regulations - = Use Not Allowed														
Fuel Station, Retail	-	-	-	-	-	-	-	-	P	P	P			
Grocery store or supermarket	-	-	-	-	-	-	-	P	P	P	P			
Home Occupations <sup>†</sup>	A*	A*	A*	A*	A*	A*	-	-	-	-	-	23-109(2)(e)	23-109(2)(d)	
Hotels	-	-	-	-	-	-	-	-	P	P	P			
Kennels, Boarding & Breeding	C*	C*	C*	-	-	-	-	-	P*	P*	-	23-105(36)		
Lawn and garden supply, including storage yards	-	-	-	-	-	-	-	P	P	P	P			
Lumber yard	-	-	-	-	-	-	-	P	P	P	P			
Manufactured home and trailer sales and service, including display yard	-	-	-	-	-	-	-	P	P	P	P			
Monument engraving, finishing and sales	C	C	-	-	-	-	-	P	P	P	P			
Office, General	C	C	-	-	-	-	P	P	P	P	P			
Package Liquor Store	-	-	-	-	-	-	-	-	-	-	-			
Printing and Copying, Retail	-	-	-	-	-	-	P	P	P	-	-	23-105(50)		
Real Estate Sales Office, limited <sup>†</sup>	-	P*	P*	P*	P*	P*	-	-	-	-	-	17-102(3)	17-102(3)	
Reception Hall	-	-	-	-	-	-	-	P	P	P	P			
Restaurant, including drive-through and drive-up establishments	-	-	-	-	-	-	-	P	P	P	P			
Retail, Convenience <sup>†</sup>	-	-	-	-	-	-	P	P	P	-	-		8-102(3)	
Retail, General <sup>†</sup>	-	-	-	-	-	-	-	P	P	P	P		9-102(4)	
Retail Greenhouses, nurseries, hydroponic farms	-	-	-	-	-	-	-	P	P	-	-			
Riding Stable	C	C	C	-	-	-	-	P	P	P	-			
Sexually Oriented Businesses	P*	-	-	-	-	-	P*	P*	P*	P*	P*	23-112		
Shipping/Storage Container	-	-	-	-	-	-	A	A	A	A	A			
Telecommunications Tower	C*	C*	C*	C*	C*	C*	A*	A*	A*	A*	A*	23-105(52)		
Truck Stops and/or Terminals	-	-	-	-	-	-	-	-	P	P	P			
<b>COMMERCIAL - WHOLESALE &amp; OTHER</b>														

**ARTICLE 2**

**USE TABLE**

Key: P = Permitted by Right C = Conditional Use A = Accessory Use * = Use Specific Standard † = Use as Defined by these Regulations – = Use Not Allowed	Zoning Districts											*Use Specific standards	†Use as defined by these Regulations
	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2		
Airport, landing field, helipad	C	C	-	-	-	-	C	C	C	C	C		
Boat Sales, Service, and Storage	-	-	-	-	-	-	-	P	P	P	P		
Bus barns or lots	-	-	-	-	-	-	-	-	P	P	P		
Commercial Parking Lots and Loading Spaces	C	C	C	-	-	-	-	-	P	P	P		
Commercial Stockyard, Feedlot	-	-	-	-	-	-	-	-	C	C	C		
Farm machinery sales and service, including storage yard	C	C	-	-	-	-	-	-	P	P	P		
Rail passenger stations	C	C	-	-	-	-	C	C	C	C	C		
Rental equipment centers	-	-	-	-	-	-	-	P	P	P	P	9-102(3)	
<b>INDUSTRIAL</b>													
Auction Sales Yard	-	-	-	-	-	-	-	P	P	P	P		
Book or publishing plants	-	-	-	-	-	-	-	-	-	-	P		
Ceramic, pottery or concrete ornament product processing, sales and/or yard	C	C	-	-	-	-	-	-	-	P	P		
Cold storage and ice plants	-	-	-	-	-	-	-	-	-	-	P		
Furniture refinishing	-	-	-	-	-	-	-	-	-	-	P		
Industrial machinery sales and service	-	-	-	-	-	-	-	-	-	-	P		
Junkyard	-	-	-	-	-	-	-	-	C	C	C		
Laboratories, research, experimental, or testing	-	-	-	-	-	-	-	-	-	P	P		
Landfills - Sanitary, C&D or other	C	C	-	-	-	-	-	-	C	C	C		
Machine shops	C	C	-	-	-	-	-	-	-	-	P		
Manufacturing	-	-	-	-	-	-	-	-	C*	P	P	17-106(3)	
Metal fabrication	-	-	-	-	-	-	-	-	-	-	P	17-106(3)	
Oil and/or gas well drilling operations	P	P	C	-	-	-	-	-	C	C	C		
Plastic extrusion	-	-	-	-	-	-	-	-	-	-	P	17-106(3)	
Quarrying or mining activities	C*	C*	-	-	-	-	-	-	C*	C*	C*	23-105(51)	
Rail switching/classification yard	C	C	-	-	-	-	-	C	C	C	C		



Key: P = Permitted by Right C = Conditional Use A = Accessory Use * = Use Specific Standard † = Use as Defined by these Regulations - = Use Not Allowed	Zoning Districts											*Use Specific standards	†Use as defined by these Regulations
	AG	RR	SR	R-1	LL	V-1	CP-1	CP-2	CP-3	IP-1	IP-2		
Railroad Facilities	C	C	-	-	-	-	-	C	C	C	C		
Self-Storage	-	-	-	-	-	-	-	-	P	P	P		
Warehousing	-	-	-	-	-	-	-	-	C	P	P		
Waste tire collection, storage or processing	-	-	-	-	-	-	-	-	C	C	C		
Wholesaling	-	-	-	-	-	-	-	-	C	P	P		

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## ARTICLE 23 CONDITIONAL USES; SUPPLEMENTARY USE REGULATIONS; ACCESSORY USES; PROHIBITED USES

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### Sections:

- 23-101 Conditional Uses - Purpose and Intent
- 23-102 Application of Conditional Uses
- 23-103 Qualification of Existing Conditional Uses
- 23-104 Additions and Changes to Conditional Uses
- 23-105 Continuance of a Conditional Use
- 23-106 Supplementary Use Regulations
- 23-107 Accessory Uses
- 23-108 Eligibility for Accessory Use
- 23-109 Accessory Uses Allowed
- 23-110 Specialty Accessory Uses
- 23-111 Prohibited Uses
- 23-112 Sexually Oriented Businesses

**23-101 Conditional Uses - Purpose and Intent:** The establishment of virtually all land uses except agricultural and traditional single-family residential, in most cases, are not appropriate in the bulk of unincorporated portion of Jefferson County; especially those land uses that are of an extremely sensitive nature due to the intensity or environmental impacts associated with the normal operation of the business or activity. However, it is recognized that it may be acceptable, on a case-by-case, site-by-site basis, to permit the development of such land uses where conditions warrant and adequate safeguards are taken to mitigate any of the potential problems associated with said development. Therefore, in order to develop such land uses ~~other than agricultural, traditional single-family residential or commercial and/or industrial in the unincorporated portion of Jefferson County outside the designated areas near the incorporated cities,~~ a Conditional Use Permit issued in accordance with these Regulations shall be required.

It is the intent of this Article to require a Conditional Use Permit for ~~all proposed~~ **certain** land uses, except those specifically prohibited herein or allowed as a permitted use in one of the established zoning districts. ~~As such, it is acknowledged that any property owner may seek a Conditional Use Permit for any of the types of land uses indicated herein for any property within the unincorporated portion of Jefferson County.~~ The subsequent approval of such request by the Governing Body is a purely discretionary act that will be decided based upon the facts and circumstances discovered in the review of each application. There is no implied "right" for any person or landowner to obtain a Conditional Use Permit for any use on any property.

It is also the intent of this Article to allow the issuance of Conditional Use Permits that provides for more than one use on any property; provided the range or type of uses is clearly delineated within the Conditional Use Permit, the other relevant facts have been evaluated, and the approval is consistent with the spirit and intent of this Article and these Regulations. (For example: a Conditional Use Permit could be approved for a "strip shopping center" in a location where transportation and adequate water and sewage disposal services are available. The Conditional Use Permit could indicate a range of "retail and/or service businesses" as being appropriate for this location and included in the Permit.)

**23-102 Application of Conditional Uses:** Before the location or establishment of any land use requiring a Conditional Use Permit, or before any change or use of the premises existing at the time of the effective date of these Regulations or permitted as herein provided is made, a Development Plan in sufficient detail and a statement as to the proposed use of the buildings, structures, and premises shall be submitted to the Planning Commission as specified in Article 16 of these Regulations. The Planning Commission shall hold a public hearing following the provisions also outlined in Article 30 of these Regulations and shall review such Development Plan

## ARTICLE 23 CONDITIONAL USES; SUPPLEMENTARY USE REGULATIONS; ACCESSORY USES; PROHIBITED USES

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and statements and shall, after a careful study of the effect that such buildings, structures, or uses will have upon the surrounding property, submit a recommendation to the Governing Body.

Following receipt of the Planning Commission's recommendation, the Governing Body may, within the specifications herein provided, permit such buildings, structures, or uses; provided that the public health, safety, morals, and general welfare will not be adversely affected, that ample off-street parking facilities will be provided, that the transportation and utility services are appropriate for the level and intensity of the proposed development, and that necessary safeguards will be provided for the protection of surrounding property, persons, and of neighborhood values. In this regard, the Governing Body may impose reasonable conditions on the approval of a Conditional Use Permit including, but not limited to, those items identified in Article 16 of these Regulations.

**23-103 Qualification of Existing Conditional Uses:** Properties with land uses operating under an existing Conditional Use approved prior to the adoption of these Regulations, or that were zoned and used as commercial or industrial under the previous Zoning Regulations, shall be permitted to continue, but with an unapproved Conditional Use Permit. Changes in the building(s), operation(s) or use(s) of said properties shall be treated as requiring an amendment to said unapproved Conditional Use Permit and considered as provided Section 23-102 herein. This shall also be the case of those uses established with a Conditional Use Permit which will now be included in an area zoned commercial or industrial.

**23-104 Additions and Changes to Conditional Uses:** All subsequent requests for additions and structural alterations to Conditional Uses approved by the Governing Body shall be considered in the same procedure as outlined in Section 23-102 herein.

**23-105 Continuance of a Conditional Use:** A Conditional Use Permit shall be allowed to continue, unless specified otherwise as a condition of its original authorization, as long as all conditions placed on it are met. However, if that particular use ceases to exist for a period of one (1) year, it will forfeit its Development Plan and will not be allowed to exist again unless a new application is made, a public hearing held, and a new Development approved in conformance with the requirements of these Regulations. The County may initiate an action to remove the Conditional Use, but must follow the same procedures as followed to establish the Conditional Use originally.

**23-106 Supplementary Use Regulations:** For those uses listed below, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered in any district unless the activity is in compliance with all applicable supplementary use regulations specified in this section. These standards shall be applied to the following uses whether allowed by right, as an accessory use, or with a Conditional Use Permit. To the extent that these standards establish additional restrictions on uses of property that may be more strict than those of the underlying district, the more strict requirements shall apply.

1. Churches and church-related facilities including camps, schools, retreat centers and similar facilities, subject to the following:
  - a. Standards to be listed here...
  - b. ...at a later date.

## ARTICLE 23 CONDITIONAL USES; SUPPLEMENTARY USE REGULATIONS; ACCESSORY USES; PROHIBITED USES

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2. A Commercial Wind Energy Conversion System, subject to the following:
  - c. Wind Energy Conversion System shall meet the following setback requirements:
    - (1) The height of the Wind Energy Conversion System plus 50 feet from public roads.
    - (2) A distance equal to twice the Wind Energy Conversion System height from a residential structure.
  - b. Maintaining continuous liability insurance coverage in an amount not less than \$1,000,000.00 with the County named as an additional insured. In lieu of such coverage the permit holder may provide an indemnification agreement satisfactory to the County.
3. Group Boarding Home, Licensed Group Day Care Home, Child Care Center, Licensed Day Care Home, Preschool, Detention Center, Family Day Care Home, or Residential Center, except as permitted by K.S.A. 12-736 as amended, provided:
  - a. The applicant shall submit, as a part of the application, the plans for the proposed facility giving the type of services to be rendered, the number of persons to be placed in the facility, the number of staff to be employed and other information that will help in determining the extent of services to be provided.
  - b. A report from the Jefferson County Health Officer shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
  - c. Off-street parking at a rate of one space per employee plus two additional spaces for guests.
  - d. When operated out of an existing or proposed residential structure, the following standards shall be met:
    - (1) That only one nonilluminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
    - (2) Outside play areas shall be fenced.
4. Animal hospital or clinic for large or small animals, provided, such hospital or clinic and treatment rooms shall be maintained within a completely enclosed, soundproof building, and that such hospital or clinic shall be operated in such a way as to produce no objectionable odors outside its walls.
5. Kennels, either boarding or breeding, provided:
  - a. All kennel buildings, runs and open areas shall be located at least 200 feet from property line.
  - b. All kennel runs or open areas shall be screened around such areas or at the property line. Such screening may be densely planted evergreen foliage or a solid

## ARTICLE 23 CONDITIONAL USES; SUPPLEMENTARY USE REGULATIONS; ACCESSORY USES; PROHIBITED USES

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- wall or fence of masonry, wood or metal, designed so as to reduce noise and prevent the distraction or excitement of the animals.
- c. Open pens shall not be required to be served by sanitary sewer facilities unless soil conditions will not support adequate percolation.
6. Multi-family dwellings, including two-family dwellings, townhouses, garden apartments, condominiums; provided, consistent with single-family residential developments, the provision of adequate public water and sewer service, along with other public infrastructure, is necessary in order for development of said dwellings to be permitted. In addition, the introduction of accessory apartments for extended family members in accessory buildings on the same lot; provided ownership and all services for such unit are maintained in the name of the owner of the principle building and/or occupant.
7. Printing, publishing, and engraving firms, including newspaper publishing; provided said operations are principally retail businesses.
8. Quarrying, mining, and removal of sand, gravel, stone, coal or topsoil and the processing of the same, including asphalt and concrete plants, provided:
- a. Eloise would like to add more standards here...
- b. All quarries and mining operations and asphalt and concrete plants shall be screened by a method approved by the Governing Body when the same are within  $\frac{1}{4}$  mile of any residential dwelling.
- c. The applicant shall provide an approvable method for dust abatement on all unpaved interior roads if any part of the operation is located within  $\frac{1}{4}$  mile of any residential dwelling.
- d. Where applicable, a maintenance agreement between the applicant and the County shall be required to maintain the roads that provide the ingress/egress to the operation.
- e. All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of 100 horizontal feet from any road right-of-way and 30 horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface. The setback areas may be used for the erection of berms or other screening features required by the Conditional Use Permit.
- f. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site and a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation; however, the amended plan must be approved by the Governing Body before reclamation work may begin. Said approval of a revised reclamation plan shall require a public hearing under the same procedure as the original Conditional Use Permit.

## ARTICLE 23 CONDITIONAL USES; SUPPLEMENTARY USE REGULATIONS; ACCESSORY USES; PROHIBITED USES

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- g. No building, equipment, quarry products or other materials shall be erected or stored within 100 feet of any property or right-of-way line.
  - h. A copy of the annual survey of mining operations, as required to be filed by State law with the State, shall also be filed with the Governing Body. Said annual survey applies only to underground mining activities, not to open pit mines or quarries.
9. Radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, commercial telecommunication towers, or any tower or other similar structure 50 feet or more in height; whether publicly or privately owned, provided:
- a. The location of every tower must be such that it is at least an equal distance from all property lines as it is in height.
  - b. Every commercial telecommunication tower shall be designed to provide co-location with a minimum of forty-eight (48) antennas and their attendant cables.
  - c. No new commercial telecommunication tower location shall be approved unless the applicant shall show there is not sufficient or usable space on existing or approved towers in the same service area. Such verification shall be in the form of written correspondence from the owner of such towers or structures of their unavailability. At a minimum, the service area for every tower shall be three (3) miles from the tower location.
  - d. All lighting necessary to comply with the FAA lighting requirements shall consist of dual lighting structures with day time strobe lights on medium intensity and night time red lights only. No high intensity strobes or night time strobes shall be permitted. Further, all towers requiring lighting shall provide battery backup or other alternative power source to assure lighting operations during times of power outages.
  - e. Any communication tower that is unused for a period of twelve (12) months or more shall be declared abandoned and shall be notified of the necessity of removing the tower and appurtenances and reclaiming the lands as provided herein.
  - f. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation of the proposed use of the site upon the removal of the tower. The applicant shall also provide financial security if a form acceptable to the County to assure the reclamation of the property shall occur in conformance with the reclamation plan. Financial security provided to the landowner is sufficient, provided it names the County as well.
10. Recreational vehicle park or campground, provided:
- a. The tract to be used as a recreational vehicle park or campground shall not be less than two (2) acres in area. Under no circumstances shall a manufactured home be parked in a recreational vehicle park or campground.
  - b. The minimum area for a space for parking one trailer or recreational vehicle shall be 1,400 square feet, with minimum dimensions of 35 feet by 40 feet and with corners

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- of each site visibly marked by a permanent marker.
- c. The number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; provided that no individual space shall be designed for direct access to a street outside the boundaries of the recreational vehicle park or campground, and that all interior access drives shall be at least 20 feet in width. All interior access drives and parking areas shall be paved with concrete or asphaltic concrete paving.
  - d. The recreational vehicle park or campground shall contain community facilities, including play space, utility rooms, parking and access roads. In addition, every recreational vehicle park or campground shall contain at least one (1) service building and shall provide one (1) additional service building for each 100 spaces. Each service building shall:
    - (1) Be located within three hundred (300) feet of the recreational vehicle park or campground;
    - (2) Be of permanent construction;
    - (3) Have one (1) flush-type toilet, one (1) lavatory, and one (1) shower or bathtub for females; and one (1) flush-type toilet; one (1) lavatory, and one (1) shower or bathtub for males for each thirty (30) spaces. All lavatories, bathtubs, and showers shall be connected with both hot and cold running water;
    - (4) Have an accessible, adequate, safe and potable supply of cold water;
    - (5) Comply with all applicable adopted building codes regarding the construction of buildings and the installation of electrical, plumbing, heating and air-conditioning systems; and,
    - (6) Be maintained in a clean, sanitary condition and kept free of any condition that will menace the health of any occupants of the public or will constitute a menace.
  - e. The recreational vehicle park or campground shall be surrounded by an open space 50 feet wide along the street frontage with an arterial highway or section line road, and 25 feet wide along all other lot lines or street frontages. Screening at least six (6) feet in height shall be provided between the recreational vehicle park or campground and any adjoining residential area.
  - f. No recreational vehicle shall be parked closer than 25 feet to any part of any other trailer or service building and no part of a trailer or recreational vehicle shall extend closer than 5 feet to the boundaries of the individual space.
  - g. Off-street parking spaces for motor vehicles shall be provided in the ratio of one parking space per individual space; said spaces to be located in convenient location to individual spaces.
  - h. In a residential district, accessory signs, in addition to internal directional signs, shall

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be limited to one flat or detached sign, with sign area limited to 25 square feet. Said sign may be illuminated.

- i. Proper provision shall be made for public water supply, sanitary sewage disposal, fire protection, refuse collection, laundry, toilet and bathing facilities. All shall be indicated on a site plan of the proposed trailer park and shall be installed and/or constructed in accordance with all other state and/or local laws and regulations. A sewage dump station shall be provided within every recreational vehicle park or campground.
- j. The proposed recreational vehicle park or campground shall comply with all provisions of this and other federal, state and/or local laws and regulations.

**23-107 Accessory Uses:** Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof, and shall be on the premises of the main use.

**23-108 Eligibility for Accessory Use:** The determination of the eligibility of a proposed use as an accessory use shall be made by the Zoning Administrator.

**23-109 Accessory Uses Allowed:** Accessory uses shall be allowed; provided, said accessory uses shall be limited to those specified herein for the various zoning classifications:

1. In District "AG" Agricultural, the following, or similar accessory uses are allowed:
  - a. Open or enclosed storage of farm materials, products or equipment; but not junk.
  - b. Any and all farm buildings, including, but not limited to, barns, stables, sheds, toolrooms, shops, bins, tanks and silos.
  - c. The use of a manufactured home as an accessory dwelling on land used for agricultural purposes when used by persons employed thereon, including their families. At no time shall a manufactured home or the land upon which it sits be intended and/or used as a rental unit in the "AG" District.
  - d. Fuel storage, tanks and dispensing equipment for fuels used solely for a farming operation. No retail sales of such fuels shall be allowed as an accessory use.
  - e. Wholesale or retail sales of agricultural products grown or raised on the premises or by the farm operator.
  - f. A hobby activity operated by the occupant of the premises purely for personal enjoyment, amusement or recreation.
  - g. Home occupations.
  - h. Accessory buildings and uses commonly associated with residential activity including, but not limited to, the following:



- Private garages
- Guest houses
- Home barbecue grills
- Small storage sheds
- Satellite dish antennas
- Accessory off-street parking and loading spaces

- i. Small wind energy conversion systems.
  - j. Storage buildings, including those originally designed or intended for use as a transportation vehicle or shipping structure.
2. In District "RR" Rural Residential, "SR" Suburban Residential, "R-1" Single-Family Residential, "LL" Single-Family Residential Lake Lot and "V-1" Village District only the following accessory uses are allowed:
- a. Accessory buildings and uses commonly associated with residential activity, including, but not limited to, the following:

- Accessory off-street parking and loading spaces
- Fences or walls
- Flag poles
- Gates or guard houses for subdivisions
- Guest houses
- Home barbecue grills
- Parabolic and satellite dish-type antennas
- Play equipment
- Private garages and carports
- Servants quarters
- Small storage sheds
- Solar collectors
- Swimming pools
- Television and radio receiving antennas less than 50 feet in height

No accessory building or use shall occupy a required front yard (except basketball goals, flag poles and fences as permitted.) Except in the "RR" Rural Residential and "SR" Suburban Residential Districts, the total floor area of all accessory buildings shall not exceed 900 square feet.

- b. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation.
- c. In the "RR" Rural Residential District and "SR" Suburban Residential District on lots three (3) acres or larger, agricultural activities may be conducted as accessory activities, such as growing of crops, pasturage of animals, growing of hay, or other similar activities. However, at no time shall such activity be classified or permitted as the primary usage of the land; said usage being as a residential home site in either of the zoning districts.
- d. Home occupations such as, but not limited to, the following:

Accountant  
Architect  
Artist  
Attorney  
Author or writer  
Chiropractor  
Clergyman  
Cosmetologist  
Counselor  
Dentist  
Engineer  
Home crafts  
Insurance Agent  
Osteopath  
Photographer  
Physician  
Planner  
Real Estate Agent  
Seamstress/Dressmaker  
Secretary/Typist  
Teaching or instruction provided not more than 3 students are taught at any one time and not more than 12 students per day

- e. The following conditions and restrictions shall apply to such customary home occupations:
- (1) That the home occupation shall be carried on wholly within a main building or structure, or within a permitted accessory building or structure, provided that the primary use of the main building or structure is clearly the dwelling used by the person as his or her private residence.
  - (2) That no person other than members of the household living on the premises and one (1) outside person shall be employed.
  - (3) That only one non-illuminated ground or wall sign not more than 4 square feet in area is used to advertise the home occupation.
  - (4) That no display or storage of equipment or materials outside of a building or structure shall be permitted.
  - (5) That no equipment or machine is used in such activities that is perceptible off the premises by reason of noise, smoke, dust, odor, heat, glare, radiation, electrical interference or vibration.
  - (6) That off-street parking and loading shall be provided and that no generation of substantial volumes of vehicular or pedestrian traffic or parking demand shall be permitted.
- f. Small wind energy conversion systems.



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4. In Districts "IP-1" Planned Light Industrial, and "IP-2" Planned Medium Industrial, only the following accessory uses are allowed:
  - a. Awnings.
  - b. Parking areas, loading areas and/or private garages for motor vehicles.
  - c. Exterior lighting, including floodlighting.
  - d. Fences or walls, including security or screen fences or walls.
  - e. Loading equipment.
  - f. Parabolic and satellite dish-type antennas.
  - g. Radio, television and/or microwave antennas or towers, provided such shall not exceed 50 feet in height.
  - h. Gate houses.
  - i. Employee recreation facilities.
  - j. Storage buildings, including those originally designed or intended for use as a transportation vehicle or shipping structure. Storage buildings shall be subject to all setback requirements of the district in which it is located.

**23-110 Specialty Accessory Uses:** The following uses, activities, or items shall be the accessory uses or restrictions allowable:

1. **Construction Sites:** Construction and hauling trailers may be used as a temporary construction office on the site of a construction project, provided such construction or hauling trailer is removed upon completion of the project.
2. **Recreational Vehicles and Trailers:**
  - a. Recreational vehicles may be parked in a recreational vehicle park or campground. Recreational vehicles or equipment may also be stored within any "RR", "SR", "R-1", "LL", or "V-1" District, provided; said recreational vehicle or recreational equipment, as defined in these Regulations, is stored within an enclosed structure (which structure otherwise conforms to the requirements of these Regulations), or may be permanently parked upon the private property of the premise if said recreational vehicle or recreational equipment is not parked within the front yard; within the required yard along any public street; or within 10 feet of side or rear lot line.
  - b. At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes, except in a recreational vehicle park, or as a permitted temporary dwelling on a lot on which a valid Zoning Certificate is issued for

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construction of a dwelling on said lot.

- c. The provisions of these Regulations regarding recreational vehicles do not apply to those businesses displaying recreational vehicles or recreational equipment for sale or service when said business is properly located.

### 23-111 **Prohibited Uses:** After the effective date of these Regulations:

1. No mobile home, as defined in these Regulations, shall be moved, relocated, or otherwise placed on any property in the unincorporated portion of Jefferson County, including within any Manufactured Home Park or Manufactured Home Subdivision.
2. No manufactured home or mobile home shall be used for any purpose other than as a residential dwelling as permitted within these Regulations. At no time shall a manufactured home or mobile home be permitted to be converted to a storage unit, office or any other such use, except when used as a permitted accessory use in this Article.
3. No mobile home or manufactured home originally built to be a single-wide unit shall be attached or connected to any other mobile home or manufactured home, or to any other structure or building. This shall not prohibit reasonable, aesthetically designed stoops, porches, decks, carports or the like from being built onto or adjacent to an approved manufactured home.
4. No property shall be used as junkyard, sanitary landfill, construction/demolition landfill, industrial landfill, hazardous or toxic waste storage facility, or other similar use or activity, including as an accessory use to another principal use, unless such use or activity has been approved by the issuance of a Conditional Use Permit as provided within these Regulations.
5. No structure constructed or intended for use as a shipping container, whether as originally as a transportation vehicle or as a separate structure, shall be used as a storage container on property zoned "SR" Suburban Residential District, "R-1" Single-Family Residential District, "LL" Single-Family Lake Lot Residential District, or "V-1" Village District. All other such placements where allowed shall be in conformance with the restrictions within these Regulations.
6. No application for a Conditional Use Permit shall be considered and no Conditional Use Permit shall be issued for any person on any property which proposes as the only use the placement of an advertising sign or billboard. Further, an advertising sign or billboard permitted as an accessory structure in an approved Conditional Use Permit shall not be built, used or remain in use unless the principal use and/or structure on the property is first built and/or currently used. Upon the cessation of the principal use and/or structure on the property, the advertising sign or billboard shall lose its standing as an accessory structure and must be removed. At no time shall an advertising sign or billboard first established under these regulations gain standing as a non-conforming use since the placement and continued use of such advertising sign or billboard is accessory to another principal structure or use.

### 23-112 **Sexually Oriented Businesses:**

1. **Purpose:** It is a purpose of these Regulations to regulate sexually oriented businesses in

order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the County. The provisions of these Regulations have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of these Regulations to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these Regulations to condone or legitimize the distribution of obscene material.

- 2. Findings and Rationale:** Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Board of Commissioners, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); and

*Doctor John's, Inc. v. Wahlen*, 542 F.3d 787 (10th Cir. 2008); *Moody v. Bd. of Comm'rs of County of Shawnee*, 237 Kan. 67 (1985); *DPR, Inc. v. City of Pittsburg*, 24 Kan. App. 2d 703 (1998); *Abilene Retail #30, Inc. v. Bd. of Comm'rs of Dickinson County*, 492 F.3d 1164 (10th Cir. 2007); *Doctor John's, Inc. v. City of Roy*, 465 F.3d 1150 (10th Cir. 2006); *Heideman v. South Salt Lake City*, 165 Fed. Appx. 627 (10th Cir. 2006); *Heideman v. South Salt Lake City*, 348 F.3d 1182 (10th Cir. 2003); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, 311 F.3d 1220 (10th Cir. 2002); *Essence, Inc. v. City of Federal Heights*, 285 F.3d 1272 (10th Cir. 2002); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *Dodger's Bar & Grill, Inc. v. Johnson County*, 98 F.3d 1262 (10th Cir. 1996); *Dodger's Bar & Grill, Inc. v. Johnson County*, 32 F.3d 1436 (10th Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F.3d 1241 (10th Cir. 2000); *Cortese v. Black*, No. 95-1429, 87 F.3d 1327 (10th Cir. June 25, 1996) (table); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 2011 WL 1085629 (11th Cir. Mar. 25, 2011); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir.

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2005); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Ft. Worth, Texas - 2004; Kennedale, Texas - 2005; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; Jackson County, Missouri - 2008; Louisville, Kentucky - 2004; New York, New York Times Square - 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas - 2007; "Rural Hotspots: The Case of Adult Businesses," 19 Criminal Justice Policy Review 153 (2008); and "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," Journal of Urban Health (2011),

the Board of Commissioners finds:

- a. Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- b. Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- c. Each of the foregoing negative secondary effects constitutes a harm which the County has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is among the County's rationales for these Regulations, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the County's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the County. The County finds that the cases and documentation relied on in this Section are reasonably believed to be relevant to said secondary effects.

The County hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, including the judicial opinions and reports related to such secondary effects.

**3. Definitions:**

- a. “*Sexually Oriented Business*” has the same meaning as in K.S.A. 12-770 except that the term “adult cabaret” has the meaning provided in this Section. To the extent that the definitions in K.S.A. 12-770, or the definition of “adult cabaret” in this Section, employ a term not defined in K.S.A. 12-770 but that is defined in this Section, the definition in this Section shall provide the meaning for that term.
- b. “*Adult Cabaret*” means a nightclub, bar, juice bar, restaurant, bottle club, or similar commercial establishment, regardless of whether alcoholic beverages are served, which regularly features live semi-nude conduct. No establishment shall avoid classification as an adult cabaret by offering or featuring nudity.
- c. “*Characterized by*” means describing the essential character or quality of an item. As applied in this Section, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.
- d. “*Instruments, devices or paraphernalia which are designed for use in connection with specified sexual activities*” shall not be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
- e. “*Regularly*” means the consistent and repeated doing of an act on an ongoing basis.
- f. “*Specified Sexual Activity*” means any of the following:
  - (i) intercourse, oral copulation, masturbation or sodomy; or
  - (ii) excretory functions as a part of or in connection with any of the activities described in (i) above.

**4. Location of Sexually Oriented Businesses:**

- a. Sexually oriented businesses shall not be required to obtain a conditional use permit under these Regulations.
- b. It shall be unlawful to establish, operate, or cause to be operated a sexually oriented business unless said sexually oriented business is at least:
  - (1) 1,000 feet from any parcel occupied by another sexually oriented business or by a business licensed to sell alcohol at the premises;
  - (2) 1,000 feet from any parcel zoned RR, SR, R-1, LL, or V-1;
  - (3) 1,000 feet from any parcel occupied by a house of worship, public or private elementary or secondary school, public park or recreational area, or library; and
  - (4) 1,000 feet from any residential structure on a parcel that is not zoned RR, SR, R-1, LL, or V-1.
- c. For the purpose of this section, measurements shall be made in a straight line in all



directions without regard to intervening structures, objects, or municipal boundaries within the County, from the closest part of any structure, including signs and roof overhangs, used in conjunction with the sexually oriented business to the following:

- (1) the closest point on a property boundary or right-of-way associated with any of the land use(s) identified in subsection (b)(1)-(3) above; and
  - (2) the closest point of any residential structure on a parcel that is not zoned RR, SR, R-1, LL, or V-1.
- d. Notwithstanding anything to the contrary in these Regulations, a nonconforming sexually oriented business, lawfully existing in all respects under law prior to the effective date of this section, may continue to operate for one (1) year following that date in order to make a reasonable recoupment of its investment in its current location. At the conclusion of said one (1) year, the use will no longer be recognized as a lawful nonconforming use, provided that a nonconforming sexually oriented business may apply for one or more six-month extensions of the original one-year period upon a showing of financial hardship. An application for an initial extension based upon financial hardship (“hardship exception”) shall be made at least sixty (60) days before the conclusion of the aforementioned one-year (1-yr.) period. If a hardship extension is granted, subsequent applications for hardship extensions shall be made at least sixty (60) days before the conclusion of the nonconforming sexually oriented business’s current extension period.
- e. *Procedure for seeking hardship extension.* An application for a hardship extension shall be filed in writing with the Zoning Administrator, and shall include evidence of purchase and improvement costs, income earned and lost, depreciation, and costs of relocation. The Zoning Administrator shall schedule a public hearing on the application before the Board of Zoning Appeals to occur within forty (40) days after the Zoning Administrator’s receipt of the application. Within ten (10) days after receiving the application and not less than twenty (20) days prior to the date of such public hearing, the Zoning Administrator shall publish notice of the time and place of the public hearing in the official County paper. The Zoning Administrator shall also notify all property owners in the notification area (within 1,000 feet of the sexually oriented business, but extending only 200 feet into an incorporated city) by first class U.S. mail, postage prepaid, of the application for a hardship extension and of the time and place of the public hearing on the application.

The Board of Zoning Appeals shall issue a written decision within ten (10) days after the public hearing on the application for a hardship extension. The hardship extension shall be granted upon a showing that the nonconforming sexually oriented business is unable to recoup its investments, made prior to the effective date of this section, in its current location unless the hardship extension is granted.

**Definitions to be added or amended in Article 1, §1-104:**

**NOTE: highlighted means newly added or modified terms.**

1. **ADULT CARE HOME:** any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of aging. This term and the terms in this definition shall have the same meaning as defined in K.S.A. 39-923, and amendments thereto.
2. **AGRICULTURAL, ACCESSORY:** Agricultural activities conducted as accessory uses on land zoned other than Agricultural, including but not limited to growing of crops, pasturage of animals, growing of hay, or other similar activities. Such activities shall be subject to all applicable setback requirements and at no time shall such activity be classified or permitted as the primary usage of the land.
3. **AGRICULTURAL PRODUCTS:** Plants, animals or horticultural products produced on land used for agricultural purposes, including but not limited to: forages, grains and feed crops, dairy animals and dairy products, beef cattle, sheep, swine and horses, bees and apiary products, trees and forest products, fruits, nuts and berries, vegetables, or nursery, floral, ornamental or greenhouse products. **Agricultural products shall not include the cultivation of controlled substances as defined by K.S.A. 21-36a et seq, and amendments thereto.**
4. **AGRICULTURAL SALES AND SERVICE, GENERAL:** Wholesale or retail sales of agricultural products grown or raised primarily off the premises or the provision of agriculturally related services with incidental storage off site. This definition shall also include the sale or rental of farm tools and implements, including tack, animal care products, propane, butane, anhydrous ammonia, farm supplies and the like, as well as retail greenhouses, accessory food sales and machinery repair services.
5. **AGRICULTURAL SALES AND SERVICE, LIMITED:** Wholesale or retail sales of agricultural products grown or raised on the premises or by the farm operator or the provision of agriculturally related services with incidental storage off site. This definition shall not include as a temporary use or special event such as farmers markets or Christmas tree sales.
6. **ATTENDANT CARE FACILITY:** ~~A facility licensed by the State of Kansas as a non-secure care not to exceed 24 hours excluding weekends and holidays for children 10 years of age and older, or as defined by the state child care regulatory agency.~~ A non-secure facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, which is a boarding home for children at which attendant care is provided. Attendant care means one-on-one direct supervision of a juvenile who has

been taken into custody and shall not exceed 24 hours exclusive of weekends and court holidays. Both terms shall have the same meaning as defined in K.A.R. 28-4-285, and amendments thereto.

7. **BED AND BREAKFAST:** The use of an owner-occupied or manager-occupied residential dwelling to provide sleeping accommodations for transients with meals included.
8. **CHILD CARE CENTER:** ~~A facility licensed by the State of Kansas to provide for the care of thirteen (13) or more children from two (2) weeks to sixteen (16) years of age, and which is maintained for less than twenty-four (24) hours per day, or as defined by the state child care regulatory agency.~~ A facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, which provides care and educational activities for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care, or which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations. This term shall have the same meaning as defined in K.A.R. 28-4-420, and amendments thereto.
9. **DAY CARE HOME: ,LICENSED:** ~~A facility licensed by the State of Kansas to provide for the care of not more than ten (10) children under fourteen (14) years of ages, not more than six (6) of whom are under kindergarten age, between the hours of 6:00 a.m. and 9:00 p.m. This term is further construed to include similar units operated under other names, or as defined by the state child care regulatory agency.~~ A facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, in which care is provided for a maximum of 10 children under 16 years of age, with a limited number of children under kindergarten age. This term shall have the same meaning as defined in K.A.R. 28-4-113, and amendments thereto.
10. **DWELLING, MULTI-FAMILY:** A building or portion thereof, arranged, intended or designed for occupancy by ~~three~~ **two** or more families, **including, but not limited to two-family dwellings, townhouses, garden apartments, and condominiums.**
11. **FAMILY DAY CARE HOME:** ~~A facility certified by the State of Kansas to provide children under sixteen (16) years of age with food and lodging for less than twenty-four (24) hours per day. This term is further construed to include similar units with different names.~~ A facility licensed by the State of Kansas in accordance with K.S.A. 65-501 et. seq, and amendments thereto, to provide children under sixteen (16) years of age with food and lodging for less than twenty-four (24) hours per day. This term shall have the same meaning as defined in K.S.A. 65-517, and amendments thereto.
12. **GROUP BOARDING HOME OR RESIDENTIAL CENTER FOR CHILDREN:** ~~A facility licensed by the State of Kansas to provide twenty-four (24) hour non-secure care for not~~

~~less than five (5) nor more than ten (10) persons between the ages or infancy to 16 years of age, or as defined by the state child care regulatory agency.~~ A non-secure facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, providing residential care for not less than five (5) nor more than ten (10) persons unrelated to the caregivers, and includes emergency shelters and maternity homes. This term shall have the same meaning as defined in K.A.R. 28-4-268, and amendments thereto.

13. **GROUP DAY CARE HOME:** A facility licensed by the State of Kansas for the care of a maximum of twelve (12) children under sixteen (16) years of age, and a limited number of children under Kindergarten age, or as defined by the state child care regulatory agency.
14. **GROUP HOME:** Any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of the State of Kansas. Group homes shall not be prohibited in any zone or area where single family dwellings are permitted. This term **as well as the term, "disability,"** shall have the same meaning as defined in K.S.A. 12-736, and amendments thereto.
15. **OFFICE, GENERAL:** An establishment providing executive, management, administrative, governmental or professional services, but not for use as medical clinics or other medical uses or the sale of merchandise, except as incidental to a Permitted Use. Uses include but are not limited to government, real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting and the teaching of these and similar activities, and communication switching facilities and telecommunication carriers that are accompanied by office uses and with all facilities within the building or underground.
16. **OIL AND GAS DRILLING OPERATIONS:** the subsurface extraction of oil or natural gas.
17. **OIL AND GAS STORAGE FACILITIES:** Facilities used merely for distribution, transmission or temporary storage of oil or natural gas, including but not limited to wellhead stations, well separators, tank batteries or other similar facilities.
18. **PRESCHOOL:** ~~A facility licensed by the State of Kansas to~~ A facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, which conducts sessions of daytime care instruction for no more than three (3) hours per session for children between the age of thirty (30) months and the age at which the children are eligible to attend kindergarten. This term is further construed to include "Day Nursery School" and other similar uses which is not a part of a public school district's program, jurisdiction, or fiscal and educational responsibility, or as defined by the state

child care regulatory agency. This term shall have the same meaning as defined in K.A.R. 28-4-420, and amendments thereto.

19. **QUARRY**: A site where rock, ore, stone and similar materials are excavated for sale or for off-tract use.
20. **QUARRYING OR MINING**: The extraction of metallic and nonmetallic minerals, excluding oil or natural gas, including but not limited to sand, gravel, stone, coal or topsoil.
21. **RAILROAD FACILITIES**: Facilities used for the operation and maintenance of tracks and rail cars, including but not limited to rail freight terminal, switching and classification yards, rail repair shop, rail roundhouses, powerhouses, interlocking towers, rail fueling, sanding, and watering stations. This term shall not include rail passenger stations.
22. **RAILROAD RIGHTS-OF-WAY**: A strip of land dedicated or reserved for railroad tracks and auxiliary facilities for track operations.
23. **REAL ESTATE SALES OFFICE, LIMITED**: Temporary residential sales offices located within a permanent residential structure limited to the sale of new properties located within the subdivision in which it is located.
24. **RECYCLING CENTER**: A building or land use operated and maintained by a public or private entity devoted to the receipt, separation, storage, baling, conversion and/or processing of recyclable materials, but not including junkyard, salvage yard, or waste tire collection center or processing site.
25. **RECYCLABLE MATERIAL**: Material including but not limited to metal, glass, plastic and paper that is intended for reuse, remanufacture or reconstitution for the purpose of using the altered form. Recyclable material shall not include hazardous materials, industrial scrap materials or used clothing, furniture, appliances, vehicles or parts thereof.
26. **RESIDENTIAL CENTER**: ~~A twenty-four (24) hour, non-secure facility licensed by the State of Kansas providing residential care for more than ten (10) persons children unrelated to the operator(s), or as defined by the state child care regulatory agency.~~ A non-secure facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, which provides residential care for more than 10 residents unrelated to the caregivers, and includes emergency shelters and maternity homes. This term shall have the same meaning as defined in K.A.R. 28-4-268, and amendments thereto.
27. **RETAIL, CONVENIENCE**: Retail stores and shops that supply the regular and customary needs of the residents of the general area and which are primarily for their

convenience. Uses include but are not limited to those listed in Article 8, Section 8-102(3).

28. **RETAIL, GENERAL:** Commercial or retail stores and activities of a more intensive use than convenience retail uses, including but not limited to those listed in Article 9, Section 9-102(4).
29. **SECURE CARE CENTER:** ~~A secure youth residential facility licensed by the State of Kansas, other than a juvenile detention facility, used to provide care and treatment for alleged or adjudicated children in need of care pursuant to the Kansas code for the care of children, or as defined by the state licensing agency.~~ A secure youth residential facility, other than a juvenile detention center, licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, used to provide care and treatment for alleged or adjudicated children in need of care pursuant to the Kansas code for the care of children. This term shall have the same meaning as defined in K.A.R. 28-4-350, and amendments thereto.
30. **SECURE RESIDENTIAL TREATMENT FACILITY:** ~~A secure facility licensed by the State of Kansas, operated or structured to provide a therapeutic residential care alternative to psychiatric hospitalization for five or more youth with a diagnosis of a severe emotional, behavioral, or psychiatric condition. "Treatment" means comprehensive, individualized, goal-directed, therapeutic services provided to youth, or as define by the state licensing agency.~~ A secure facility licensed by the State of Kansas in accordance with K.A.R. 28-4, and amendments thereto, which is operated or structured to provide a therapeutic residential care alternative to psychiatric hospitalization for five or more youth with a diagnosis of a severe emotional, behavioral, or psychiatric condition. This term shall have the same meaning as defined in K.A.R. 28-4-330, and amendments thereto.
31. **STORAGE YARD:** A commercial establishment that is maintained and operated within an enclosure or structure used for storing, keeping, buying, or selling of any commodity except junk or salvage for the purpose of sale, transfer by auction, or consignment. Commodities may include but are not limited to farm machinery, lawn and garden supplies, lumber, manufactured homes, contractor supplies, boats and recreational vehicles.
32. **TELECOMMUNICATIONS TOWER:** A tower for holding an airwave or signal transmitter in a high place. Uses include, but are not limited to radio or television broadcasting towers and/or stations, microwave transmitting and/or receiving towers and/or stations, cellular communications, or commercial telecommunication towers.
33. **TELECOMMUNICATIONS TOWER, MAJOR:** Any telecommunications tower 50 feet or more in height.

34. **TELECOMMUNICATIONS TOWER, MINOR:** Any telecommunications tower less than 50 feet in height.
35. **UTILITY, MAJOR:** Buildings, structures or premises used for the provision of electricity, gas, heat, steam, communication, rail transportation, water, sewage collection or other similar services that are provided by agencies under public franchise or ownership. Uses include, but are not limited to generating plants, electrical switching facilities, and primary substations, water and wastewater treatment plants, water storage, and radio, television and microwave transmission towers.
36. **UTILITY, MINOR:** The use of a site for the provision of services that are necessary to support the development in the area and involve only minor structures including lines and poles and do not generate smoke, radiation, vibration or concussion, or heat perceptible to any nearby residential district.
37. **WAREHOUSE OR WAREHOUSING:** A building or structure that is maintained, operated, or used for storing, keeping, buying, selling or distribution of any commodity except junk or salvage. This term shall not be construed to mean self-storage warehousing.