

BARTON COUNTY

ZONING REGULATIONS

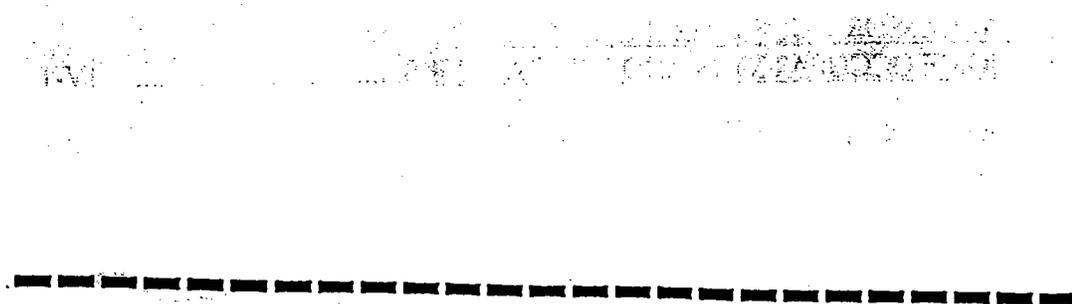


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ARTICLE I

TITLE, INTENT AND PURPOSE

- 1-101. This Ordinance may be cited and referred to as the Barton County Zoning Regulations.
- 1-102. These zoning regulations for Barton County, adopted pursuant to Kansas Statutes, may include, but are not limited to the following purposes:
- To divide the unincorporated areas of Barton County into zones and districts;
 - To regulate and restrict the location and use of buildings and the uses of land within each district or zone;
 - To restrict the use of buildings and land for dwellings, business, industry, conservation and other purposes;
 - To promote the health, safety, morals, comfort and general welfare;
 - To conserve and protect property values throughout the Barton County; and
 - To regulate and restrict the height of buildings; the size of yards; and the density of population; the location, and use of buildings, structures and land for residential, commercial, industrial and other purposes; the conservation of natural resources, including agricultural land; and the use of land located in areas designated as flood plains and other areas, including the distance of any buildings and structures from a street or highway.

ARTICLE II

GENERAL PROVISIONS

PART 1. ACTIVITIES GOVERNED BY THESE REGULATIONS

2-101. Territorial Application of Regulations. The provisions of these regulations shall apply to structures and land in the unincorporated areas of Barton County. All property within the County shall comply with all applicable provisions of these Zoning Regulations.

2-102. Exemptions. The following structures and uses shall be exempt from the provisions of these regulations:

- (A) Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for distribution to consumers of telephones or other communications, electricity, gas or water, or the collection of sewage or surface water operated or maintained by public utility but not including substations located on or above the surface of the ground.
- (B) Railroad tracks, signals, bridges and similar facilities and equipment used in the operation of the railroad and located on railroad rights-of-way.
- (C) The use of land for agricultural purposes and the erection and maintenance of buildings thereon for such purposes so long as such land and buildings are used for agricultural purposes and not otherwise. Notwithstanding the exemption stated herein, the erection and maintenance of agricultural buildings shall not be exempt from flood plain regulations as set out in Article VII of these regulations.

PART 2. DISTRICTS, ZONING MAPS AND BOUNDARIES

2-201. Establishment of Districts.

- (A) All property within the unincorporated areas of Barton County shall be zoned as one or more of the following districts:
 - (1) A. Agricultural District: A district designed primarily for agricultural land uses including farm dwellings.
 - (2) R-1. Single-Family Residential District: A district designed primarily for single-family dwellings.
 - (3) R-M. Multi-family Residential District: A district designed primarily for multiple-family residences.

- (4) C. General Business District: This district is the primary commercial district of the County, and is designed to provide for a broad range of retail shopping facilities, services, and cultural activities.
- (5) I. Industrial District: A district designed to allow manufacturing, processing, assembly and non-retail service activities.
- (6) LM-SC. Light Manufacturing/Service Commercial District: A district designed to promote and encourage diverse economic growth through coordinated and efficient use of land, and collocation of light industrial, and commercial activities.
- (7) FW. Floodway District: All areas located along or adjacent to the channel of a river or watercourse, that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- (8) FF. Floodway Fringe District: All areas located outside of the Floodway District that is within the 100-year flood boundary.

2-202. Zoning Map.

- (A) The boundaries of the districts listed in Section 2-201 are as indicated on the Official Zoning District Map of Barton County, which is on file in the office of the Zoning Administrator and identified on its face as part of these zoning regulations. Said Zoning District Map, with all notations, references and other matters shown thereon, is as much a part of these zoning regulations as if such notations, references and other matters were specifically set forth herein.
- (B) The Official Zoning District Map includes the Official Flood Plain Map as described in Section 7-102(A).

2-203. Boundaries. In the event that uncertainties exist with respect to the intended boundaries of the various districts as shown on the zoning map, the following rules shall apply:

- (A) The district boundaries are the property lines or centerlines of roads, unless otherwise indicated.
- (B) Where the district boundaries do not coincide with the location of roads, or property lines, the district boundaries shall be determined by the use of the scale shown on the zoning map.

2-204. Zoning of Roads, Highways, Public Ways, Waterways and Railroad Rights-of-Way. All roads, highways, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting such roads, highways, public ways, waterways, or railroad rights-of-way. Where

the center line of a road, highway, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line.

PART 3. GENERAL REQUIREMENTS -- ALL ZONING DISTRICTS

- 2-301. Uses Allowed. Specifically identified permitted uses shall be allowed subject only to the further requirements of these regulations. Specifically identified conditional uses shall be allowed only after approval pursuant to Part 7 of Article VIII. Specifically identified special uses shall be allowed only after approval pursuant to Part 7 of Article VIII. Uses not specifically identified as permitted, conditional or special are prohibited.
- 2-302. Lot Sizes. No structure, or part thereof, shall hereafter be built, moved or remodeled and no structure or land shall hereafter be used, occupied, arranged or designed for use or occupancy, on a parcel of land which Does not conform with the minimum lot area, width or depth required in the district in which the structure or land is located.
- 2-303. Bulk Regulations. Bulk regulations are expressed in terms of maximum structure height, minimum setbacks and minimum front, side and rear yards. No structure or part thereof, shall hereafter be built, or moved so as to violate the bulk regulations of the district in which the structure is located.
- 2-304. Use Limitations. Use limitations are further restrictions and requirements placed upon permitted and conditional uses within each zoning district. No use hereafter established, altered, modified or enlarged shall be allowed to conflict with the use limitations for the zoning district in which such use is located. No use already established on the effective date of these regulations shall be altered, modified or enlarged without complying with the provisions of these regulations.
- 2-305. Accessory Structures or Uses. No accessory structures or uses as defined in Section 4-102, except for agricultural structures or uses, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structures or uses comply with these regulations.
- 2-306. Temporary Structures and Uses. No temporary structure or use, except for agricultural structures or uses, shall hereafter be built, established, moved, remodeled, altered or enlarged unless such temporary structure or use is permitted by Section 4-201 of these regulations.
- 2-307. Home Occupations. No home occupation as defined by Section 4-302, shall hereafter be established, altered or enlarged in any residential district unless such home occupation:
- (A) Complies with the conditions and restrictions imposed by Section 4-303; and
 - (B) Is not listed as a prohibited home occupation in Section 4-305.
- 2-308. Off-Street Parking. No structure shall hereafter be built or moved and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking spaces required by Article V are provided. No structure or use already

established on the effective date of these regulations shall be enlarged unless the minimum off-street parking and loading spaces, which would be required by Article V, are provided for the whole structure or use as enlarged.

- 2-309. Nonconforming uses and Lots. Nothing in Article II, Part 3 shall be deemed to prohibit those portions of uses, structures, or lots that comply with the provisions of Article VI.

PART 4. MISCELLANEOUS REQUIREMENTS

- 2-401. Number of Structures and Uses on a Parcel of land.

- (A) Not more than one principal structure shall be located on a parcel of land in the R-1 district.
- (B) In all other districts, any number of structures or uses may be constructed or established on a single parcel of land, but no single parcel of land shall be smaller than the minimum lot area prescribed for the district in which it is located.

- 2-402. Platted Building and Setback Lines. If a recorded subdivision plat, properly adopted under the regulations in existence at the time of adoption, imposes a building or setback line for a lot which is less than the minimum setback or front yard required by the applicable section of these regulations, then, the minimum setback or minimum front yard shall be the setback or yard as reflected on the recorded plat.

- 2-403. Yard Requirements for Open Land. If a parcel of land is, or will be, occupied by a permitted use without structures, then the minimum setback and minimum side and rear yards that would otherwise be required for said parcel of land shall be provided and maintained unless some other provision of these regulations requires or permits a different minimum setback, front, side or rear yard. The front, side and rear yards shall not be required on parcels of land used for garden purposes without structures, or on parcels of land used for open public recreation areas.

- 2-404. Restrictions on Allocation and Disposition of Required Yard or Open Space.

- (A) No part of the lot area, or of a yard, or other open space, or off-street parking or loading space provided in connection with any structure or use in order to comply with these regulations shall, by reason of change of ownership or otherwise, be included as part of the minimum lot area or of a yard, or open space, or off-street parking or loading space required for any other structure or use, except as specifically provided herein.

- 2-405. Permitted Structures in Required Yards. The following structures shall be allowed in required yards:

- (A) Terraces, steps, ramps, landings and decks.
- (1) In front yards, these structures may be located as close as fifteen (15) feet to the front lot line.

(2) In side yards, these structures may be located as close as three (3) feet to the side lot line.

(3) In rear yards, these structures may be located as close as ten (10) feet to the rear lot line.

(B) Arbors and trellises.

(C) Flagpoles.

2-406. Structures Exempt from Height Requirements. The following appurtenances are exempted from height requirements in any district.

(A) Chimneys, flues, stacks.

(B) Cupolas.

(C) Elevator Enclosures.

(D) Fire Escapes.

(E) Microwave Towers.

(F) Monuments for public purposes.

(G) Skylights.

(H) Steeples and bell towers.

(I) Television and radio antennas.

(J) Ventilators.

(K) Flagpoles.

2-407. Lot Size Requirements and Bulk Regulations for Public Utility Facilities. Notwithstanding any other provision of these regulations, none of the following public utility or public service uses shall be required to comply with the lot size requirements and bulk regulations of the zoning district in which they are located:

(A) Electric and telephone substations and distribution systems.

(B) Gas regulator stations.

(C) Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves or other similar equipment for the transmission of electricity, gas or water.

- (D) Pumping stations.
- (E) Radio, television and micro-wave transmitting or relay stations and towers.
- (F) Transformer stations.

2-408. State or Municipally Owned and Operated Public Utilities and Public Facilities.

- (A) Any public utility, or facility, owned and operated by either the State or a Municipality is hereby authorized as a permitted use in any zoning district, subject to the remaining provisions of this section.
- (B) The term "State" shall mean the State of Kansas and any department or branch of state government, or any agency, authority, institution or other instrumentality thereof. The term "Municipality" means any county, township, city, school district or other political or taxing sub-division of the State, or any agency, authority, institution or other instrumentality thereof.
- (C) If any such utility or facility is specifically listed as a permitted or conditional use in Article III of these regulations, the owner of any such utility or facility that is proposed to be constructed or expanded may choose to either proceed pursuant to this section, or may comply with sections of these regulations applicable to the uses set forth in Article III. Other than this Section, no provision of these regulations, except those provisions generally applicable to all regulations herein, such as provisions dealing with interpretation or enforcement of these regulations, shall apply to the construction or expansion of any utility or facility that proceeds pursuant to this section.
- (D) The proposed construction or expansion of any public utility or facility, subject to this section, shall not proceed until the proposal is reviewed for any conflicts with existing land uses or public facilities and approved by the Zoning Administrator.
- (E) If the Zoning Administrator fails to approve the proposal, the owner may appeal the finding of the Zoning Administrator to the Board of Commissioners of Barton County.

2-409. Architectural and Aesthetic Standards for Residential-Design Manufactured Homes. In order to be classified as a Residential-Design Manufactured Home, such home shall meet the following architectural and aesthetic standards:

- (A) The structure must have a minimum dimension of twenty-two (22) feet in width excluding bay windows, garages, porches, patios, pop-outs and roof overhangs;
- (B) The structure must have a minimum roof pitch with a vertical rise of not less than two and one-half (2 1/2) inches for each twelve (12) inches of horizontal run;
- (C) The roof shall have an eaves projection of no less than ten (10) inches, which may

include a gutter. Roofing materials may be wood composition, fiberglass or asphalt shingles; clay or concrete tile; or slate, or other materials normally found on site built homes; but excluding corrugated fiberglass or corrugated metal;

- (D) The exterior siding may be wood, masonry, composition board, finished aluminum lap siding or other materials normally found on site built homes. Siding material shall extend below the top of the exterior foundation;
- (E) On level sites, the main floor shall be no greater than twenty-four (24) inches above the finished grade at the foundation. On sloping or irregular sites, the main floor at the side closest to grade level shall not be greater than twenty-four (24) inches above the finished grade at the foundation;
- (F) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the Uniform Building Code and attached permanently to the primary structure and anchored permanently to the ground; and
- (G) The home shall be installed in accordance with the recommended installation procedure of the manufacturer and the Uniform Building Code as adopted by the County. The running gear, tongue, axles and wheels shall be removed from the unit at the time of installation. Either a basement or a continuous, permanent masonry foundation or curtain wall, unpierced except for required ventilation and access, shall be installed under the perimeter of the home.

2-410.

Vesting.

- (A) Amendments to Regulations After Building Permit Issued. Nothing in these regulations shall be deemed to require any change in plans, construction or designated use of any structure in the event that:
 - (1) A valid building permit for such structure was lawfully issued prior to the effective date of these regulations, or the effective date of any amendment thereof, and
 - (2) Such permit had not by its own terms expired prior to such effective date, and
 - (3) Such permit was issued on the basis of any application showing complete plans for proposed construction, and
 - (4) There has been a substantial change of position, substantial expenditure, or incurrence of substantial obligations by the permit holder in reliance on such permit, and
 - (5) Such change of position, expenditures, or incurrence of obligations were made prior to published or actual notice of a proposed amendment of these regulations which amendments would have made illegal the issuance of such permit, and

- (6) Construction pursuant to such permit is completed prior to the expiration of such permit.
- (7) When a structure is completed under a permit to which this applies, an occupancy certificate shall be issued in accordance with the zoning regulations in effect at the time the building permit was issued.
- (B) Single Family Residential Developments. For the purpose of single family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced on such land within five (5) years of recording a plat, the development rights in such shall expire.
- (C) No building permit shall be issued after the notice has been published concerning a proposed amendment to these regulations, or amendment to the zoning classification of a specific piece of property, unless the request complies with both the existing regulations and classification as well as the proposed amendment. This provision shall not apply to property vested pursuant to paragraph (B) above.

2-411.

Occupancy of Dwelling Units, Manufactured Homes, and Mobile Homes. No more than one family shall reside in a dwelling unit, manufactured home or mobile home, except where uses, by definition, provide for more than one family to reside therein.

ARTICLE III

DISTRICT REGULATIONS

PART 1. AGRICULTURAL DISTRICT

3-101 A. Agricultural District. The A District is designed for Agricultural land uses and single family dwellings at a density no greater than one dwelling per 3 acres.

(A) Permitted Uses.

- (1) Agricultural land uses including farm dwellings.
- (2) Single-family detached dwellings, subject to Section 1-501 (B) of the Barton County Subdivision Regulations.
- (3) Public Utilities, such as electrical or telephone substations, that are not owned or operated by a municipality; where employees are generally not present; and that are in or near the area they are designed to serve.
- (4) Hunting Lodges and Gun Clubs.
- (5) Bed and Breakfasts, guest ranches and dude Ranches.
- (6) Riding stables, riding arenas and rodeo arenas.
- (7) Animal hospitals or kennels, provided that all pens shall be in an enclosed building when located within 300 feet of a residential district. If located further than 300 feet from a residential district all outdoor pens shall be screened from any adjacent property or public right-of-way in accordance with 3-306 (E)(1).
- (8) Schools.
- (9) Accessory Uses.

(B) Conditional Uses.

- (1) Golf courses, including accessory clubhouses and driving ranges.

- (2) Broadcasting and telecommunication towers.
 - (3) Cemeteries.
 - (4) Oilfield supply and storage yards.
 - (5) Outdoor/Open-Air Recreational Activities: Open-air uses generally of a commercial nature including amusement parks and miniature golf.
 - (6) Privately owned recreational trails.
 - (7) Recreational Vehicle Parks and Tourist Campgrounds.
 - (8) Mining and Quarrying.
- (C) Lot Size Requirements for non-farm single family dwellings.
- (1) Minimum lot area: 3 acres.
 - (2) Minimum lot width: 250 feet.
 - (3) Minimum lot depth: 500 feet.
 - (4) Maximum depth to width ratio: Three to One.
- (D) Bulk Regulations for non-agricultural land uses.
- (1) Broadcast towers: The setback from all property lines must be equal to the height of the tower.
 - (2) The maximum structure height: No Maximum.
 - (3) Yard requirements for non-agricultural land uses:
 - (a) Minimum front yard: Fifty (50) feet on all sides abutting a street.
 - (b) Minimum side yard:
 - (1) Residential Buildings: Forty (40) feet from each property line.
 - (2) All other permitted and conditional uses: Fifty (50) feet from each property line.

- (c) Minimum rear yard: Fifty (50) feet.

PART 2. RESIDENTIAL DISTRICTS

3-201. R-1. Single-Family Residential District. The R-1 District is designed for single-family dwellings, and compatible uses, at a density no greater than one dwelling unit per 20,000 square feet. In areas that are not served with an approved sanitary sewer system, minimum lot size and bulk regulations will be governed by the Barton County Sanitary Regulations.

(A) Permitted Uses.

- (1) Single-family detached dwellings.
- (2) Churches, chapels, temples and synagogues.
- (3) Group Homes.
- (4) Parks and playgrounds.
- (5) Schools.
- (6) Agriculture, except commercial greenhouses.
- (7) Accessory Uses.

(B) Conditional Uses.

- (1) Golf courses, including accessory clubhouses and driving ranges.
- (2) Group day care centers and nursery schools.
- (3) Bed and breakfast.
- (4) Public Utilities, such as electrical or telephone substations, that are not owned or operated by a municipality; where employees are generally not present; and that are in or near the area they are designed to serve.
- (5) Cemeteries.
- (6) Nursing Homes and Assisted Living.

(C) Lot Size Requirements.

- (1) Minimum lot area: 20,000 square feet.
- (2) Minimum lot width: 100 feet.
- (3) Minimum lot depth: 150 feet.

(D) Bulk Regulations.

- (1) The maximum structure height: Thirty-five (35) feet.
- (2) Yard requirements:
 - (a) Minimum front yard: Thirty (30) feet on all sides abutting a street.
 - (b) Minimum side yard:
 - (1) Residential Buildings: Eight (8) feet on each side of the zoning lot.
 - (2) All other permitted and conditional uses: Fifteen (15) feet on each side of the zoning lot.
 - (c) Minimum rear yard: Twenty-five (25) feet.

(E) Signs.

- (1) Permanent signs are prohibited on single family lots and structures, except for signs relating to home based businesses pursuant to section 4-303 (F) of these Regulations.

3-202.

R-M Multiple-Family Residential District. The R-M District is designed to provide for multiple-family development at a density no greater than one (1) dwelling unit per 4000 square feet. In areas that are not served with an approved sanitary sewer system, minimum lot size and bulk regulations will be governed by the Barton County Sanitary Regulations.

(A) Permitted Uses.

- (1) Churches, chapels, temples and synagogues.

- (2) Fraternities and sororities.
 - (3) Group homes.
 - (4) Lodging/boarding houses/bed and breakfast.
 - (5) Multiple-family dwellings.
 - (6) Parks and playgrounds.
 - (7) Schools.
 - (8) Single-family dwellings.
 - (9) Two-family dwellings.
 - (10) Agriculture, except commercial greenhouses.
 - (11) Accessory uses.
- (B) Conditional Uses.
- (1) Golf courses, including accessory clubhouses and driving ranges.
 - (2) Group day care centers and nursery schools.
 - (3) Hospitals and nursing homes.
 - (4) Mortuaries.
 - (5) Public utilities, such as electrical or telephone substations, that are not owned or operated by a municipality; where employees are generally not present; and that are in or near the area they are designed to serve.
 - (6) Cemeteries
- (C) Lot Size Requirements.
- (1) Minimum lot area:
 - (a) Single-family dwellings: 10,000 square feet in area.
 - (b) Two-family dwellings: 10,000 square feet in area.

- (c) Multiple-family dwellings: 4,000 square feet per family, but not less than 20,000 square feet in area.
- (d) Other permitted and conditional uses: 10,000 square feet in area.
- (2) Minimum lot width:
 - (a) Single-family dwelling: Fifty (50) feet.
 - (b) Two-family dwelling: Fifty (50) feet.
 - (c) Multiple-family dwellings and other permitted and conditional uses: Sixty (60) feet.
- (3) Minimum Lot Depth: 100 feet.
- (D) Bulk Regulations.
 - (1) Maximum structure height: 50 feet
 - (2) Yard requirements:
 - (a) Minimum front yard: 25 feet on all sides abutting a street or road.
 - (b) Minimum side yard: (8) feet on each side of the lot.
 - (c) Minimum rear yard: (25) feet.
- (E) Signs.
 - (1) Permanent signs are prohibited on single family and two family lots and structures, except for signs relating to home based businesses pursuant to section 4-303 (F) of these Regulations.

PART 3. COMMERCIAL DISTRICT

3-301. C. General Business District. This district is designed to provide for a broad range of retail shopping facilities, services, and cultural activities. In areas that are not served with an approved sanitary sewer system, minimum lot size and bulk regulations will be governed by the Barton County Sanitary Regulations.

- (A) Permitted Uses, Subject to the Site Plan Requirements Set Out in Section VIII, 901 of these Regulations.
 - (1) Retail and commercial land uses.
 - (2) Professional offices and business offices.
 - (3) Automotive sales and services, not including automotive salvage.
 - (4) Retail and commercial services.
 - (5) Clubs, bars and restaurants.
 - (6) Churches, and other places of worship.
 - (7) Day Care Centers.
 - (8) Cemeteries.
 - (9) Hospitals.
 - (10) Nursing Homes.
 - (11) Lodging/Boarding houses/bed and breakfasts.
 - (12) Hotels/Motels.
 - (13) Agriculture.
- (B) Conditional Uses.
 - (1) Recreational Vehicle Parks and Tourist Campgrounds.
 - (2) Mining and Quarrying.
- (C) Lot Size Requirements. No minimum requirements.
- (D) Bulk Regulations.
 - (1) Maximum structure height: no limitations.
 - (2) Yard requirements:

- (a) Minimum front yard: none.
- (b) Minimum side yard: none required; except when a side yard has a common boundary with property in a residential district, then there shall be a setback of eight (8) feet.
- (c) Minimum rear yard: none required; except when a rear yard has a common boundary with property in a residential district, then there shall be a setback of eight (8) feet.

(E) Use Limitations:

- (1) Sight obscuring screening of not less than six (6) feet in height shall be provided along the entire length of all property lines that share a common boundary with property, except public rights-of way, in a residential district.
- (2) When a side or rear yard is required, it shall be landscaped.
- (3) Exterior lighting fixtures shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.

(F) Signs.

- (1) Permanent signs are prohibited on single family and two family lots and structures, except for signs relating to home based businesses pursuant to section 4-303 (F) of these Regulations.

PART 4. INDUSTRIAL DISTRICT.

3-401. I Industrial District: A district designed to allow manufacturing, processing, assembly, and nonretail service activities. In areas that are not served with an approved sanitary sewer system, minimum lot size and bulk regulations will be governed by the Barton County Sanitary Regulations.

(A) Permitted Uses, Subject to the Site Plan Requirements Set Out in Section VIII, 901 of these Regulations.

- (1) Fuel storage and distribution.
- (2) Industrial Services: Firms engaged in the storage, repair or servicing of industrial, business or consumer machinery, equipment or products.

- (a) Prohibited uses: salvage storage yards.
- (3) Manufacturing and/or Processing.
- (4) State or Municipally owned and operated public utilities and facilities.
- (5) Public utilities that are not owned or operated by a municipality; where employees are generally not present; and that are in or near the area they are designed to serve.
- (6) Warehousing and Distribution: Firms involved in the movement and storage of goods for themselves, other firms, or individuals.
- (7) Oilfield supply and storage yards.
- (8) Hotels/Motels.
- (9) Agriculture.
- (B) Conditional Uses.
 - (1) Above-ground bulk storage of chemicals, petroleum products and other hazardous materials.
 - (2) Recycling Center.
 - (3) Cemeteries.
 - (4) Recreational Vehicle Parks and Tourist Campgrounds.
 - (5) Mining and Quarrying.
- (C) Lot Size Requirements.
 - (1) Minimum lot area: 5,000 square feet.
 - (2) Minimum lot width: Fifty (50) feet.
 - (3) Minimum lot depth: One hundred (100) feet.
- (D) Bulk Regulations:
 - (1) Maximum structure height: None.

(2) Yard requirements:

- (a) Minimum front yard: Twenty-five (25) feet.
- (b) Minimum side yard: none required; except where a side yard abuts a residential district a side yard of ten (10) feet shall be provided.
- (c) Minimum rear yard: none required; except where a rear yard abuts a residential district a rear yard of ten (10) feet shall be provided.

(E) Use Limitations.

- (1) All operations, activities and storage shall be conducted inside a building, or buildings except that storage may be maintained outside the building, provided that it is enclosed by sight obscuring screening of not less than six (6) feet in height, and provided that it is not located within a required front, side or rear yard.
- (2) Sight obscuring screening of not less than six (6) feet in height shall be provided along the entire length of all property lines that either share a common boundary with property, except streets, in a residential district, or are separated from such property by only an alley.
- (3) There shall be no noise, smoke, dust, odor or vibrations emanating from the property which unreasonably either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of persons off of said property.
- (4) Exterior lighting shall be shaded so that no direct light is cast upon any property located in a residential district and so that no glare is visible to any traffic on any public street.

(F) Signs.

- (1) Permanent signs are prohibited on single family and two family lots and structures, except for signs relating to home based businesses pursuant to section 4-303 (F) of these Regulations.

PART 5. MIXED USE DISTRICT.

3-501. LM-SC. Light Manufacturing-Service Commercial District. A district designed to promote and encourage diverse economic growth through coordinated and efficient use of land and collocation of light industrial and highway service commercial activities. In areas that are not served with an approved sanitary sewer system, minimum lot size and bulk regulations will be governed by the Barton County Sanitary Regulations.

(A) Permitted Uses, Subject to the Site Plan Requirements Set Out in Section VIII, 901 of these Regulations.

(1) Light Manufacturing.

(a) Activities may include: manufacturing or assembly of items or equipment such as electronics, appliances, machinery, or vehicles; newspaper and book publication; processing of food related products; production of clay, glass, leather, rubber, or wood materials or products; production or fabrication of metal products; production of signs; and production of textiles and apparel.

(2) Warehousing and Distribution: Firms involved in the movement and storage of goods.

(3) Commercial and Retail Services.

(4) Industrial Services: Firms engaged in the repair or servicing of industrial, business or consumer machinery, equipment or products.

(5) State or Municipally owned and operated public utilities and facilities.

(6) Public utilities that are not owned or operated by a municipality; where employees are generally not present; and that are in or near the area they are designed to serve.

(7) Lodging/boarding houses/bed and breakfasts.

(8) Hotels/Motels.

(9) Outdoor/Open-Air Recreational Activities: Open-air uses generally of commercial nature including amusement parks and miniature golf.

(10) Agriculture.

(B) Conditional Uses.

(1) Expansion or modification of the following uses, provided they are legally nonconforming uses:

(a) Salvage storage yards.

(b) Ready-mix plants.

(c) Stone cutting and processing of quarried material.

(d) Above-ground bulk storage of chemicals, petroleum products and other hazardous materials.

(e) Residential uses.

(f) Cemeteries.

(2) Animal hospitals or kennels, provided that all pens shall be in an enclosed building when located within 300 feet of a residential district. If located further than 300 feet from a residential district all outdoor pens shall be screened from any adjacent property or public right-of-way in accordance with 3-306 (E)(1).

(3) Above-ground bulk storage of chemicals, petroleum products and other hazardous materials.

(4) Oilfield supply and storage yards.

(5) Recreational Vehicle Parks and Tourist Campgrounds.

(6) Mining and Quarrying.

(C) Lot Size Requirements.

(1) 10,000 square feet in area.

(2) Minimum lot width: Fifty (50) feet.

(3) Minimum lot depth: One hundred (100) feet.

(D) Bulk Regulations.

- (1) Maximum structure height: 50 feet
- (2) Yard requirements:
 - (a) Minimum front yard: 25 feet.
 - (b) Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located as close as twelve (12) feet to the front lot line.
 - (c) Gasoline island canopies may be located as close as six (6) feet to the front lot line.
 - (d) The sales lots of motor vehicles may be located as close as twelve (12) feet to the front lot line.
 - (e) Minimum Side Yard: 10 feet.
 - (f) Minimum rear yard: 20 feet.

(E) Use Limitations.

- (1) Screening: Sight obscuring screening of not less than six (6) feet in height shall be provided along all lot lines that abut a residential district.
- (2) All operations and activities shall be conducted within a building, or buildings, except that storage, display areas, and loading docks may be maintained outside the building.
- (3) There shall be no noise, smoke, dust, odor, or vibrations emanating from the property, which unreasonably, annoys, disturbs, injures, or endangers the comfort, repose, health, peace or safety of persons off of said property.

(F) Signs.

- (1) Permanent signs are prohibited on single family and two family lots and structures, except for signs relating to home based businesses pursuant to section 4-303 (F) of these Regulations.

PART 6. Designed Manufactured Home Community.

3-601. DMHC. Designed Manufactured Home Community District. A district of subdivision development existing and recorded prior to the adoption of these regulations. Said development occurred from restricted covenants or the desired circumstance of the property owner and having substantial uses that have been planned for the placement of manufactured homes and single-family occupancy. Areas not served by sanitary sewer systems will be regulated by Barton County sanitary regulations.

Use regulations for this district will include manufactured homes and be consistent with Section 3-201, Residential Districts, complying with subsections 3-201, (A) Permitted Uses, (B) Conditional Uses, (D) Bulk Regulations and (E) Signs.

The existing and recorded subdivisions authorized within this district shall be restricted to the following areas:

Beaver, Hitchman, Odin, Redwing, Heizer, Dundee, Comanche Estates, Marmie Rural, Meadow Acres, Barton Hills, Rolling Hills, Navajo and Adams subdivisions.

BARTON COUNTY PLANNING COMMISSION RESOLUTION 2001-01
Concurrent With
BARTON COUNTY RESOLUTION 2001-06

**RESOLUTION FOR APPROVAL OF CHANGE IN ZONING REGULATIONS TO DESIGNATE
DESIGNED MANUFACTURED HOME COMMUNITIES**

WHEREAS, on the 9th day of May, 2000, the Barton County Planning Commission recommended to the Board of Barton County Commissioners the adoption of Zoning Regulations and Subdivision Regulations through the adoption of Resolution 2000-01 and Resolution 2000-02; and

WHEREAS, on the 16th day of January, 2001, the Planning Commission X **APPROVED** or **DENIED** a recommendation to the Board of County Commissioners to designate designed manufactured home communities under the Barton County Zoning Regulations and the Subdivision Regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Barton County Planning Commission, X **DOES** or **DOES NOT** recommend that:

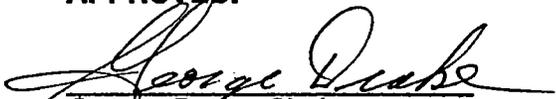
Section 1. That the following named unincorporated cities and subdivisions of Barton County, Kansas, be designated as designed manufactured home communities:

The Unincorporated Cities of Beaver, Dundee, Heizer, Hitschman, Odin and Redwing; and
The Subdivisions of Adams, Barton Hills, Marmie Rural, Meadow Acres, Navajo and Rolling Hills; and
The Unofficial Subdivision of Commanche Estates.

Section 2. That, as a part of being designated as Designed Manufactured Home Communities, the unincorporated cities, subdivisions and unofficial subdivisions of Barton County, Kansas, named herein, shall comply with the Barton County Zoning Regulations and Subdivision Regulations, as adopted.

MOTION MADE, SECONDED AND ADOPTED by the Planning Commission this 16th day of January, 2001.

APPROVED:


George Drake, Chairman
Planning Commission

ATTEST:


Mysty Rusk,
Zoning Administrator

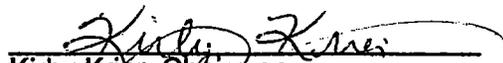
NOW, THEREFORE, the Board of County Commissioners of Barton County, Kansas, hereby X **DOES** **DOES NOT** adopt the recommendation of the Barton County Planning Commission as contained herein; and

FURTHER, that the Secretary of the Planning Board is hereby directed to have said revision reflected in the official zoning records of Barton County and that a method be established for tracking this and future actions taken in zoning areas.

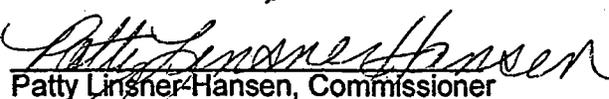
MOTION MADE, SECONDED AND ADOPTED this 22nd day of January , 2001.

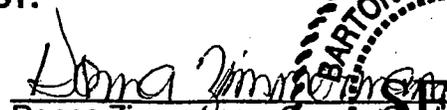
BOARD OF COUNTY COMMISSIONERS

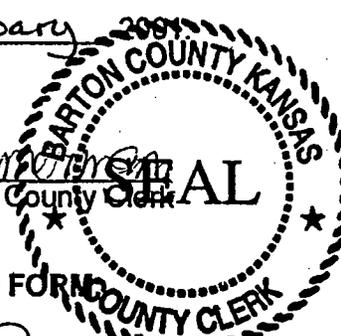
ATTEST:


Kirby Krier, Chairman

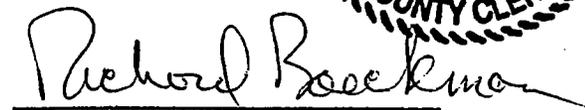

Pat Keenan, Commissioner


Patty Linsner-Hansen, Commissioner


Donna Zimmerman, County Clerk



APPROVED AS TO FORM


Richard A. Boeckman,
County Counselor

ARTICLE IV

ACCESSORY USES, TEMPORARY USES, HOME OCCUPATIONS,
AND SPECIAL USES PERMITTED IN ANY DISTRICT

PART 1. ACCESSORY USES

4-101. Authorization. Accessory uses are permitted in any zoning district in connection with any principal use which is either permitted or conditional.

4-102. Definition.

(A) An accessory use is a structure or use which is subordinate to and serves a principal building or principal use; and is subordinate in area, extent or purpose to the principal building, or principal use served; and contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served; and is located on the same lot as the principal building or principal use served.

4-103. Bulk Regulations.

(A) Accessory structures shall comply with the bulk regulations of the district in which they are located unless specifically set out to the contrary in this section. Accessory uses located in industrial Districts shall always comply with the bulk regulations of their district, regardless of the provisions of this section.

(B) Yard Requirements:

(1) Minimum Front Yard: Generally accessory buildings shall be set back from the street a distance not less than that required for the principal structure.

(2) Minimum Side yard: Three (3) feet.

- (3) Minimum Rear yard: Five (5) feet.

4-104. Use Limitations.

- (A) All accessory structures and uses shall comply with the use limitations applicable in the zoning district in which they are located.
- (B) No lot shall be utilized for a use or structure that was accessory to a principal use or structure after such time as the principal use or structure has been eliminated, unless the remaining use or structure complies with all regulations of the district as a permitted use

PART 2. TEMPORARY USES

4-201. Permitted Temporary Uses. The following uses of land are permitted in each zoning district:

- (A) Contractors' offices and equipment sheds, in connection with a construction project, which contain no sleeping or cooking accommodations, and which are located on the construction site, are allowed only during the duration of such projects.
- (B) Real estate offices incidental to a new housing development.

PART 3. HOME OCCUPATIONS

4-301. Authorization. Home occupations as defined herein shall be permitted in any dwelling unit, in any residential or agricultural district.

4-302. Definition. A business, profession, occupation or trade conducted for gain or support entirely within a residential building; or, when permitted by Section 4-303, within a structure that is accessory to a residential building; and that is subordinate in area, extent, and purpose to the residential use

4-303. Use Limitations. In addition to all of the Use Limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

- (A) No alteration of the principal residential building shall be made which changes the character thereof as a dwelling.

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- (B) No more than twenty-five (25) percent of the dwelling unit shall be devoted to a home occupation.
- (C) There shall be no outdoor storage of equipment or materials used in the home occupation.
- (D) Not more than one person, not residing in the dwelling unit, shall be employed on site by the home occupation.
- (E) The home occupation shall be conducted entirely within the principal residential building or in a permitted structure accessory thereto.
- (F) No sign shall be permitted other than a nameplate sign not greater than four square feet in area.
- (G) There shall be no noise, smoke, dust, odor or vibrations emanating from the property which unreasonably either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of persons off of said property.

4-304. Examples of Home Occupations Permitted. The following are intended to be examples of home occupations that are permitted, and not intended to be an all inclusive list.

- (A) Dressmakers, seamstresses, tailors.
- (B) Dance music or art studios, provided that instructions shall be limited to one pupil at a time, except for occasional groups.
- (C) Artists, sculptors and authors or composers.
- (D) Offices.
- (E) Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc.
- (F) Day care homes.
- (G) Barber shops and beauty salons, provided that only two work stations shall be permitted.

4-305. Particular Home Occupations Prohibited. The following uses, except for uses limited to the maintenance of an office, shall be prohibited as home occupations:

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- (A) Animal hospitals, kennels, or stables.
- (B) Cleaning, maintenance, manufacturing, modification, repair, or restoration of motor vehicles.
- (C) Funeral homes.
- (D) Pest control business.
- (E) Restaurants.

PART 4 SPECIAL USES

4-401. Authorization. The following uses are permitted only by Special Use Permit in any district set out in these Regulations, and will not be permitted unless the following standards are met and the procedural requirements of Article VIII, Part 8 of these Regulations are complied with.

- (A) Manufactured Housing Parks, subject to the provisions of Section 4-402 of these Regulations.
- (B) Large Scale Manufacturing or Processing Facilities as defined in Section 10-201 of these Regulations and subject to the provisions of Section 4-403 of these Regulations.

4-402. Manufactured Home Park Standards:

- (A) Lot Size Requirements.
 - (1) Minimum lot area: Five (5) Acres.
 - (2) Minimum lot width: 330 feet.
 - (3) Minimum lot depth: 660 feet.
- (B) Bulk Regulations.
 - (1) Yard requirements:
 - (a) Minimum front yard: Twenty-five (25) feet on all sides abutting a street.
 - (b) Minimum side yard: Twenty-five (25) feet.

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(c) Minimum rear yard: Twenty-five (25) feet.

(C) Storm shelters:

- (1) General Requirements - Every Manufactured Home Park containing 10 or more Manufactured Home spaces which is constructed after the date of adoption of these Zoning Regulations shall be provided with above-grade or below-grade storm shelters which shall:
 - (a) Have a minimum floor area of eight (8) square feet for each Manufactured Home space.
 - (b) Be designed and constructed in accordance with plans prepared by a licensed structural engineer or architect.
 - (c) If the shelter is within a floodway fringe, be designed and constructed in accordance with all requirements and guidelines of the Federal Emergency Management Agency (FEMA).
 - (d) Be designed and constructed in accordance with all applicable requirements of the Americans with Disabilities Act (ADA).
 - (e) Be located no further than 1320 feet from the furthest Manufactured Home space within the park.
- (2) Additions to Existing Manufactured Home Parks – Whenever a cumulative total of 10 or more Manufactured Home spaces will be added or have been added to a Manufactured Home park existing at the time of adoption of these Zoning Regulations, the owner must provide a storm shelter for the entire Manufactured Home park which complies with the requirements of paragraph (1) above. Each cumulative addition of 10 or more spaces shall constitute a new requirement.
- (3) Restroom facilities – Restroom facilities in required storm shelters shall be optional. Toilets may be either flush-type operating from a normal water supply, chemical or other type s approved by the Barton County Health Department.
- (4) Access to Shelters – The Manufactured home park owner, or such owner’s designated agent or representative shall be responsible for making the storm shelter accessible and useable in times of need. It shall be unlawful for any required storm shelter to be used for storage purposes if such storage reduces the minimum floor area available for shelter of persons below the requirements of paragraph (1) above.

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- (5) Existing Non-Conforming Manufactured Home Parks – All Manufactured Home parks with 10 or more spaces existing at the time of the adoption of these Zoning Regulations which have an existing storm shelter which does not conform to the requirements of paragraph (1) above, shall be deemed non-conforming with regard to these requirements and may continue to operate so long as the existing shelter remains useable. However, additions to the park shall be subject to paragraph (2) above.

All Manufacture Home parks with 20 or more spaces existing at the time of this regulation which do not have a storm shelter, shall be required to provide a storm shelter that meets the requirements of paragraph (1) above within 4 years from the date of adoption of these Zoning Regulations.

- (6) Registration of Existing Shelters – All shelters within Manufactured Home parks shall be required to be registered with the Office of the Zoning Administrator. Such registration shall include a submittal of a site plan for the shelter. Registration shall be updated annually.

(D) Use Limitations:

- (1) A site plan shall be submitted for review and approval by the Barton County Planning Commission at the time of application for a Special Use Permit for a Manufactured Home Park; or
- (2) Prior to the extension of an existing manufactured home park (the required site plan shall apply only to the land contained in the extension); or
- (3) Prior to the modification of an existing manufactured home park in which 50% or more of the total acreage of the existing manufactured home park requires the modification or reconstruction of facilities for serving manufactured home lots on which manufactured homes will be placed, including at a minimum, the installation of utilities, the construction of streets, and the grading of the site or preparing manufactured home stands.
- (4) A plat shall be required, and the plat shall be of record prior to the issuance of a permit to construct or extend a manufactured home park.
- (5) All proposed Manufactured Home Parks and extensions of existing Manufactured Home Parks shall be subject to the following regulations:

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- (a) The maximum gross density shall be no more than seven (7) manufactured home lots per gross acre remaining after deducting the recreational area.
- (b) Manufactured home lots shall be no less than four thousand (4,000) square feet in area.
- (c) Manufactured homes shall be separated from each other and from other buildings, and accessory structures by at least twenty (20) feet; provided that manufactured homes placed end to end may have a clearance of fifteen (15) feet when opposing rear walls are staggered. An accessory structure such as an awning, storage unit, carport, windbreak or porch, that is attached or separate from the manufactured home, shall be considered to be part of the manufactured home.
- (d) A minimum distance of fifteen (15) feet shall be maintained between a manufactured home and the abutting manufactured home park street.
- (e) In all manufactured home parks accommodating or designed to accommodate twenty-five (25) or more manufactured homes, there shall be one or more recreation areas which shall be easily accessible to all park residents on hard surfaced walks. A minimum of eight (8) percent of the gross site area shall be devoted to recreational areas. The topography of the recreation areas shall be suitable for recreational uses. Recreational areas shall be located so as to be free of traffic hazards and should, where topography permits, be centrally located.
- (f) Maintenance of recreational areas shall be the responsibility of the park management.
- (g) Exposed ground surfaces in areas not used for access, parking, circulation, buildings, manufactured home stands or utility service shall be landscaped according to an approved landscape plan. The landscape plan shall include trees and other vegetation that are consistent with landscaping found throughout the community. Park management shall maintain the entire site in good condition including all grounds, shrubs, trees or any other landscaping.

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- (h) All surface areas of the manufactured home park shall be graded to drain all surface waters in a manner consistent with the recommendations of the County Engineer.
- (i) All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each manufactured home lot. Such access shall be provided by streets, driveways or other means. No individual manufactured home shall have direct access to a public street.
- (j) Park Entrance: Entrances to manufactured home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of twenty-five (25) feet from the property line.
- (k) Internal Streets: Hard surfaced roadways shall be of adequate width to accommodate anticipated traffic and be designed according to the requirements of the County Engineer. Street names shall not duplicate existing street or road names so as to cause confusion or misunderstanding. Street name and addressing shall be done in a manner similar to a typical subdivision. The numbering system shall be shown on the site plan.
- (l) If a street name and addressing scheme is not feasible, then a master directory board showing each lot and number shall be placed at a convenient location near each entrance to the park. The directory map shall be easily read from a vehicle, and shall have automatically controlled night lighting on a 24 hour basis.
- (m) Each manufactured home lot shall abut an internal street.
- (n) A minimum of two (2) off-street parking spaces shall be provided for each manufactured home lot and at a minimum size of eight and one-half (8 1/2) feet in width by nineteen (19) feet in depth. Off-street parking shall be located adjacent to the manufactured home lot.
- (o) Streets within the manufactured home park shall be illuminated to provide for the safe movement of pedestrians and vehicles. Street lights shall be illustrated on the site plan, and the design, spacing and intensity of street lights shall be approved by the County Engineer.

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- (p) Sidewalks shall be provided in a manufactured home park, which shall be continuous on at least one side of a street, and be constructed of asphalt or concrete and shall have a minimum width of four (4) feet.
- (q) All manufactured home stands shall be connected to common walks, to internal streets, or to paved driveways or parking spaces connecting to a paved street. Individual walks shall have a minimum width of two (2) feet.
- (r) Water supply, sewage disposal and utility distribution systems shall be provided in accordance with the regulations of Barton County.

4-403 Large Scale Manufacturing or Processing Facilities Standards:

(A) Lot Size Requirements.

- (1) Minimum lot area: Ten (10) Acres.
- (2) Minimum lot width: 330 feet.
- (3) Minimum lot depth: 660 feet.

(B) Bulk Regulations.

- (1) Yard requirements:
 - (a) Minimum front yard: Fifty (50) feet on all sides abutting a street.
 - (b) Minimum side yard: Fifty (50) feet.
 - (c) Minimum rear yard: Fifty (50) feet.

(C) Use Limitations:

- (1) A site plan shall be submitted for review and approval by the Barton County Planning Commission at the time of application for a Special Use Permit for a Large Scale Manufacturing or Processing Facility.

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- (2) A plat shall be required, and the plat shall be of record prior to the issuance of a permit to construct a Large Scale Manufacturing or Processing Facility.
- (3) A Traffic Impact Analysis conducted by an engineer shall be submitted for review and approval by the Barton County Planning Commission at the time of application for a Special Use Permit for a Large Scale Manufacturing or Processing Facility.
- (4) There shall be no noise, smoke, dust, odor or vibrations emanating from the property which unreasonably either annoys, disturbs, injures, or endangers the comfort, repose, health, peace, or safety of persons off of said property.
- (5) Exterior lighting shall be shaded so that no direct light is cast upon any property located in a residential district.
- (6) Exposed ground surfaces in areas not used for access, parking, circulation, buildings, manufacturing or processing facilities shall be landscaped according to an approved landscape plan. The landscape plan shall include trees and other vegetation that are consistent with landscaping found throughout the County. The entire site shall be maintained in good condition including all grounds, shrubs, trees or any other landscaping.
- (7) All surface areas of the site shall be graded to drain all surface waters in a manner consistent with the recommendations of the County Engineer.
- (8) Water supply, waste disposal and utility distribution systems shall be provided in accordance with the regulations of Barton County and any Laws Regulations or requirements of the State of Kansas.

ARTICLE V

OFF-STREET PARKING AND LOADING

PART 1. OFF-STREET PARKING

5-101. Applicability. In any zoning district, all structures built and all uses established hereafter shall provide accessory off-street parking in accordance with the following regulations. When an existing structure or use is expanded, accessory off-street parking shall be provided in accordance with the following regulations for the total area or capacity of the whole structure or use as enlarged. All parking spaces and lots, including those that are principal uses rather than accessory uses, shall comply with the standards established in the following regulations.

5-102. General Provisions.

- (A) UTILIZATION. Required accessory off-street parking facilities provided for the uses hereinafter listed shall be for the parking of motor vehicles, in operating condition, of patrons, occupants, or employees of such uses.
- (B) ACCESS. Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- (C) FRONT YARD RESTRICTIONS. No off-street parking spaces shall be located on any required front yard in any residential district. Enclosed buildings and carports containing off-street parking shall be subject to the yard requirements applicable in the district in which located.
- (D) APPROVAL. No parking lot shall be constructed until the design has been submitted to and approved by the Zoning Administrator as being in compliance with these regulations.
- (E) DESIGN.
 - (1) Configuration. All off-street parking spaces and parking lots shall comply with the minimum design standards as established by the County Engineer and which are available in the Office of the Zoning Administrator.

- (2) Drainage. Parking areas should be designed to promote efficient disposal of storm water. All storm water runoff to adjacent property shall, where possible, either flow into existing natural drainage ways or flow into guttering, storm drains, or drainage ways constructed for such runoff.
- (3) Screening. All open off-street parking areas containing more than six (6) parking spaces which are located within twenty-five (25) feet of adjacent property situated in a residential district, except for public rights-of-way, shall provide sight obscuring screening of not less than four (4) feet in height, between the parking area and the adjacent residential property.
- (4) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and adjacent public rights-of-way in such a way so as not to interfere with the residential use or public right-of-way.
- (5) Vehicle Repair. No motor vehicle repair shall be permitted on any off-street parking area. However, routine maintenance and service that is customarily performed by a vehicle owner, such as changing oil, plugs, or tires, is not prohibited.
- (6) Computation. When calculating floor area for the purpose of determining off-street parking requirements, areas devoted to storage, hallways, stairwells, elevators, bathrooms, or mechanical rooms shall not be included. When determination of the number of off-street parking spaces required by these regulations results in a requirement of a fractional space, the fraction of one-half or less may be disregarded; and a fraction in excess of one-half shall be counted as one parking space.
- (7) Collective Provisions. Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so furnished is not less than the sum of the separate requirements for each such use, and provided that all regulations covering the location of accessory parking spaces in relation to the uses served are adhered to.
- (8) Location. All parking spaces that serve non-residential buildings or uses shall be located in a non-residential zoning district and within 600 feet of the property that uses the parking. Parking spaces that serve residential buildings or uses shall be located on the same property that uses the parking.

- (F) MAINTENANCE. The owner of property used for parking shall maintain such area in good condition, and shall maintain any required landscaping, and replace any plantings as necessary to cause it to continue to conform with required standards.

5-103. Required Spaces. Off-street parking spaces accessory to the uses hereinafter designated shall be provided as follows:

(A) Dwelling and Lodging Uses.

- (1) Hotels/Motels. At least two (2) parking spaces; plus one (1) parking space for each rental unit, plus such spaces as are required for restaurants, assembly rooms and affiliated facilities.
- (2) Single-family and two-family dwellings: At least two (2) parking spaces for each dwelling unit.
- (3) Multiple-family dwellings:
 - (a) One bedroom dwelling units: 2 parking spaces per unit.
 - (b) Two bedroom dwelling units or more: 1 parking space per bedroom.
- (4) Lodging/Boarding Houses/Bed and Breakfast: A minimum of two (2) parking spaces, plus one (1) parking space per sleeping room.
- (5) Manufactured home parks: At least two (2) parking spaces for each manufactured home.

(B) Commercial and Industrial Uses.

- (1) All business and commercial establishments, except those specified hereinafter: At least one (1) parking space for each 200 sq.ft. of floor area.
- (2) Automobile service and/or repair: At least four (4) parking spaces plus two (2) parking spaces for each service bay. Service bays shall not be counted as required parking.
- (3) Banks and financial institutions: At least one (1) parking space for each 450 square feet of floor area.

- (4) Business and professional offices: At least one (1) parking space for each 300 square feet of floor area.
- (5) Cartage, express, parcel delivery and freight terminal establishments: At least one (1) parking space for each 2,000 square feet of floor space, and one (1) parking space for each fleet vehicle stored on the premises.
- (6) Establishments providing for the sale and consumption of food and/or beverages, and refreshments: At least one (1) parking space for each three (3) customers based upon the maximum design occupancy
- (7) Furniture and/or appliance stores: At least one (1) parking space for each 1,000 square feet of floor area.
- (8) New and used motor vehicle, manufactured home and recreational vehicle sales or rental: At least one (1) parking space for each 500 sq. ft. of floor area and one (1) parking space for each 3,000 square feet of open sales lot.
- (9) Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials, or products: At least two (2) parking spaces for each 1000 square feet of floor area.
- (10) Car washes: At least two (2) parking spaces for each bay in a self-service establishment, and at least two (2) parking spaces for each 20 linear feet in attendant-operated establishments.
- (11) Bowling alleys: At least three (3) parking spaces for each alley.
- (12) Theatres: At least one (1) parking space for each four (4) seats.
- (13) Funeral homes and mortuaries: At least one (1) parking space for each five (5) persons, based upon the maximum design occupancy, and one (1) parking space for each fleet vehicle stored on the premises.
- (14) Warehouse, storage, and wholesale establishments: At least one (1) parking space for each 2,000 square feet of floor area.

Barton County Zoning Regulations

Off Street Parking and Loading

(C) Other Uses:

- (1) Nursing homes: One (1) parking space for each two (2) patients, plus one (1) parking space for each employee as related to the work shift when the maximum number of employees are present.
- (2) Churches, chapels, temples and synagogues: At least one (1) parking space for each four (4) fixed seats.
- (3) Private clubs and lodges: At least one (1) parking space for each three (3) persons, based on the maximum design occupancy.
- (4) Auditoriums, gymnasiums and other places of assembly: At least one (1) parking space for each four (4) seats.
- (5) Parking spaces for other uses not listed above shall be provided in accordance with the determination of the Zoning Administrator with respect to the number of spaces that are required to serve employees and/or the visiting public at each such use.

PART 2. OFF-STREET LOADING

5-201. Applicability. All uses which provide off-street loading shall comply with the following provisions:

5-202. General Provisions.

- (A) Location. All loading spaces or berths shall be located on the same lot as the use served. All motor vehicle loading berths for the loading or unloading of materials which abut or are adjacent to a residential district shall be screened by sight obscuring screening of not less than six (6) feet nor more than eight (8) feet in height. No loading space or berth shall be located in a required front yard, or in a manner that results in partially or wholly obstructing any public right-of-way.
- (B) Access. Each required off-street loading space or berth shall be designed with appropriate means of vehicular access to a street, highway or alley in a manner which will least interfere with traffic movement.
- (C) Surfacing. All open off-street loading shall be graded and paved or otherwise improved with an all-weather, dustless material.

- (D) Utilization. Space allocated for any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

ARTICLE VI

NONCONFORMING USES AND LOTS

PART 1. GENERAL PROVISIONS

6-101. Nonconforming Uses and Lots.

- (A) Any property which does not comply with all applicable provisions of these Zoning Regulations shall be deemed to be nonconforming. Any property that is nonconforming shall be required to comply with all such provisions, unless such property is legally nonconforming. Property is legally nonconforming if it has previously conformed to all applicable Zoning Regulations, or has not been subject to such regulations, and it has remained in the same condition continuously since such time, and the only reason it no longer conforms, is because of a change in the regulations. Legally nonconforming properties may be continued or modified, subject to the remaining parts of this article.
- (B) Vesting rights. Property that has rights vested pursuant to the provisions of Section 2-410 shall not be deemed to be nonconforming.

PART 2. UNIMPROVED NONCONFORMING LOTS

6-201. In All Districts.

- (A) In any district, notwithstanding the regulations imposed by any other provision of these regulations, a structure which complies with the requirements in Section 6-201(B) may be erected on a lot that is legally nonconforming, because of lot area, width, depth, or any combination thereof only if the lot has never been held in common ownership with adjacent property during any period of its nonconformity; and
- (B) Construction permitted by Section 6-201(A) shall comply with all of the regulations (except lot area, width and depth) applicable to the zoning district in which the lot in question is located; provided, however, that the following side yard requirements shall apply in place of the side yard requirements otherwise applicable:

- (1) The structure shall be placed on the lot so as to provide a yard on each side of the building.
- (2) The sum of the widths of the two yards on each lot shall be not less than the smaller of:
 - (a) Twenty-five (25) percent of the width of the lot, or
 - (b) The minimum total for both side yards prescribed by the bulk regulations for said zoning district.
- (3) No side yard shall be less than ten (10) percent of the width of the lot, and in no case less than three feet.

PART 3. IMPROVED NONCONFORMING LOTS

- 6-301. Authority to Continue. Any improved lot which is devoted to a use permitted in the zoning district where it is located, but which is legally nonconforming for other reasons, may be utilized in its existing state, so long as it remains otherwise lawful, subject to the remaining sections of this part.
- 6-302. Enlargement, Repair, Alterations. Improvements upon a lot described in Section 6-301 may be added, enlarged, maintained, repaired or remodeled, provided, however, that no such addition, enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such lot. Any such enlargement, maintenance, repair, remodeling, restoration, or addition upon lots that are legally nonconforming because of lot size shall maintain side yards in accordance with Section 6-201.
- 6-303. Damage or Destruction. In the event that any improvement described in Section 6-301 is damaged or destroyed, by any means, to the extent of fifty (50) percent or more of its total market value, such improvement shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is. When any improvement is damaged to a total extent of fifty (50) percent or less, it may be repaired or restored, pursuant to Section 6-302, if a building permit is obtained and repair or restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion; otherwise any such repairs or restoration must comply with the regulations of the Zoning District in which it is located.

PART 4. NONCONFORMING USES

6-401. Authority to Continue. Any legally nonconforming use of part or all of a structure or any legally nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use of land, may be continued, so long as otherwise lawful, subject to the regulations contained in Sections 6-402 through 6-404.

6-402. Expansion. A legally nonconforming use shall not be expanded, enlarged or increased in intensity beyond that which existed at the time it became legally nonconforming. Any change in a legal nonconforming use which requires the use of additional structures, additional land area, or additional floor space within the same structure not originally designed or arranged for such use, shall be deemed an expansion, enlargement or increase in violation of this section.

6-403. Change in Use. A legally nonconforming use shall not be changed or modified in any manner from what existed at the time it became legally nonconforming, without complying with all applicable regulations. A legal nonconforming use shall not be deemed to have been changed or modified as long as:

- (A) it reflects the nature and purpose of the use prevailing at the time it became legally nonconforming; and,
- (B) there is no difference in the intensity and character of the use; and,
- (C) there is no different effect upon the neighborhood.

6-404. Abandonment.

- (A) No legally nonconforming use shall be reestablished or resumed after it has been abandoned for a period of six (6) consecutive months. Such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

PART 5. MODIFYING NONCONFORMING USES UTILIZING A CONDITIONAL USE APPLICATION

6-501. Authorization.

- (A) Any legally nonconforming use shall be deemed to be a conditional use of the zoning district in which it is located. The Board of County Commissioners is hereby authorized to grant such conditional use pursuant to Article VIII, Part

7 of these Regulations, provided that all the following standards have been met:

- (1) That the size of the lot is not increased from that which currently exists;
 - (2) That either: (a) the current existing use does not have a significantly adverse impact upon either the surrounding neighborhood or the public health, safety or general welfare, and the proposed modifications, additions and deletions will not worsen such impact; or, (b) that the current existing use does have such a significantly adverse impact and the granting of the proposed modifications, additions and deletions will be more likely to reduce or eliminate such impact than a denial of such proposal;
 - (3) The proposed conditional use complies with all applicable provisions of these regulations, except for those existing conditions that are legally nonconforming; however, the proposal may contain requests for exceptions to such requirements as provided in Paragraph (B) hereinafter; and
 - (4) The existing use continues in a substantially similar form, or in a form that is altered only to make it more modern or efficient.
- (B) An applicant may request an exception as part of the conditional use, and the Planning Commission may grant an exception to these regulations as to any of the following:
- (1) Any bulk regulation.
 - (2) Any regulation dealing with parking.
- (C) As a condition of granting a conditional use hereunder, the Board of County Commissioners may require that, in the event the use upon the site changes to a use permitted at that location by these regulations, the conditional use shall expire and shall not be re-established.

ARTICLE VII

FLOOD PLAIN REGULATIONS

PART I. PURPOSE AND GENERAL PROVISIONS

7-101. Statement of Purpose.

- (A) It is the purpose of this Article to promote the public health, safety and general welfare and to minimize flood losses resulting from periodic inundation of the base flood by applying provisions designed to:
- (1) Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or cause undue increases in flood heights or velocities.
 - (2) Require that uses vulnerable to floods, including public facilities which serve such uses, be provided with flood protection at the time of initial construction.
 - (3) Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard.
 - (4) Minimize the need for rescue and relief efforts associated with flooding, generally undertaken at the expense of the general public.
 - (5) Assure that eligibility is maintained for property owners in the community to purchase flood insurance in the National Flood Insurance Program.

7-102. General Provisions.

- (A) Official Flood Plain Maps.
- (1) The Official Flood Plain Map shall consist of the Flood Insurance Rate Maps (FIRM), and the Federal Emergency Management Agency (FEMA) Flood Insurance Study conducted for Barton County, Kansas, August 16, 1988 and revised October 16, 1996. The Official Flood Plain Map shall also consist of all modifications or changes to the above by the Federal Emergency Management Agency.

- (2) The Official Flood Plain Map shall apply to all land within the jurisdiction of the Barton County subject to the base flood.
- (B) Flood Plain Overlay Districts.
- (1) The Official Flood Plain Map shall be applied as two (2) overlay districts for the purposes set forth in 7-101(A)(1-5). Land uses not meeting the development standards of this Article and those Articles of the underlying zoning districts are prohibited.
 - (a) Floodway Overlay District (FW):
 - (1) The FW District boundaries are identified on the Official Flood Plain Maps and shall be consistent with those boundaries.
 - (b) Floodway Fringe Overlay District (FF):
 - (1) The FF District boundaries are identified on the FIRM as numbered and unnumbered A Zones and shall be consistent with those boundaries.
- (C) Rules for Interpretation of District Boundaries.
- (1) The boundaries of the Floodway and Floodway Fringe Overlay Districts shall be determined by scaling distances on the Official Zoning Map and on the Flood Insurance Rate Map (FIRM). Where interpretation is needed as to the exact location of the boundaries of the districts as, the County Engineer shall make the necessary interpretations. Any person contesting the location of the district boundary shall be given a reasonable opportunity to present their case to FEMA for an amendment or revision of the boundary.
- (D) Compliance.
- (1) No development located within a FW or FF District shall be located, extended, converted or structurally altered without full compliance with the terms of this Article.
- (E) Public Hearings Required By Regulatory Agencies.

Barton County Zoning Regulations

Flood Plain Regulations

- (1) In the event FEMA, the Kansas State Board of Agriculture or any other regulatory agency having jurisdiction over matters covered by this Article requires the County to conduct a public hearing related to such matters, and the method by which such public hearing is to be conducted is not prescribed by such agency or elsewhere in these regulations, such method shall be as follows:
 - (a) Written notice of such hearing shall be mailed at least 20 days before the hearing to all affected property owners. The County Engineer may require any applicant to provide the County with a list of the names and addresses of all affected property owners.
 - (b) Notice of such hearing shall be published once in the official County newspaper at least 20 days prior to the hearing.
 - (c) The County Engineer may request the Planning Commission to review the matter prior to the public hearing if the public hearing is to be conducted by the Governing Body.

- (F) Use of Other Base Flood Data in Identified Flood Plains Where Base Flood Elevations Have Not Been Established.
 - (1) When base flood elevation data has not been provided in accordance with Section 7-102(A)(1), the County Engineer shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other sources as criteria for requiring that new construction, substantial improvements, or other development shall comply with the requirements of this Article.
 - (2) If a floodway has not been designated, no development, including sanitary landfills, shall be permitted within the Flood Plain, unless it is demonstrated by the developer that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the base flood elevation by more than one (1) foot on the average cross section of the reach in which the development is located as shown on Flood Insurance Rate Study.
 - (3) Any use of data required in this section which would alter the location of the Flood Plain, FW District or FF District shall be subject to the additional requirements of Section 7-102(E).

7-103. Flood Plain Development Permit.

- (A) No person shall initiate any development or substantial improvement located within a Flood Plain as shown on the Official Flood Plain Maps, without first obtaining a separate Flood Plain Development Permit.
- (B) A Flood Plain Development Permit application shall be filed with the County Engineer on a form furnished for that purpose, and shall include the following:
 - (1) Identify and describe the work to be covered by the flood plain development; and,
 - (2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work; and,
 - (3) Indicate the use or occupancy for which the proposed work is intended; and,
 - (4) Be accompanied by plans and specifications for proposed construction; and,
 - (5) Be signed by the property owner or his authorized agent who may be required to submit evidence to indicate such authority; and,
 - (6) Give such other information as reasonably may be required by the County Engineer.

7-104. Administration.

- (A) The County Engineer shall administer, enforce and implement the provisions of this Article.
- (B) Duties of the County Engineer shall include, but not be limited to:
 - (1) Review all Flood Plain Development Permits to assure that requirements of this Article have been satisfied.
 - (2) Notify adjacent communities and the Division of Water Resources prior to any alteration or relocation of a watercourse, and shall submit

evidence of such notification to the Federal Emergency Management Agency.

- (3) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.
- (4) Verify, record and maintain records of the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures.
- (5) Verify, record and maintain records of the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed.
- (6) When floodproofing is utilized for a particular structure the County Engineer shall be presented certification of floodproofing from a registered professional engineer or architect.
- (7) If a violation of this Article is found, the County Engineer shall notify the person responsible for such violation, indicate the nature of the violation and order the action necessary to correct it.
- (8) Review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood-prone area, any such proposals shall be reviewed to assure that:
 - (a) All such proposals are consistent with the need to minimize flood damage within the flood-prone area;
 - (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (c) Adequate drainage easements are provided to reduce exposure to flood hazards.
- (9) Assure that base flood elevation data shall be provided by the applicant for subdivision proposals and other proposed development. Such data shall be clearly indicated on the subdivision plat and shall be subject to the requirements of Section 7-102(F), where applicable.

(10) Determine date of start of construction when necessary.

7-105. Warning and Disclaimer of Liability.

The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. These regulations do not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damage. This Article shall not create liability on the part of the Barton County or any officer or employee thereof for any flood damages that may result from reliance on this Article or any administrative decision lawfully made thereunder.

7-106. Definitions.

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

A ZONE means land designated as special flood hazard areas inundated by the 100 year flood, as designated on the Flood Insurance Rate Map (FIRM). These areas are designated as Zones A, AE, AH, AO and A99.

AREA OF SPECIAL FLOOD HAZARD means the land in the Flood Plain within a community subject to one percent or greater chance of flooding in any given year.

BASE FLOOD means a flood having a one percent (1%) chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION means the elevation shown on the FIRM as representative of the base flood.

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

DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

EQUAL DEGREE OF ENCROACHMENT means a standard applied in determining the location of encroachment limits so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows. This is determined by considering the effect of encroachment on the hydraulic efficiency of the flood plain along both sides of a stream for a significant reach.

EXCEPTION For the purposes of this Article, an exception shall mean a grant of relief by a community from the terms of a flood plain management regulation.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA means the Federal Emergency Management Agency.

FLOOD OR FLOODING means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of waters normally confined between the banks of a stream or other watercourse, or;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD FREQUENCY means the average frequency, statistically determined, for which it is expected that a specific flood level or discharge may be equaled or exceeded.

FLOOD INSURANCE STUDY means the official report provided in which FEMA has provided flood profiles, as well as the Flood Boundary Floodway Map and the surface elevation of the base flood.

FLOOD INSURANCE RATE MAP (FIRM) means the official map on which the Federal Emergency Management Agency has delineated both the area of special

flood hazard and the risk premium zones applicable to the community.

FLOOD PLAIN means any land area susceptible to being inundated by water from any source, (see definition of "flooding").

FLOOD-PROOFING means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

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

FLOODWAY FRINGE means that portion of the regulatory flood plain outside of the floodway. These areas are designated as A zones on the Flood Insurance Rate Map.

LOWEST FLOOR means the lowest floor of the lowest enclosed area which includes a basement or cellar. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Article.

MANUFACTURED HOME PARK OR SUBDIVISION means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

NEW CONSTRUCTION means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, which ever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective

date of floodplain management regulations adopted by a community.

OBSTRUCTION means any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel rectification, bridge conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure or matter in, along, across, or projecting into any channel, watercourse or regulatory flood hazard area which may impede, retard or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water, or that is placed where the flow of water might carry the same downstream to the damage of life or property.

"100-YEAR FLOOD" see "base flood".

REACH means a hydraulic engineering term to describe longitudinal segments of a stream or river. A reach will generally include the segment of the flood hazard area where flood heights are influenced by a man-made or natural obstruction. In an urban area, the segment of a stream or river between two consecutive bridge crossings would typically constitute a reach.

START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation or lot. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include the excavation of a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or to part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

SUBSTANTIAL DAMAGE means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT means any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of

the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure".

VIOLATION means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this ordinance is presumed to be in violation until such time as that documentation is provided.

PART 2. DEVELOPMENT STANDARDS

7-201. General Standards for Flood Plain Development.

- (A) No flood plain development or building permit for development shall be granted for new construction, substantial improvements or other improvements including the placement of manufactured homes within all numbered and unnumbered FF zones unless the conditions of this Section are satisfied.
- (B) New construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
 - (1) Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effect of buoyancy.
 - (2) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination.
 - (3) Construction with materials resistant to flood damage, utilizing methods and practices that minimize flood damages, and with electrical, heating ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located

so as to prevent water from entering or accumulating within the components during conditions of flooding.

- (4) All utility and sanitary facilities be elevated or floodproofed up to the regulatory flood protection elevation.
- (5) That until a floodway has been designated, no development may be permitted within Zones A on the County's FIRM unless the applicant for the land use has demonstrated that the proposed use, when combined with all other existing and reasonably anticipated uses, will not increase the water surface elevation of the 100-year flood more than one (1) foot on the average cross section of the reach in which the development is located as shown on the Flood Insurance Rate Study.
- (6) Storage of Material and Equipment.
 - (a) The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - (b) Storage of material and equipment may be allowed if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- (7) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, shall be required to assure that: (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) the base flood elevation shall be included on all plats and site plans.
- (8) Manufactured Homes.
 - (a) All manufactured homes shall be anchored to resist flotation, collapse, or lateral movement. Manufactured homes must be anchored in accordance with local building codes or FEMA guidelines. In the event that over-the-top frame ties to ground anchors are used, the following specific requirements (or their equivalent) shall be met:

- (1) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations and manufactured homes less than fifty (50) feet long requiring only one (1) additional tie per side;
 - (2) Frame ties be provided at each corner of the home with five (5) additional ties per side at intermediate points and manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side;
 - (3) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and
 - (4) Any additions to manufactured homes be similarly anchored.
- (b) All manufactured homes to be placed within the Floodway Fringe District, shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at least one foot above the base flood elevation; and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 7-201(B)(8)(a)(1 - 4).
- (9) Notwithstanding any provision of this Article, sanitary landfills shall be prohibited in any Flood Plain regulated by this Article.

7-202. Floodway District (FW).

(A) Permitted Uses.

- (1) Agricultural uses such as general farming, pasture grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.
- (2) Industrial-commercial uses such as loading area, parking areas, and airport landing strips.
- (3) Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming area, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails.

- (4) Accessory residential uses such as lawns, gardens, parking areas and play area, but not including structures.
- (5) Railroads, streets, bridges, utility transmission lines, and pipelines.
- (6) Notwithstanding the above listed permitted uses, no use shall be permitted in this district unless it is also permitted in the underlying zoning district.

(B) Use Limitations.

- (1) All encroachments, including fill, new construction, substantial improvements and other developments shall be prohibited unless certification by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in the base flood elevation.
- (2) Any fill or other material proposed to be deposited in the floodway must be essential to carry out the permitted uses within the floodway and it must not impede the hydraulic capacity of the floodway or increase the velocity of any potential flood. The amount thereof must not exceed that necessary to achieve the intended purpose, and it shall be protected against erosion by rip-rap, vegetative cover, or bulkheading.
- (3) Structures (temporary or permanent).
 - (a) Structures shall not be designed for human habitation, except as allowed by 7-202(A)(6).
 - (b) Structures shall have a low flood damage potential.
 - (c) Whenever permitted and possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow.
 - (d) Whenever permitted and practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.
 - (e) Structures shall be firmly anchored to prevent flotation, which may result in damage to other structures, restriction of bridge openings and other narrow sections of the stream or river.

- (f) Service facilities such as electrical and heating equipment shall be constructed at or above the base flood elevation for the particular area or flood proofed.

7-203. Floodway Fringe District (FF).

(A) Permitted Uses.

- (1) Any use permitted in the underlying zoning district.

(B) Conditional Uses. Any conditional use allowed in the underlying zoning district.

(C) Use Limitations.

- (1) New construction and substantial improvements for residential uses shall be constructed on non-settling fill so that the lowest floor is at least one (1) foot above the base flood elevation. The finished fill elevation shall be at the established base flood elevation for the particular site and shall extend at or above such elevation at least fifteen (15) feet beyond the limits of any structure or building erected thereon or to the property line.
- (2) New construction and substantial improvements for commercial uses shall be constructed on fill so that the lowest floor is at least one (1) foot above the base flood elevation, or flood proofed to at least one (1) foot above base flood elevation.
- (3) New construction and substantial improvements used for manufacturing or industrial uses shall be constructed on fill so that the lowest floor is at least one (1) foot above the base flood elevation, or flood proofed to at least one (1) foot above base flood elevation.
- (4) Land accessory to commercial or industrial uses such as yards, railroad tracks and parking areas which are below the base flood elevation shall not be designed for, designated for, or used by the general public if the area is subject to inundation to a depth greater than four (4) feet or subject to flood velocities greater than four (4) feet per second upon the occurrence of the base flood.
- (5) Public or private utility facilities, roads, railroad tracks, and bridges shall be designed to minimize increases in the base flood elevation.

Protection to or above the base flood elevation shall be provided where failure or interruption of these public or private facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Where failure or interruption of service would not endanger life or health, a lesser degree of protection may be provided for minor or auxiliary roads, railroads or utilities.

- (6) All new construction and substantial improvements to non-residential structures, with fully enclosed areas below the lowest floor that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be certified by a registered professional engineer or architect and must meet or exceed the following minimum criteria:
 - (a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;
 - (b) The bottom of all openings shall be no higher than one (1) foot above grade; and,
 - (c) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry or exit of floodwaters.

PART 3 EXCEPTIONS

7-301. Authorization.

- (A) The Board of Zoning Appeals may grant exceptions from the Flood Plain Regulations subject to the following requirements:
 - (1) Exceptions shall not be issued by the Board of Zoning Appeals within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result. The determination of whether or not any increase in flood levels during the base flood discharge shall be made by the Chief Engineer of the Division of Water Resources, Kansas State Board of Agriculture and said determination shall be provided to the Board of Zoning Appeals prior to its decision. If the Chief Engineer of the Division of Water Resources, Kansas State

Board of Agriculture refuses to act, such determination shall be made by a licensed engineer.

- (2) The Board may authorize issuance of an exception for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the Register of Historic Kansas Places without regard to the requirements set out in this section.
- (3) No exception shall be issued in connection with new construction or substantial improvements except upon:
 - (a) a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level; or,
 - (b) a lot of any size, which because of physical limitations, legal restrictions enforceable by the County or these regulations is incapable of being subdivided and which is contiguous to and surrounded by lots with existing structures constructed below the base flood level; or,
 - (c) a lot of any size which contains a condition unique to the property in question, not ordinarily found in the same Zoning District, not created by an action or actions of the property owner or applicant, and requiring the requested exceptions.
- (4) Exceptions shall only be issued upon:
 - (a) a showing of good and sufficient cause,
 - (b) a determination that failure to grant the exception would result in exceptional hardship to the applicant, and
 - (c) a determination that the granting of an exception will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - (d) An exception shall only be issued upon a determination that the exception is the minimum necessary, considering the flood hazard, to afford relief.

7-302 Notice to Applicant.

- (A) Upon approval of an exception, the Flood Plain Administrator shall notify the applicant in writing that:
 - (1) the issuance of an exception to construct a structure below the base flood level may result in increased premium rates for flood insurance, and
 - (2) such construction below the base flood level increases risks to life and property.

7-303 Records.

- (A) The County Engineer shall maintain a copy of the written findings of fact, written decisions and notices issued by the Board of Zoning Appeals for any exception granted under this section. The County Engineer shall report such exceptions issued in its annual or biennial report submitted to FEMA.

7-304. Nonconformities.

- (A) Notwithstanding the provisions of Article VI, no nonconformity may be added to, enlarged, maintained, repaired or remodeled, if such addition, enlargement, maintenance, repair, or remodeling shall constitute a substantial improvement.

THE STATE



OF KANSAS

KANSAS DEPARTMENT OF AGRICULTURE
Jamie Clover Adams, Secretary of Agriculture

DIVISION OF WATER RESOURCES
David L. Pope, Chief Engineer

STATE REGULATIONS FOR FLOODPLAIN FILL

RULES AND REGULATIONS

K.S.A. 24-126

September 22, 2000

**David L. Pope, Chief Engineer
Division of Water Resources
Kansas Department of Agriculture**

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Division of Water Resources
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Rules and Regulations
K.S.A. 24-126
Division of Water Resources
Kansas Department of Agriculture
Effective September 22, 2000

K.A.R. 5-45-1. Levees and floodplain fills; definitions. As used in K.S.A. 24-126 and amendments thereto, in the regulations adopted pursuant thereto, and by the division of water resources in administering K.S.A. 24-126, unless the context clearly requires otherwise, the following words and phrases shall have the meaning ascribed to them in this regulation: (a) "Approval" means the written approval of plans and specifications by the chief engineer authorizing the applicant to proceed with the construction and maintenance of a levee or floodplain fill project.

(b) "Authorized representative" means any staff employee designated by the chief engineer to perform duties and functions on behalf of the chief engineer.

(c) "Base flood" means a flood having a one percent chance of being equaled or exceeded in any one year.

(d) "Chief engineer" means the chief engineer, division of water resources, Kansas department of agriculture.

(e) "Design flood" means a flood having a selected probability of being equaled or exceeded in any one year for the degree of protection required.

(f) "Environmental mitigation" means any of the following:

- (1) Site-specific modification of a project;
- (2) implementation of a practice or management; or
- (3) the reservation of a part of the project to protect or replace environmental values destroyed or adversely affected by the project.

(g) "Equal and opposite conveyance" means the location of development offsets from stream banks so that floodplain lands on each side of a stream outside the stream channel convey a share of the flood flows proportionate to the total conveyance available on each respective side of the stream.

(h) "Floodplain fill" means material, usually soil, rock, or rubble, that is placed in a floodplain to an average height of greater than one foot above the existing ground and that has the effect of diverting, restricting, or raising the level of floodwaters on a stream.

(i) "Floodway" means the channel of a stream and adjacent land areas that have been determined as being necessary to convey the base flood, as calculated using the minimum requirements of the national flood insurance act of 1968, 42 U.S.C. 4001 et seq., as amended September 23, 1994, and 44 C.F.R. part 59, subpart A, sec. 59.1 and 44 C.F.R. part 60, subpart A, sec. 60.3, as amended October 1, 1998.

(j) "Floodway fill" means floodplain fills, other than a levee, placed wholly or partially within the boundaries of the floodway at locations where the floodway has been identified.

(k) "Floodway fringe" means those portions of a floodplain outside of the boundaries of a regulatory floodway within reaches of a stream where such a floodway has been established.

(l) "Floodway fringe fill" means floodplain fills, other than a levee, placed wholly outside the floodway boundaries at locations where the floodway has been identified.

(m) "Levee" means any floodplain fill with an average height of more than one foot above the surrounding terrain constructed generally parallel to a water course and whose purpose is to repel floodwaters.

(n) "Perennial stream" means a stream, or a part of a stream, that flows continuously during all of the calendar year, except during an extended drought.

(o) "Stream" means any watercourse that has a well-defined bed and banks, and that has a watershed above the geographic point in question that exceeds the following number of acres:

(1) Zone three: 640 acres for all geographic points within any county west of a line formed by the adjoining eastern boundaries of Phillips, Rooks, Ellis, Rush, Pawnee, Edwards, Kiowa, and Comanche counties;

(2) zone two: 320 acres for all geographic points within any county located east of zone three and west of a line formed by the adjoining eastern boundaries of Republic, Cloud, Ottawa, Saline, McPherson, Reno, Kingman, and Harper counties; and

(3) zone one: 240 acres for all geographic points within any county located east of zone two.

The stream need not flow continuously and may flow only briefly after a rain in the watershed. If the site of the project has been altered so that a determination of whether well-defined bed and banks exist is not possible, it shall be presumed that they did exist if the watershed acreage criteria have been met, unless the owner of the project can conclusively demonstrate that well-defined bed and banks did not exist before the construction of the project.

(p) "Watershed" means all of the area draining toward a selected point on a stream. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992; amended Sept. 22, 2000.)

5-45-2. Levees and floodplain fills; plans and specifications. Plans for a levee or a floodplain fill must be submitted on clearly legible prints (maximum size 24 inches by 36 inches) of the original tracings which are capable of reproduction. Plans for a levee or a floodplain fill shall include: (a) A general location map or aerial photograph showing:

- (1) the stream;
- (2) location of the proposed levee or floodplain fill;
- (3) floodway limits where available;
- (4) floodplain limits where available;
- (5) section lines;
- (6) property lines with names and addresses of adjoining landowners and any other landowners whose land may be hydraulically affected by the proposed levee or floodplain fill;

- (7) drainage area;
- (8) a bar scale;
- (9) a north arrow;
- (10) existing and proposed surface drainage flow patterns; and
- (11) any other prominent features;

(b) a detailed plan view fully describing the levee or floodplain fill and the site, including:

- (1) the design flood elevation and frequency;
- (2) the base flood or floodplain limits where available;
- (3) floodway limits where available;
- (4) two-foot ground contours of the levee or floodplain fill and areas with local drainage problems; and

(5) the area reserved for environmental mitigation with a description of any necessary environmental mitigation measures to be implemented, if those measures may affect the hydraulics used to evaluate the project;

(c) a profile showing the proposed elevation of the top and base of the levee or floodplain fill, the design flood, the base flood, the stream bed and both banks;

(d) an elevation view at the most hydraulically restrictive location in the valley affected by the project, showing the levee or floodplain fill on a cross section of the stream and the valley up to the post project base flood elevation at the site. This cross section shall show:

- (1) the stream;
- (2) floodway limits where available;
- (3) floodplain limits where available;
- (4) base flood elevation; and
- (5) design flood elevation;

(e) at least one permanent benchmark conveniently located for use after construction. The benchmark shall be placed where it is not likely to be destroyed. A three foot minimum length of pipe or steel driven flush with the ground in an area which is unlikely to be disturbed may be used. Wood or plastic stakes, nails or marks in trees shall not be considered as permanent benchmarks. The location and description of the benchmark shall be shown on the plans. They shall be properly referenced so they can be easily found in the field. The location, description and elevation of the permanent benchmark shall be shown on the plans. The benchmark may be a benchmark identified in the community's flood insurance rate map if the benchmark is less than 500 feet from the fill. Reference to the national geodetic vertical datum of 1988, or other acceptable national vertical datum, to a tolerance of plus or minus one half foot is required for all levees and floodplain fills on perennial streams. Reference to a tolerance of 0.05 foot is required where detailed floodplain data are available. Project datum is acceptable on all other levee and floodplain fill projects; and

(f) the land for which easements or rights-of-way have been acquired when the proposed levee or floodplain fill will affect land other than that owned by the applicant. (Authorized by and implementing K.S.A. 1991 Supp. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992.)

5-45-3. Levees and floodplain fills; specifications. The specifications for levees and floodplain fills shall be prepared on 8 1/2 by 11 inch sheets of a good grade of white bond paper. The specifications shall be in sufficient detail to assure that the works will be properly executed and shall comply with currently accepted engineering practices. The specifications shall include provisions for: (a) adequate supervision during the period of construction by a person qualified to design the levee or floodplain fill;

(b) notification of the division of water resources of the status of construction; and

(c) inspection by a representative of the division of water resources. (Authorized by and implementing K.S.A. 24-126 as amended by L. 1991, ch. 56, sec. 27; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992.)

K.A.R. 5-45-4. Levees and floodplain fills; preparer of maps, plans, profiles, and specifications. In addition to the requirements of the Kansas board of technical professions, the following requirements shall apply: (a) Each map, plan, profile, and specification submitted to the chief engineer for approval pursuant to K.S.A. 24-126 and amendments thereto shall be prepared by a person who is competent in levee or floodplain fill design and construction.

(b) Map, plans, profiles, and specifications for any of the following described levees and floodplain fills shall be prepared by a licensed professional engineer that is competent in levee or floodplain fill design and construction:

- (1) Class C levees;
- (2) floodplain fills located in whole or in part in identified floodways; and
- (3) floodplain fills that meet the following criteria:
 - (A) Are located in areas without a designated floodway;
 - (B) are greater than 3,200 cubic yards in volume;
 - (C) are more than four feet in height; and
 - (D) are more than 100 feet from other floodplain fills.

(c) No provision of this regulation, nor any decision made by the chief engineer pursuant to this regulation, shall alter the responsibilities or duties of any licensee of the Kansas board of technical professions to comply with that board's requirements. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992; amended Sept. 22, 2000.)

5-45-5. **Levees; waiver and stricter requirements.** The chief engineer may waive any of the regulations adopted under this article if it is shown to the satisfaction of the chief engineer that the waiver of the regulation will not pose a hazard to the public safety and that the waiver is in the public interest. The chief engineer may also invoke any jurisdiction granted by statute to impose stricter requirements than those required by rules and regulations where such jurisdiction or additional requirements are necessary to protect the public interest, protect the public safety or prevent damage to property. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987.)

5-45-6. **Levees and floodplain fills; other maps, plans, profiles, data and specifications.** The applicant shall also submit any other maps, plans, profiles and specifications of the levee or floodplain fill project and any other data which the chief engineer may require. (Authorized by and implementing K.S.A. 24-126 as amended by L. 1991, ch. 56, sec. 27; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992.)

5-45-7. **Levees and floodplain fills; application.** (a) The application for approval of plans to construct a levee or floodplain fill shall be filed on the form(s) prescribed by the chief engineer, including application supplements, and shall be completed in proper form according to the instructions. To be complete, the application shall include:

- (1) application DWR No. 3-100.1;
- (2) the application supplement, DWR Form No. 2-102;
- (3) plans fully complying with requirements of K.A.R. 5-45-2;
- (4) specifications fully complying with requirements of K.A.R. 5-45-3; and
- (5) a copy of an application to the governing body for a floodplain development permit, if the proposed levee or floodplain fill will change the limits of the floodplain or floodway boundaries, or both.

(b) The statutory time limit on the chief engineer's deliberation for approval for floodway fringe fills shall not begin until the application is complete. When such a floodway fringe fill application is received by the chief engineer, it will be reviewed to determine whether or not it is complete. If the application is complete, the chief engineer will notify the applicant when the 90-day review period began and will end. If the application is not complete, the additional information will be requested and the applicant informed that the 90-day statutory review period has not yet begun. For a floodway fringe fill application, when comments are received as a result of the water projects environmental coordination act review under K.S.A. 82a-325, *et seq.*, which require modification of the plans, the 90-day statutory time limit shall be suspended from the time the modifications are requested by the chief engineer until satisfactory modifications of the plans are received by the division of water resources. When the appropriate modifications have been received, the 90-day time limit will begin again with the same number of days remaining as were remaining at the time of the suspension. The applicant shall be notified in writing as to the dates of the suspension and restart of the 90-day time limit. (Authorized by and implementing K.S.A. 1991 Supp. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992.)

5-45-8. **Levees; hazard classes.** The following levee hazard classes are established: (a) Class A levee--failure of levee may allow damage to farm buildings, limited agricultural grounds or private roads.

(b) Class B levee--failure of levee may endanger extensive agricultural land, or damage isolated homes, secondary highways or minor railroads.

(c) Class C levee--failure of levee may cause loss of life, or cause serious damage to private, commercial or public property. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987.)

5-45-9. Levees; design storm flow determination. (a) In determining design storm flow magnitude, the applicant shall use an accepted engineering method.

(b) For drainage areas of less than 2 square miles the following methods are acceptable, where appropriate: (1) The rational formula for flow magnitude determination when used according to the following formula:

$$\begin{array}{lcl} Q & = & CIA \\ \text{Where } C & = & \text{the runoff coefficient} \\ I & = & \text{intensity of rainfall in inches per hour and} \\ A & = & \text{drainage area in acres.} \end{array}$$

To determine the proper intensity of rainfall for use with the formula, first determine the appropriate total rainfall from "Technical Paper Number 40, Rainfall Frequency Atlas of the United States, *Department of Commerce*, May 1961," and the time of concentration from the Kirpich nomograph and then obtain the intensity from the standard rainfall intensity-duration curves;

(2) The SCS method for estimating direct runoff, United States department of agriculture, soil conservation service;

(3) "Technical Release 55, Hydrology for Urban Areas, *United States Department of Agriculture, Soil Conservation Service*."

(c) For drainage areas two square miles or greater, the following methods of determining flow magnitude shall be acceptable, where appropriate: (1) the publication "Magnitude and Frequency of Floods in Kansas, Unregulated Streams, Technical Report 11, *Kansas Water Resources Board*, February 1975";

(2) "Technical Release 20, Computer Program for Project Formulation, Hydrology, *United States Department of Agriculture, Soil Conservation Service*"; or

(3) "HEC-1 Flood Hydrograph Package, *Corps of Engineers Hydrologic Engineering Center*." (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987.)

5-45-10. Levees; design criteria. Design for levees shall meet or exceed the following criteria:

(a) Class A levee--the levee shall safely repel the appropriate design storm.

(b) Class B levee--the levee shall safely repel at least the ten year design storm.

(c) Class C levee--the levee shall safely repel at least the 100 year design storm. For class C levees the applicant shall submit complete water surface water profiles of both the ten and 100 year events, both before and after construction. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987.)

5-45-11. Levees; freeboard requirements. (a) Levees not within a floodway designated by the chief engineer are required to have the following freeboard:

<i>Design flood frequency</i>	<i>Freeboard required</i>
10 years	1 foot
25 years	2 feet
50 years or more	3 feet

(b) Levees constructed within a floodway designated by the chief engineer shall have a freeboard requirement designated on a site specific basis. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987.)

5-45-12. Levees and floodplain fills; setback. Except for highway and road crossings of streams, the minimum setback distance from the top of the stream bank to the nearest toe of the levee or the edge of the floodplain fill shall be 100 feet, or twice the width of the stream measured from the top of one bank to the top of the opposite bank, whichever distance is less, unless the applicant demonstrates that adequate bank protection will be utilized. (Authorized by and implementing K.S.A. 1991 Supp. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992.)

K.A.R. 5-45-13. Levees; floodplain fills; unreasonable effect. (a) Except as set forth in subsection (b), no plans for any levee or floodplain fill that has an unreasonable effect on another shall be approved by the chief engineer. An unreasonable effect caused by a levee or floodplain fill shall be deemed any of the following:

- (1) An increase in the elevation of the design and base flood profiles of more than one foot at any location outside a floodway;
- (2) any increase in the elevation of the design and base flood profiles within a floodway; or
- (3) a cumulative increase of more than one foot in the elevation of the design and base flood profiles.

(b) A levee or floodplain fill that has an unreasonable effect on another may be approved by the chief engineer subject to any conditions necessary to protect the public interest if either of the following criteria is met:

- (1) The applicant demonstrates to the chief engineer that the applicant has obtained legal authorization from any landowner whose land is unreasonably hydraulically affected by a greater increase in the elevation of the design and base flood profile.
- (2) The following conditions are met:
 - (A) The owner of the undeveloped, unplatted land that will be hydraulically affected by an increase in the design and base flood profiles of more than one foot by a federal or state cost-shared roadfill, bridge, or culvert replacement project has been notified of the proposed hydraulic effects by the chief engineer.
 - (B) The owner has failed to object within the time limit set forth in the notice.
 - (C) The chief engineer determines that the increase will not be likely to materially damage the private or public property. (Authorized by and implementing K.S.A. 24-126; effective May 1, 1987; amended, T-5-12-30-91, Jan. 1, 1992; amended April 27, 1992; amended Sept. 22, 2000.)

K.A.R. 5-45-14. Levees and floodplain fills; hydrologic and hydraulic analysis. (a) The applicant shall submit a hydrologic and hydraulic analysis for every levee and floodplain fill project except floodway fringe fill projects and those levee projects and floodplain fill projects not identified in K.A.R. 5-45-4(b). The hydrologic and hydraulic analysis shall include the design and base floods for main streams, tributary streams, and local drainage, describing the existing and proposed conditions with the application and plans.

(b) The effect of a proposed levee or floodplain fill shall be calculated by the technique of equal conveyance reduction, except as provided in subsections (c) and (d), unless it meets either of the following criteria:

- (1) The applicant demonstrates that the applicant has obtained legal authorization from any landowner whose land is unreasonably hydraulically affected by a greater encroachment toward the channel.
- (2) The following conditions are met:
 - (A) The owner of the undeveloped, unplatted land that will be hydraulically affected by an increase in the elevation of the base flood profile of more than one foot by a federal or state cost-shared roadfill, bridge, or culvert project has been notified of the proposed hydraulic effects by the chief engineer.
 - (B) The owner has failed to object within the time limit set forth in the notice.
 - (C) The chief engineer determines that the increase will not be likely to materially damage the private or public property.

(c) For a class A or class B levee, the effect of the proposed levee on the design flood profile shall be evaluated with the assumption that an equal setback levee is in place on the opposite side of the stream.

(d) For a class C levee, the effect of the proposed levee on the design flood profile shall be calculated by the technique of equal conveyance reduction from the outer floodplain limits outside the channel, unless the applicant demonstrates that the applicant has obtained legal authorization from all landowners whose land would be unreasonably hydraulically affected by a greater encroachment toward the channel. (Authorized by and implementing K.S.A. 24-126; effective, T-5-12-30-91, Jan. 1, 1992; effective April 27, 1992; amended Sept. 22, 2000.)

5-45-15. Floodplain fills; design criteria. Floodplain fills shall meet or exceed the following design criteria: (a) the sideslopes shall not be steeper than one vertical to three horizontal, unless the applicant submits data and analysis to show that a steeper slope will be stable.

(b) Floodplain fills shall be adequately protected from erosion and undermining from floods up to the level of the base flood elevation and surface drainage by the use of vegetative cover, riprap or other means.

(c) Floodplain fills shall not unreasonably obstruct or divert the flow of surface water and other waters from the main stream and tributaries to the main stream to the detriment of adjacent or hydraulically affected property owners.

(d) Floodplain fills shall not obstruct utility or other easements without proper authorization.

(e) Floodplain fills shall not unreasonably affect the environment without adequate environmental mitigation.

(f) Floodplain fills, other than levees, for residential buildings, including manufactured housing, are required to be of adequate height to raise the lowest floor, including the basement, at least one foot above the base flood elevation, unless:

(1) an exception has been granted by the flood insurance administrator of the flood insurance administration within the FEMA for the allowance of a basement; or

(2) the chief engineer has approved a community standard at or above base flood elevation.

(g) Floodplain fills other than levees for sewage lagoons and sanitary landfills are required to have at least one foot of freeboard above the base flood.

(h) Except for fills for highways and roads, all other floodplain fills other than levees are required to have at least one foot of freeboard above the design flood.

(i) If subsequent to approval of the floodplain fill by the chief engineer, a letter of map revision or letter of amendment is obtained from FEMA removing an area of the approved or permitted fill from the floodplain, then any permit or approval issued by the chief engineer no longer applies to that area removed from the floodplain. (Authorized by and implementing K.S.A. 1991 Supp. 24-126; effective, T-5-12-30-91, Jan. 1, 1992; effective April 27, 1992.)

5-45-16. Floodplain fills; disapproval. (a) A levee or floodplain fill should not have an unreasonable effect on adjacent landowners, be adverse to the public interest and environmental concerns or lack required environmental mitigation.

(b) Within six months of the disapproval, the applicant may make a written request to the chief engineer to rescind the disapproval by providing information or modifications of the plans requested by the chief engineer. (Authorized by and implementing K.S.A. 24-126 as amended by L. 1991, ch. 56, sec. 27; effective, T-5-12-30-91, Jan. 1, 1992; effective April 27, 1992.)

5-45-17. Exemption—floodway fringe fills. Floodway fringe fills are exempt from applying for and obtaining approval from the chief engineer if: (a) they are:

(1) up to 1600 cubic yards in size;

(2) with a maximum height of two feet;

- (3) more than 100 feet away from any other floodplain fills; and
- (4) constructed according to the design criteria in K.A.R. 5-45-15; or

(b) they are located in communities which have adopted local standards for floodway fringe fills approved by the chief engineer which meet or exceed the standards adopted by the chief engineer for individual floodway fringe fills. The standards shall include an appeal process, an environmental assessment and a review of local drainage. (Authorized by and implementing K.S.A. 1991 Supp. 24-126; effective, T-5-12-30-91, Jan. 1, 1992; effective April 27, 1992.)

K.A.R. 5-45-18. Floodplain fills; incidental to bridge and culvert replacement projects. Each floodplain fill constructed incidental to a bridge or culvert replacement project that otherwise meets the requirements of K.A.R. 5-46-1 shall be considered to have the necessary approval of plans pursuant to K.S.A. 24-126, and amendments thereto, and article 45 of the rules and regulations adopted by the Kansas department of agriculture, division of water resources. (Authorized by and implementing K.S.A. 24-126; effective Sept. 22, 2000.)

ARTICLE VIII

ADMINISTRATION

PART I. OFFICE OF THE ADMINISTRATOR

8-101. Authorization. A Zoning Administrator shall be appointed by the County Administrator of Barton County. The Zoning Administrator shall be responsible for carrying out his/her duties under these regulations.

8-102. Duties of the Zoning Administrator. The Zoning Administrator, or his/her designee shall enforce these regulations, and in addition thereto and in furtherance of said authority, shall:

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

PART 2. BUILDING PERMIT AND OCCUPANCY CERTIFICATES

8-201. Issuance of Building Permit. Applications for building permits shall be reviewed in a timely manner for compliance with these regulations. No building permit shall be issued unless and until it has been approved by the Zoning Administrator as being in compliance with these regulations. Any building permit issued in conflict with the provisions of these regulations shall be null and void.

8-202. Occupancy Certificates. If any other code adopted by the County requires that an occupancy certificate be issued. Said certificate shall not be issued unless and until it has been approved by the Zoning Administrator as being in compliance with these regulations. Any occupancy certificate issued in conflict with these regulations shall be null and void.

PART 3. THE BOARD OF ZONING APPEALS

8-301. Authorization. A Board of Zoning Appeals shall be established by the Governing Body of the County as prescribed by law.

8-302. Membership. The Board of Zoning Appeals shall consist of five (5) members all of whom shall be residents of Barton County and shall serve without compensation. No member shall hold any other public office in the County. The members of the Board of Zoning Appeals shall be appointed by the Governing Body of the County. The members first appointed shall serve respectively for the following terms or until their respective successors are appointed and qualify; one (1) for one year, two (2) for two years, and two (2) for three years. Each member succeeding the first five (5) members, except those appointed to fill an unexpired term, shall serve for a term of three years. Vacancies upon the Board of Zoning Appeals shall be filled for the unexpired term of the member whose office has become vacant in the same manner as is provided for the appointment of such member. The Board of Zoning Appeals shall annually elect one of its members as chairperson. The Board of Zoning Appeals shall appoint, as secretary, the staff person designated by the County Administrator. The secretary shall maintain records and keep minutes of all proceedings before the Board of Zoning Appeals. The members of the Board of Zoning Appeals shall serve at the pleasure of the County Commission, and may be removed at any time for any reason by a majority vote of the County Commission.

8-303. Jurisdiction. The Board of Zoning Appeals shall have the following jurisdiction and authority:

- (A) To hear and decide appeals subject to the procedure and standards set out in Part 4 of Article XIV where it is alleged there is an error in order,

requirement, decision or determination (all herein referred to collectively as "decision") made by the Zoning Administrator under these regulations.

- (B) To hear and rule upon applications for variances from the provisions imposed by these regulations in the manner, and subject to the procedure and standards set out in these regulations.
- (C) To hear and rule upon applications for exceptions from the provisions imposed by these regulations in the manner, and subject to the procedure and standards set out in these regulations.
- (D) To hear and decide all matters referred to it upon which it is required or authorized to rule by these regulations or applicable state law.

8-304. Meetings. All meetings of the Board of Zoning Appeals shall be held at the call of the chairperson and at such other times as the Board of Zoning Appeals may determine.

8-305. Hearings and Rules. The presentation of all evidence in matters considered by the Board of Zoning Appeals at hearings required by these regulations, shall be open to the public; however, any deliberation may upon a vote of a majority of the members present be conducted in closed session. Any person may appear and testify at a hearing, either in person or by a duly authorized agent or attorney. The chairperson, or in his/her absence the vice-chairperson may administer oaths and may compel the attendance of witnesses. The Board of Zoning Appeals shall keep minutes of its proceedings showing evidence presented, findings of fact by the Board of Zoning Appeals, decisions of the Board and the vote of each member upon each question, or if absent or failing to vote, indicating such fact. Records of all official actions of the Board of Zoning Appeals shall be filed in the Office of the Zoning Administrator and shall be open to public inspection during reasonable business hours

8-306. Finality and Judicial Review of Decisions of the Board of Zoning Appeals. All decisions and findings of the Board of Zoning Appeals, on appeal or upon an application for an exception, or a variance, shall be final decisions; and shall, in all instances, be subject to judicial review in the manner provided by the applicable Kansas statutes.

PART 4. APPEALS

8-401. Authorization. An appeal from a decision of the Zoning Administrator with respect to the interpretation or application of these regulations may be taken to the Board of Zoning Appeals by any person aggrieved, or by any officer of the County, County or

any governmental agency or body affected by such decision of the Zoning Administrator.

- 8-402. Time for Appeals. The Board of Zoning Appeals shall prescribe the time for taking appeals by general rule. Appeals shall be taken within the prescribed time by filing a notice of appeal with the Office of the Zoning Administrator. The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Zoning Administrator shall forthwith transmit to the Board of Zoning Appeals all of the papers constituting the record upon which the decision being appealed was based.
- 8-403. Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Board of Zoning Appeals, after the notice of appeal has been filed, that by reason of facts stated in the certificate a stay would, in the Zoning Administrator's opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Zoning Appeals, or by a court of record on application, on notice to the Zoning Administrator and on due cause shown.
- 8-404. Hearing and Notice. The Board of Zoning Appeals shall select a reasonable time and place for the hearing of the appeal. Public notice of the time, place, date and subject of such hearing shall be published once in the Official County newspaper at least twenty (20) days prior to the date of hearing. A copy of such notice shall be mailed to each party in interest; and if action directly affecting specific property is the subject of the appeal, then to owners of all property within 1000 feet of the boundaries thereof. The Board of Zoning Appeals may give such additional notice as it may from time to time by rule provide. Any party in interest may appear and be heard at the hearing in person, by agent, or by attorney.
- 8-405. Decision of Appeals. The Board of Zoning Appeals may affirm or reverse, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the Zoning Administrator, may attach appropriate conditions and may issue or direct the issuance of a permit. The concurring vote of three members of the Board of Zoning Appeals shall be necessary to reverse, wholly or partly, modify, or attach any additional conditions to any decision or determination appealed from the Zoning Administrator under these regulations. The Board of Zoning Appeals shall render a written decision on the appeal without unreasonable delay after the close of a hearing, and in all cases, within sixty (60) days after the close of the hearing.
- 8-406. Records of Appeals. The Zoning Administrator shall maintain complete records of all actions of the Board of Zoning Appeals with respect to appeals.

PART 5. VARIANCES

- 8-501. Authorization. When deemed necessary by the Board of Zoning Appeals, the Board may grant variances, on the basis and in the manner hereinafter provided, to authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest, and where, due to special conditions, a literal enforcement of the provisions of these regulations, in an individual case, results in unnecessary hardship, provided that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. Such variance shall not permit any use not allowed by these regulations in such district.
- 8-502. Application for Variance. An application for a variance, together with an application for a building permit or sign permit when applicable, shall be filed with the Zoning Administrator. Application shall be made using the forms provided by the County and shall contain in complete form all information requested on the forms, as well as such additional information as may be requested by Zoning Administrator. As part of the application, the applicant shall be obligated to provide a complete and correct list of all owners of record of all property located within 1000 feet of the boundaries of the property to be affected by the proposed variance.
- 8-503. Hearing and Notice. The Board of Zoning Appeals shall select a reasonable time and place for the hearing. Notice shall be given in the manner required for hearings on appeals by Section 8-404 of these. Such notice shall contain the date, time and place of the hearing, the street address or common description of the property involved, and a brief description of the relief sought. The Board of Zoning Appeals may give such additional notice as it may from time to time, by rule provide. Any party in interest may appear and be heard at the hearing in person, by agent or by attorney.
- 8-504. Standards for Variances.
- (A) The Board of Zoning Appeals shall not grant a variance as authorized in Section 8-501 hereof unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met:
- (1) The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;

- (2) The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
- (3) The strict application of the provisions of these regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- (4) The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- (5) Granting the variance desired will not be opposed to the general spirit and intent of these regulations.

8-505. Conditions and Restrictions. In granting a variance, the Board of Zoning Appeals may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to comply with the standards set out in Section 8-504, and to carry out the general purpose and intent of these regulations. Failure to comply with all of the conditions, safeguards and restrictions placed on a variance shall constitute a violation of these regulations.

8-506. Decisions and Records. The Board of Zoning Appeals shall render a written decision on an application for a variance without unreasonable delay after the close of a hearing, but in all cases, within sixty (60) days from the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board of Zoning Appeals with respect to applications for variances.

8-507. Period of Validity. No variance granted by the Board of Zoning Appeals shall be valid for a period longer than 180 days from the date on which the Board of Zoning Appeals grants the variance, unless within such 180 day period: (1) a building permit is obtained and the construction, moving or remodeling of a structure is started, or (2) a use is commenced or continued pursuant to the variance. The Board of Zoning Appeals may grant additional extensions not exceeding 180 days each, upon written application, without notice or hearing.

PART 6. EXCEPTIONS

8-601. Authorization. When deemed necessary by the Board of Zoning Appeals, the Board may grant exceptions from the provisions of these regulations on the basis and in the manner hereinafter provided, and only in those instances where the Board is specifically authorized to grant such exceptions. In no event shall an exception be granted unless it is specifically listed as an exception in these regulations.

- 8-602. Application for Exceptions. An application for an exception, together with an application for a building permit or sign permit when applicable, shall be filed with the Zoning Administrator. Application shall be made using the forms provided by the County and shall contain in complete form all information requested on the forms, as well as such additional information as may be requested. As part of the application, the applicant shall be obligated to provide a complete and correct list of all owners of record of all property located within 1000 feet of the boundaries of the property to be affected by the proposed exception.
- 8-603. Hearing and Notice. A hearing on the application shall be held and notice thereof given as specified under Section 8-404 of these regulations.
- 8-604. Authorized Exceptions. The Board of Zoning Appeals is hereby authorized to grant exceptions from the following requirements of these regulations:
- (A) Any bulk regulation.
 - (B) Any requirement for surfacing of off-street parking, provided the Board also requires a reasonable schedule within which such surfacing requirement shall be complied with.
 - (C) Any requirement related to the number of off-street parking spaces.
 - (D) Any regulation related to the height or setback of signs.
 - (E) Those portions of the Flood Plain Regulations described herein.
- 8-605. Standards for Exceptions. The Board of Zoning Appeals shall not grant an exception as authorized in Section 8-604 hereof unless it shall, in each case, make specific written findings of fact, based upon the particular evidence presented to it, that all of the following standards have been met:
- (A) The property complies with all applicable requirements of these regulations, other than the one for which an exception is being requested;
 - (B) The proposed exception will not cause a substantial adverse affect on nearby properties;
 - (C) The exception desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
 - (D) The strict application of these regulations is unreasonable, or unnecessary when all facts and circumstances are considered. In determining this

standard, the Board shall weigh all facts and circumstances and place whatever emphasis and relevance it deems to be appropriate on each.

- 8-606. Conditions and Restrictions. In granting an exception, the Board of Zoning Appeals may impose such conditions, safeguards and restrictions upon the premises benefited by the exception as may be necessary to comply with the standards set out in Section 8-605, and to carry out the general purpose and intent of these regulations. Failure to comply with all of the conditions, safeguards and restrictions placed on an exception shall constitute a violation of these regulations.
- 8-607. Decisions and Records. The Board of Zoning Appeals shall render a written decision on an application for an exception without unreasonable delay after the close of the hearing, but in all cases, within sixty (60) days from the close of the hearing. The Zoning Administrator shall maintain complete records of all actions of the Board of Zoning Appeals with respect to applications for exceptions.
- 8-608. Period of Validity. No exception granted by the Board of Zoning Appeals shall be valid for a period longer than 180 days from the date on which the Board of Zoning Appeals grants the exception, unless within such 180 day period: (1) a building permit is obtained and the construction, moving or remodeling of a structure is started, or (2) a use is commenced or continued pursuant to the exception. The Board of Zoning Appeals may grant additional extensions not exceeding 180 days each, upon written application, without notice or hearing.

PART 7. CONDITIONAL USES

- 8-701. Authorization. The Board of County Commissioners of Barton County may grant the establishment of those conditional uses that are expressly authorized to be allowed as a conditional use in a particular zoning district. No conditional use shall be granted unless such grant complies with all of the applicable provisions of these regulations. In addition, Conditional Uses for Manufactured Home Parks and Large Scale Manufacturing and/or Processing Facilities shall comply with the provisions set forth in Article IV Part 4 of these Regulations.
- 8-702. Application for Conditional Use Permit. An application for a conditional use permit, together with a site plan and an application for a building permit when applicable, shall be filed with the Zoning Administrator. Application shall be made using the forms provided by the County, and shall contain in complete form all information requested on the forms, as well as such additional information as may be requested by the Zoning Administrator. As part of the application, the applicant shall be obligated to provide a complete and correct list of all owners of record of all property located within 1000 feet of the boundaries of the property on which the proposed conditional use would be located.

- 8-703. Procedures, Hearing and Notice. Procedures, hearing and notice requirements for Conditional Use Permits shall be the same as specified in Article IX for changes in zoning.
- 8-704. Standards for Conditional Use Permits. A Conditional Use Permit shall not be granted unless all the following standards have been met:
- (A) The proposed conditional use complies with all applicable provisions of these regulations, including lot size requirements, bulk regulations, use limitations, and performance standards.
 - (B) The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 - (C) The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate area so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 - (1) The location, nature and height of buildings, structures, walls and fences on the site, and
 - (2) The nature and intensity of the use proposed on the site.
 - (D) Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
 - (E) Adequate utility, drainage, and other such necessary facilities have been or will be provided.
 - (F) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- 8-705. Conditions and Restrictions. In granting a conditional use, the Planning commission may recommend and the Board of County Commissioners may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary carry out the general purpose and intent of these

regulations. Failure to comply with all of the conditions, safeguards and restrictions placed on a conditional use shall constitute a violation of these regulations. All plans and specifications approved by the Planning Commission and Board of County Commissioners during the review process shall be incorporated by reference in the resolution approving the Conditional Use Permit, and the use approved shall be conditioned upon adherence to said plans and specifications.

8-706. Decisions and Records. The Planning Commission and the Board of County Commissioners shall render written decisions containing specific findings of fact on an application for a conditional use without unreasonable delay after the meeting at which the application is considered.

8-707. Period of Validity. No conditional use permit granted by the County shall be valid for a period longer than 180 days from the date on which the Board County Commissioners grants the conditional use, unless within such 180 day period: (1) a building permit is obtained and the erection or alteration of a structure is started, or (2) a use is commenced or continued pursuant to the conditional use. The Board Commissioners may grant additional extensions not exceeding 180 days each, upon written application, without notice or hearing.

PART 8 SPECIAL USE PERMITS

8-801 Authorization. The Board of County Commissioners of Barton County may grant Special Use Permits for Manufactured Home Parks and Large Scale Manufacturing and/or Processing Facilities pursuant to the provisions set forth in Article IV Part 4 of these Regulations.

8-802. Application for Special Use Permit. An application for a Special use permit, together with a site plan and an application for a building permit when applicable, shall be filed with the Zoning Administrator. Application shall be made using the forms provided by the County, and shall contain in complete form all information requested on the forms, as well as such additional information as may be requested by the Zoning Administrator. As part of the application, the applicant shall be obligated to provide a complete and correct list of all owners of record of all property located within 1000 feet of the boundaries of the property on which the proposed Special use would be located.

8-803. Procedures, Hearing and Notice. Procedures, hearing and notice requirements for Special Use Permits shall be the same as specified in Article IX for changes in zoning.

- 8-804. Standards for Special Use Permits. A Special Use Permit shall not be granted unless all the following standards have been met:
- (A) The proposed Special use complies with all applicable provisions of these regulations, including lot size requirements, bulk regulations, use limitations, and performance standards.
 - (B) The proposed Special use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 - (C) Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
 - (D) Adequate utility, drainage, and other such necessary facilities have been or will be provided.
 - (E) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- 8-805. Conditions and Restrictions. In granting a Special use, the Planning commission may recommend and the Board of County Commissioners may impose such conditions, safeguards and restrictions upon the premises benefited by the Special use as may be necessary carry out the general purpose and intent of these regulations. Failure to comply with all of the conditions, safeguards and restrictions placed on a Special use shall constitute a violation of these regulations. All plans and specifications approved by the Planning Commission and Board of County Commissioners during the review process shall be incorporated by reference in the resolution approving the Special Use Permit, and the use approved shall be conditioned upon adherence to said plans and specifications.
- 8-806 Decisions and Records. The Planning Commission and the Board of County Commissioners shall render written decisions containing specific findings of fact on an application for a Special use without unreasonable delay after the meeting at which the application is considered.
- 8-807 Period of Validity. No Special use permit granted by the County shall be valid for a period longer than 180 days from the date on which the Board County Commissioners grants the Special use, unless within such 180 day period: (1) a building permit is obtained and the erection or alteration of a structure is started, or (2) a use is commenced or continued pursuant to the Special use. The Board

Commissioners may grant additional extensions not exceeding 180 days each, upon written application, without notice or hearing.

PART 9. SITE PLANS

8-901 When Required. A site plan shall be submitted for review and approval at the time of application for a Conditional or Special Use Permit or whenever these regulations require a site plan for a particular land use.

(A) Site Plan Review Process and Requirements

- (1) A site plan required for a Conditional or Special Use Permit shall be submitted with the application, and review and approval shall be subject to the provisions of Part 7 of this Article.
- (2) A site plan required for uses which do not require Conditional or Special Use Permits shall be reviewed and approved or denied by the Zoning Administrator.
- (3) Denial of a site plan by the Zoning Administrator may be appealed to the Planning Commission within 30 days of the date of denial, and the Planning Commission, at its next regular meeting shall confirm, reverse or reverse with conditions, the decision of the Zoning Administrator.
- (4) Revisions may be made to an approved site plan and may be granted by the Zoning Administrator upon request. Revisions shall be considered in the same manner as for original consideration.

(B) Site Plan Contents

- (1) Four (4) copies shall be submitted at a scale not to exceed 1" = 100', and plan sheets shall show the following:
 - (a) Name and address of the landowner, developer and the firm preparing the plan.
 - (b) Location and legal description of the tract.
 - (c) North point, scale and date.
 - (d) A site map showing surrounding roads, zoning, and other features outside the site within 200 feet of the exterior boundaries.
 - (e) Area and dimensions of the site.
 - (f) Existing contours at intervals of not more than 2 feet, and the proposed grading plan.
 - (g) Location of any floodplain areas.

- (h) Number, location, and the size of all parking facilities.
- (i) Location and width of driveways and walkways.
- (j) Location of all existing and proposed utilities (sanitary sewer, fire hydrants, water system, storm sewer, gas, telephone, and electrical power).
- (k) Location and use of all buildings to be constructed within the site.
- (l) Location of lighting to be provided.
- (m) Location of trash containers and any proposed screening materials.
- (n) The direction of surface flow and a general indication of the location and type of storm water facilities to be constructed.
- (o) Location of existing structures.

PART 10. FEES, PENALTIES AND ENFORCEMENT

- 8-1001 Fees. Any application for a building permit, occupancy certificate variance, exception, conditional use permit, or amendment, or the filing of a notice of appeal shall be accompanied by such fee as shall be specified from time to time by resolution of the Governing Body of the County.
- 8-1002 Penalties. Any violation of any provision of these regulations shall be punishable by a fine not to exceed five-hundred dollars (\$500) or by imprisonment for not more than six (6) months for each offense or by both such fine and imprisonment. Each day's violation shall constitute a separate offense.
- 8-1003. Enforcement. It shall be the duty of the zoning Administrator to enforce the provisions of this resolution, and to institute any appropriate action to remedy violations of this resolution.

ARTICLE IX

AMENDMENTS

PART 1. GENERAL PROVISIONS

- 9-101. Authority. These regulations, and the districts created under the authority of these regulations, may be amended from time to time by ordinance duly enacted by the Governing Body of the Barton County. No such amendment shall be adopted except in accordance with the procedures of Kansas Statutes, and this Article.
- 9-102. Proposal of Amendment. A proposal for amendment may be initiated by the Governing Body of the County or the Barton County Planning Commission, hereinafter known as the Planning Commission. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may also be initiated by application of the owner, or the owner's representative, of the property affected.
- 9-103. Application for Amendment.
- (A) When the owner of the property affected proposes a change in the zoning classification of such property, an application for such amendment, addressed to the County Governing Body, shall be filed with the Planning Commission. The Governing Body may establish reasonable fees to be paid in connection with such application. Such fees shall be paid in advance by the owner of any property at the time of making application for a zoning amendment. The application shall be made on a form provided by the County. Such application shall contain information as requested by Staff, Planning Commission, or the Governing Body.

PART 2. HEARINGS

- 9-201. Public Hearing. The Planning Commission shall conduct a public hearing on each proposed amendment within sixty (60) days of receipt of a complete application; however, such hearing may be postponed for just cause.
- 9-202. Notice of Hearing. Public notice of a hearing on a proposed amendment shall be published once in the official County newspaper. At least twenty (20) days shall elapse between the date of such publication and the date set for such hearing. Such

notice shall state the date, time and place of the hearing and shall contain a statement regarding:

- (1) the proposed change in these regulations; or
- (2) the proposed change in the zoning classification of any specific property; or
- (3) the proposed change in the zoning district boundaries of any specific property.

If the proposed amendment would change the zoning classification of any specific property or the boundaries of any zoning district, such notice shall contain the legal description or a general description sufficient to identify the property under consideration, the street address or general street location of such property, its present zoning classification, and the proposed classification. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When a proposed amendment will affect the zoning classification of specific property, written notice of the proposed amendment shall be mailed at least twenty (20) days before the hearing to all owners of record of land located within 1000 feet of the area proposed to be altered in the unincorporated area of the County. If the zoning amendment is proposed for property located adjacent to the corporate limits of an incorporated city, the area of notification shall be extend to 200 feet in the incorporated area.

9-203 Conduct of Hearing. The hearing shall be conducted according to such procedures as the Planning Commission may from time to time prescribe by rule. An accurate written summary of the proceedings shall be maintained and preserved.

PART 3. REPORT ON PROPOSED AMENDMENT

9-301. Report by Planning Staff. Prior to the public hearing, the Staff of the Planning Commission shall prepare a report on the proposed amendment and shall submit the report to the Planning Commission at the public hearing. A copy of this report shall also be made available to the owner or representative of the owner of the specified property affected by the proposed amendment. Such report may contain a recommendation as to whether the proposed amendment should be adopted and shall contain specific written determinations on the items listed in Section 9-302 or 9-303, whichever is applicable, and on such other items as the Planning Commission or Staff may consider relevant.

9-302. Amendments to Text. When a proposed amendment would result in a change in the text of this ordinance but would not result in a change of zoning classification of any specific property, the report of the Planning Staff shall contain a statement as to the

nature and effect of such proposed amendment and determinations as to the following items:

- (A) Whether such change is consistent with the intent and purpose of this ordinance;
- (B) The areas which are most likely to be directly affected by such change and in what way they will be affected; and
- (C) Whether the proposed amendment is made necessary because of changed or changing conditions in the areas and zoning districts affected, or in the County Planning Area generally, and, if so, the nature of such changed or changing conditions; and
- (D) Whether such change is consistent with the intent and purpose of the policies and goals as outlined in the adopted Comprehensive Plan of the County.

9-303. Amendments to Change Zoning Districts. When a proposed amendment would result in a change of the zoning classification of any specific property, the staff report of the Planning Staff shall contain information addressing all factors set forth in Section 9-403(A).

PART 4. ACTION BY THE PLANNING COMMISSION AND COUNTY GOVERNING BODY

9-401. Adoption of Amendments. At the conclusion of the public hearing on a proposed amendment, the Planning Commission shall, by a vote of members present, determine what recommendation to forward to the Governing Body.

- (A) A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Governing Body, except that if the Planning Commission fails to make a recommendation on a zoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval.
- (B) The Planning Commission's recommendation shall be submitted to the Governing Body along with a copy of the staff report and a copy of the written summary of the hearing on the proposed amendment. Upon receipt of a recommendation from the Planning Commission, the Governing Body may:
 - (1) adopt such recommendation by ordinance; or

- (2) override the Planning Commission's recommendation by a two-thirds (2/3) majority vote of the membership of the Governing Body; or
 - (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.
- (C) If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after consideration of the same, may resubmit its original recommendation, giving the reasons therefore or submit a new and amended recommendation. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body may consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.
- (D) Upon receipt of such recommendation as required by Section 9-401(C), the Governing Body, by simple majority thereof, may adopt, or may revise or amend and adopt, such recommendation by ordinance, or it need take no further action thereon. In all cases the Governing Body must consider such recommendation and address the matters required by Section 9-403, even if they take no further action thereon.

9-402. Protest Petition. Regardless of whether or not the Planning Commission recommends approval or disapproval of a zoning amendment, if a valid protest petition against such amendment is filed in the office of the County Clerk within fourteen (14) days after the date of the conclusion of the public hearing which was commenced pursuant to the publication notice, the ordinance adopting such amendment shall not be passed except by at least a 3/4 vote of all the members of the Governing Body. Such protest petition, in order to be valid, shall be signed by all owners of record of twenty percent (20%) or more of any real property proposed to be rezoned, or by all the owners of record of twenty percent (20%) or more of the total area required to be notified of the proposed rezoning of a specific property, excluding streets and public ways. Owners of record shall mean any person or entity who is reflected as the most recent owner or owners of property as documented in the (1) Barton County Register of Deeds, or (2) Barton County District Court, or any combination thereof.

9-403. Matters to be Considered When Changing Zoning Districts.

- (A) Whenever the Planning Commission or the Governing Body acts upon a proposed amendment to the Zoning Ordinance that is not a general revision of

existing regulations and affects specific property, they shall address the following matters:

- (1) the existing use of the property;
 - (2) the zoning and land uses of nearby properties;
 - (3) the suitability of the subject property for the land uses to which it is restricted under current zoning;
 - (4) the character of the neighborhood;
 - (5) the compatibility of the proposed zoning district with nearby properties and the extent to which it may detrimentally affect those properties;
 - (6) the conformance of the requested change to the adopted Comprehensive Plan for the Barton County. (If the proposed amendment is in accordance with said Comprehensive Plan, it shall be presumed to be reasonable.);
 - (7) the length of time the subject property has remained vacant as zoned;
 - (8) the relative gain to the public health, safety and welfare that a denial of the proposed amendment would accomplish, compared with the hardship imposed upon the individual owner that would result from such denial;
 - (9) whether adequate sewer and water facilities, streets and other needed public services exist, or can be provided to serve the uses that would be permitted by the proposed zoning district;
 - (10) the recommendations of permanent or professional staff; and
 - (11) such additional matters as may apply in individual circumstances.
 - (12) the recommendation of the Planning Commission.
- (B) In approving or disapproving such a proposed amendment, the Planning Commission and the Governing Body shall set forth, on the record, their reasons for such action, as they pertain to each of the matters set forth above. Such Bodies may incorporate, as their reasons, any information contained in the report of the Planning Staff prepared pursuant to Section 9-303. The failure of the Planning Commission or Governing Body to specifically address

Amendments

any matters set forth above shall raise the presumption that their reasons, as to the matter, are as contained in said report.

RESOLUTION 2003-16

RESOLUTION FOR APPROVAL OF CONDITIONAL USE ZONE FOR A DESCRIBED TRACT OF LAND

WHEREAS, on the 9th day of May, 2000, the Barton County Planning Commission recommended to the Board of Barton County Commissioners the adoption of Zoning Regulations and Subdivision Regulations through the adoption of Resolution 2000-01 and Resolution 2000-02; and

WHEREAS, on the 12th day of August, 2003, the Planning Commission approved a recommendation to the Board of County Commissioners to take action on zoning conditional use of a certain tract of land.

WHEREAS, that the Barton County Planning Commission recommends that:

The tract of land being situated in the North Half of the Northeast Quarter (N/2 NE/4) of Section 16, Township 20 South, Range 14 West, also known as the 27 acre tract South of the railroad tracks, commencing at the Northwest Corner (NW/c), thence South 996 feet; thence along the irrigation line east 1,591 feet, thence 925 feet North and 1580 feet West to the point of beginning.

Commonly known as the area between the Marmie Rural Subdivision and Venture Corporation's sandpit on SW 56 Avenue, south of the railroad tracks; and is Currently zoned as Agricultural Use District shall be Approved for a Conditional Use for Hydraulic Dredging - Sand and Gravel Operation Use - As said conditional use is allowed under the Barton County Zoning Regulations, Article III, District Regulations, Part 3-101, Conditional Uses Agricultural District and the following Special Conditions:

- 1) Stipulation Agreement as signed the 12th day of August, 2003, by Larry E. Keenan, attorney for the "Applicant", and Douglas W. McNett, attorney for the "Objecting Parties". The Stipulation Agreement being made part of this Resolution by reference herein.
- 2) Conditions specified by action of the Barton County Planning Commission on the applicant to establish a tree line in the 200 ft. buffer in the next 10 years and that ingress and egress to the property remain as presently in place.

NOW, THEREFORE, the Board of County Commissioners of Barton County, Kansas, hereby adopts the recommendation of the Barton County Planning Commission as contained herein; and

FURTHER, that the Secretary of the Planning Board is hereby directed to have said revision reflected in the official zoning records of Barton County and that a method be established for tracking this and future actions taken in zoning areas.

MOTION MADE, SECONDED AND ADOPTED this 25th day of August, 2003.

BOARD OF COUNTY COMMISSIONERS

Kirby Krier
Kirby Krier, Chairman

Jan Crissman
Jan Crissman, Commissioner

Bill Ernsting
Bill Ernsting, Commissioner

Pat Keenan
Pat Keenan, Commissioner

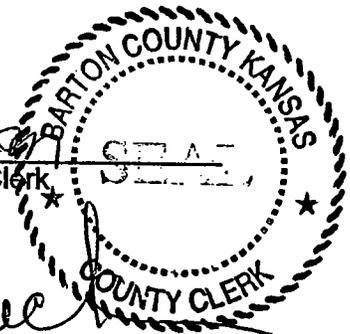
Kenny Schremmer
Kenny Schremmer, Commissioner

ATTEST:

Donna Zimmerman
Donna Zimmerman, County Clerk

APPROVED AS TO FORM:

Richard A. Boeckman
Richard A. Boeckman, County Counselor



BARTON COUNTY RESOLUTION 2004-26
RESOLUTION AMENDING THE BARTON COUNTY ZONING REGULATIONS

WHEREAS, the Board of County Commissioners of Barton County, Kansas, adopted Subdivision and Zoning Regulations on June 26, 2000, for the protection of the local environment; and from time to time, said Subdivision and Zoning Regulations shall be amended to assurance compliance with Kansas Statutes and with current practices; and

WHEREAS, on September 14, 2004, the Barton County Planning Commission, having met public notification requirements, met in Regular Session to determine whether a revision should be made to the Barton County Zoning Regulations, Article VIII, Administration, Part 3, the Board of Zoning Appeals, Paragraph 8-302. Membership; and

WHEREAS, with a quorum present and with the approval of the majority of voting members, the below-described amendment was approved by the Planning Commission.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Barton County, Kansas, that at the recommendation of the Planning Commission the revision as described herein is adopted:

The current definition of Membership, as found in the Barton County Zoning Regulations, Article VIII, Administration, Part 3, The Board of Zoning Appeals, Paragraph 8-302. Membership, reads, in part, "The Board of Zoning Appeals shall consist of five (5) members all of whom shall be residents of Barton County and shall serve without compensation. No member shall hold any other public office in the County. The members of the Board of Zoning Appeals shall be appointed by the Governing Body of the County..."; and

That the wording "No member shall hold any other public office in the County." shall be stricken from the paragraph; and

That the wording "Further, that none of the members (of the Board of Zoning Appeals) shall hold any other elected or appointed office or position in the County government except that one member shall be a member of the Planning Commission." shall be inserted; and

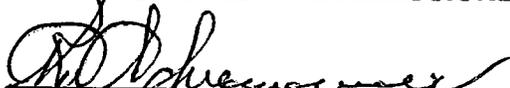
Finally, that the amended paragraph will read, in part, "The Board of Zoning Appeals shall consist of five (5) members all of whom shall be residents of Barton County and shall serve without compensation. Further, that none of the members (of the Board of Zoning Appeals) shall hold any other elected or appointed office or position in the County government except that one member shall be a member of the Planning Commission. The members of the Board of Zoning Appeals shall be appointed by the Governing Body of the County..."

FURTHER, that the Secretary of the Planning Board is hereby directed to include said revision in the Barton County Zoning Regulations and to track this revision in a manner prescribed by the Planning Commission.

FURTHER, that this Resolution shall become effective upon publication in the official County newspaper

MOTION MADE, SECONDED AND ADOPTED this 20th day of September, 2004.

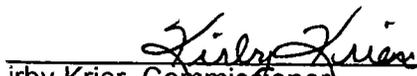
BOARD OF COUNTY COMMISSIONERS


Kenny Schremmer, Chairman

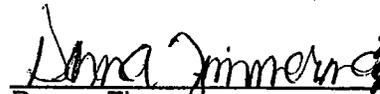

Jan Gissman, Commissioner

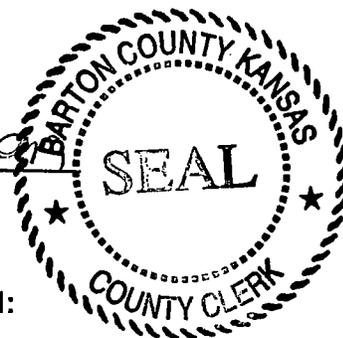

Bill Ernsting, Commissioner


Pat Keenan, Commissioner


Kirby Krier, Commissioner

ATTEST:


Donna Zimmerman,
County Clerk



APPROVED AS TO FORM:


Richard A. Boeckman,
County Counselor

ARTICLE X

CONSTRUCTION AND DEFINITIONS

PART 1. RULES OF CONSTRUCTION AND INTERPRETATION

10-101. Construction.

- (A) In the construction of these regulations, the provisions and rules of this shall be preserved and applied, except when the context clearly requires otherwise:
- (1) Words used in the present tense shall include the future.
 - (2) Words in the singular number include the plural number, and words in the plural number include the single number.
 - (3) The word "shall" is mandatory.
 - (4) The word "may" is permissive.
 - (5) The word "person" includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 - (6) The word "County" means Barton County, Kansas.
 - (7) Unless otherwise specified, all distances shall be measured horizontally.
- (B) Any word or phrase which is defined in this Article X, or elsewhere in these regulations, shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

10-102. Interpretation.

- (A) **Minimum Requirements.** In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

- (B) **Overlapping or Contradictory Regulations.** Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations, which are more restrictive, shall govern.
- (C) **Private Agreements.** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.

10-103. Separability. It is hereby declared to be the intention of the County that the several provisions of these regulations are separable, in accordance with the following rules:

- (A) If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect any provisions of these regulations.
- (B) If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provision to any other property or structure.
- (C) If any court of competent jurisdiction shall adjudge any portion of these regulations to be invalid or unconstitutional, such ruling shall not affect the validity or constitutionality of the remaining portions of these regulations.

PART 2. DEFINITIONS

10-201. The following definitions shall be used in the construction and interpretation of this ordinance.

ACCESSORY USE: A structure or use which is subordinate to and serves a principal building or principal use; and is subordinate in area, extent or purpose to the principal building, or principal use served; and contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or the principal use served; and is located on the same lot as the principal building or principal use served.

AGRICULTURE: The use of a tract of ground for growing crops in the open, pasturage, dairy animals, poultry, livestock, fruits, and vegetables, plant nurseries including commercial greenhouses, and horticulture, including the structures necessary for carrying out such operations and the residence of the person or family who owns or operates such operation.

APPROVED SANITARY SEWER SYSTEM: A sanitary waste disposal system which is designed to serve more than one property, and which consists of underground sewer pipes which connect properties to a common waste treatment facility which has been approved and/or licensed by the Kansas State Department of Health and Environment.

BUILDING: Any covered structure built for support, shelter or enclosure of persons, animals, chattels or movable property of any kind, and which is permanently affixed to land. (See structure.)

BULK REGULATIONS: Regulations controlling the size of structures and the relationships of structures and uses to each other and to open areas and lot lines. Bulk regulations include regulations controlling:

- (1) Maximum height.
- (2) Minimum size of yard and setbacks.

BULK STORAGE: The storage of chemicals, petroleum products and other hazardous materials in aboveground containers for subsequent resale to distributors, or retail dealers or outlets.

BUSINESS AND PROFESSIONAL OFFICE: The office of an engineer, dentist, doctor, attorney, real-estate broker, insurance broker, architect, or other similar professional person, and any office used primarily for accounting, correspondence, research, editing or administration.

COMPREHENSIVE PLAN: The Plan adopted pursuant to K.S.A. 12-747.

CONDITIONAL USE: A land use permitted in certain zoning districts subject to conditions pursuant to Article VIII of these Regulations.

DAY CARE CENTER: A facility in which day care is given to more than six (6) children not related to the operator by blood, marriage, or legal adoption.

DAY CARE HOME: A home occupation in which care is given to six (6) or fewer children, not related to the operator by blood, marriage, or legal adoption.

DWELLING: A building or portion thereof, including residential-design manufactured homes designed or used for a residential occupancy.

DWELLING, MULTIPLE-FAMILY: A residential building containing three (3) or more dwelling units.

DWELLING, SINGLE-FAMILY: A residential building containing one (1) dwelling unit only.

DWELLING, TWO-FAMILY: A residential building containing two (2) dwelling units only.

DWELLING UNIT: One (1) or more rooms in a residential building or residential portion of a building which are arranged, designed, used, or intended for use by one (1) family, and which includes lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

FAMILY: Either (a) an individual or two (2) or more persons related by blood, marriage or adoption, or under foster care established by governmental action, living together as a single housekeeping unit; or (b) a group of not more than four (4) persons some of which are not related by blood, marriage, or adoption, living together as a single housekeeping unit. There shall be a rebuttable presumption that five (5) or more people living together as a single housekeeping unit are not a family.

FLOOR AREA: The sum of the gross horizontal areas of the several floors of a building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings, computed as follows:

FLOODPLAIN: See Article VII.

FRONTAGE: The length of a front lot line or lines.

HEIGHT, MAXIMUM: The greatest vertical distance, as specified in the applicable district regulations, measured from the average finished grade adjacent to a structure to the highest point of the structure.

HOTEL/MOTEL: A building or portion thereof, or a group of buildings, which provides ten (10) or more rooms of sleeping accommodations for transients on a daily or weekly basis, whether such establishments are designated as a hotel, inn, motel, motor inn, motor lodge, or otherwise.

KENNEL: A business engaged in the breeding, buying, selling, trading, training or boarding of dogs or cats, or both dogs and cats. The term "business" shall include any operation which is primarily for the commercial gain of the owner or any operation which routinely engages in the acquisition and disposition of dogs or cats and routinely maintains in excess of five (5) animals, regardless of whether or not such operation results in commercial gain to the owner.

LARGE SCALE MANUFACTURING AND PROCESSING FACILITIES: Manufacturing and processing facilities which will have an important economic impact upon the County, which are expected to employ more than 200 persons, and which generate extraordinary traffic and activity in the vicinity of the operation.

LANDSCAPING: The improvement of a lot, parcel or tract of land with grass, flowers, shrubs, trees, or other natural and decorative features.

LODGING / BOARDING HOUSE / BED AND BREAKFAST: A dwelling which contains less than ten (10) rooms of sleeping accommodations, and no more than a single kitchen facility and whereby prearrangement and for compensation on a periodic basis, more than four (4) unrelated individuals can reside.

LOT: A contiguous parcel of land that is designated by its owner or developer, at the time of applying for a building permit, as a tract all of which is to be used, developed, or built upon as a unit under single ownership.

LOT AREA: The area of a horizontal plane bounded by the front, side and rear lot lines.

LOT DEPTH: The distance between the midpoints of the front lot lines and the midpoints of the rear lot lines.

LOT LINE: Lot Boundary Line. See Lot Line, Front; Lot Line, Rear; Lot Line, Side.

LOT LINE, FRONT: A street right-of-way line forming the boundary of a lot. On corner lots having frontages on three (3) public rights-of-way, the right-of-way from which access is prohibited by plat, covenant or easement shall be considered a rear lot line.

LOT LINE, REAR: The lot line that is most distant from, and is, or is most nearly, parallel to, the front lot line.

LOT LINE, SIDE: A lot line which is neither a front lot line or a rear lot line.

LOT OF RECORD: A lot which is part of a subdivision, the plat of which has been recorded at the office of the Register of Deeds Barton County.

LOT WIDTH: The distance on a horizontal plane between the side lot lines measured at right angles to the lot depth at the established front building line.

MANUFACTURED HOME: A structure, designed to be a residence, built on or after June 15, 1976, which meets the National Manufactured Home Construction and Safety Standards (42 U.S.C. Sec. 5403) has a permanent chassis, and is transportable in one (1) or more sections. (Does not include modular homes).

MANUFACTURED HOME LOT: A parcel of land, located in a Manufactured Home Park, designed for the placement of a manufactured home or a mobile home for single-family occupancy and the exclusive use of its occupants.

MANUFACTURED HOME PARK: A tract of real estate which has been developed, subdivided, planned and improved for the placement of manufactured and mobile homes for single family occupancy.

MOBILE HOME: A structure, designed to be a residence, built prior to June 15, 1976, which may or may not meet the National Manufactured Home Construction

and Safety Standards (42 U.S.C. Sec. 5403) has a permanent chassis, and is transportable in one or more sections.

MODULAR HOME: A structure, designed to be used as a dwelling, which is constructed in accordance with the Regulations of Barton County, which is transportable in one or more sections but is not constructed on a permanent chassis, and which is placed on a permanent foundation.

NONCONFORMING USE: Any property or use, which does not comply with all applicable provisions of these regulations.

OFF-STREET LOADING: An off street space or berth primarily used for the unloading or loading of materials.

OILFIELD SUPPLY AND STORAGE YARDS: An open area, and appurtenant structures and shops, where materials, equipment and supplies necessary in the oil exploration, and production business are stored.

OUTDOOR STORAGE: The storage of goods and materials outside of any building or structure, but not including storage of a temporary or emergency nature.

PRINCIPAL STRUCTURE: A structure in which is conducted the principal use of the lot on which it is located.

PRINCIPAL USE: The primary or predominant use of a lot as distinguished from an accessory use.

RESIDENTIAL BUILDING: A building all or part of which contains one (1) or more dwelling units, including single-family dwellings, two-family dwellings, multiple-family dwellings, lodging houses, dormitories, sororities and fraternities.

RESIDENTIAL-DESIGN MANUFACTURED HOME: A manufactured home that is designed to be a dwelling, and which is: placed on a permanent foundation; has a minimum dimension of twenty-two (22) body feet in width; a pitched roof; siding and roofing materials which are customarily used on site built homes; and which meets architectural and aesthetic standards set forth in Section 2-~~413~~ of these regulations. HM

RETAIL SALES: The sale of goods, merchandise and commodities for use or consumption.

ROAD: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles (Street).

SALVAGE YARD: An open area where inoperable motor vehicles, used vehicle parts, tires and scrap metals are bought, sold, stored, processed or handled.

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

SCREENING: Walls, fences, hedges, berms, evergreen trees or any combination thereof that is designed to obstructs land uses from view.

SPECIAL USE: A land use permitted in all zoning districts subject to conditions pursuant to Article VIII of these Regulations.

STREET: A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles (Road).

TEMPORARY USE: Uses permitted in each zoning district unless restricted to particular zoning districts, subject to specific regulations and time limits and the other applicable regulations of the district in which the use is permitted.

USE: Any purpose for which a structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also, any activity, occupation, business or operation carried on, or intended to be carried on, in a structure or on a tract of land.

YARD: That area required by these Regulations to be open space, unoccupied, and unobstructed from its lowest level to the sky, except for structures permitted by these Regulations.

YARD, FRONT: A yard extending along the full length of a front lot line and back to a line drawn parallel to the front lot line at a distance therefrom equal to the depth of the minimum front yard. On a corner lot, each yard that abuts a front lot line shall be considered a front yard, except that on corner lots having frontages on three (3) public rights-of-way, the right-of-way from which access is prohibited by plat, covenant or easement shall be considered a rear lot line.

YARD, REAR: A yard extending along the full length of the rear lot line and back to a line drawn parallel to the rear lot line at a distance therefrom equal to the depth of the minimum rear yard. In the case of a corner lot, there shall be no rear yard as defined, and in such case the sides opposite the street sides shall be considered as side yards for setback purposes.

In the case of a through lot with one side abutting an arterial street, the yard abutting the street that does not give access to the lot shall be considered the rear yard.

YARD, SIDE: A yard extending along a side lot line and back to a line drawn parallel to the side lot line at a distance therefrom equal to the width of the minimum side yard, but excluding any area encompassed within a front yard or rear yard. Dimensions of minimum side yards specified in the district regulations of these regulations refer to the required width of each side yard rather than to the width of both side yards, unless otherwise specified.

ARTICLE XI

EFFECTIVE DATE

11-101. Effective Date. These Regulations shall take effect and be in force from and after the adoption of the incorporating Resolution and its publication in the official Barton County newspaper.

APPROVED by the Governing Body of Barton County, Kansas, this 26 day of June, 2000.

Patty Dunner
Chair, Board of County Commissioners

Donna Zimmerman
ATTEST: County Clerk

by marcia Lauber, deputy



Barton County Zoning Regulations

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ARTICLE XII

ADDENDUM

Addenda to the Zoning Regulations, and Corresponding Maps if applicable, are shown on the following pages. Resolutions are listed by date of adoption.

Planning Commission Resolution 2000-01, Concurrent with Barton County Resolution 2000-12, adopted June 26, 2000 – Resolution of the Barton County Planning Commission Recommending Adoption of the Barton County Zoning Regulations Including the Official Zoning Map of Barton County

Map showing zoning areas

Proof of Publication – Resolution 2000-12

Planning Commission Resolution 2000-05, Concurrent with Barton County Resolution 2000-18, adopted September 11, 2000 – Resolution Authorizing Zoning Authority for the Area of Land Lying Within Three Miles of the City Limits of Great Bend, Kansas

Map showing three mile limit

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BARTON COUNTY PLANNING COMMISSION RESOLUTION 2000-01
Concurrent With
BARTON COUNTY RESOLUTION 2000-12

RESOLUTION OF THE BARTON COUNTY PLANNING COMMISSION
RECOMMENDING ADOPTION OF THE BARTON COUNTY ZONING
REGULATIONS INCLUDING THE OFFICIAL ZONING MAP OF BARTON
COUNTY.

BE IT RESOLVED by the Barton County Planning Commission, that:

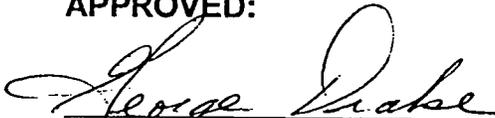
Section 1. The Barton County Planning Commission hereby approves the Barton County Zoning Regulations and the Official Barton County Zoning Map for the unincorporated areas of Barton County, Kansas; and

Section 2. The Barton County Planning Commission hereby recommends that the Board of County Commissioners of Barton County, Kansas, adopt and enact the Barton County Zoning Regulations and the Official Barton County Zoning Map; and

Section 3. The Barton County Planning Commission hereby recommends that the Board of County Commissioners repeal Barton County Resolution No. 1969, as amended, it being the intent of this Resolution that the provisions of the Barton County Zoning Regulations and the Official Barton County Zoning Map be substituted in place thereof.

PASSED by the Barton County Planning Commission, of Barton County, Kansas, this 9th day of May, 2000.

APPROVED:


George Drake, Chairman
Planning Commission

ATTEST:


Thomas A. Sullivan,
Zoning Administrator

RESOLVED by the Board of County Commission of Barton County, Kansas, that in view of the recommendations, we do hereby adopt Barton County Resolution 2000-12; and

FURTHER, that Barton County Resolution No. 1969, as amended, is hereby appealed.

MOTION MADE AND ADOPTED by the Board of County Commission of Barton County, Kansas, this 26th day of June, 2000.

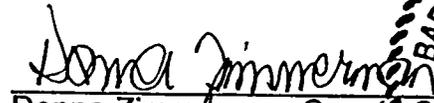
BOARD OF COUNTY COMMISSIONERS


Patty Linsner, Chairman


Pat Keenan, Commissioner

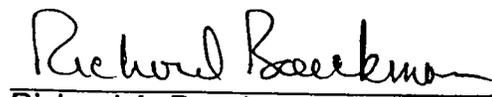

Kirby Krier, Commissioner

ATTEST:


Donna Zimmerman, County Clerk



APPROVED AS TO FORM:


Richard A. Boeckman,
County Counselor