

MIAMI COUNTY ZONING REGULATIONS
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Article 1

GENERAL PROVISIONS

Sections:

- 1-1 Title and Scope
- 1-2 Authority
- 1-3 Purpose
- 1-4 Applicability
- 1-5 Administration

Section 1-1. Title and Scope

1-1.01 These regulations, including the Zoning District Maps and overlays made a part hereof, shall be known and may be cited as the "Zoning Regulations of Miami County, Kansas", and shall hereinafter be referred to as "these Regulations."

Section 1-2. Authority

1-2.01 Except as otherwise provided for herein, these Zoning Regulations are adopted by the Board of County Commissioners of Miami County under powers conferred by K.S.A. 12-741 et seq. and K.S.A. 19-101 et seq.

Section 1-3. Purpose

1-3.01 These Zoning Regulations and districts as herein established have been made in accordance with an adopted comprehensive plan and a land use study to promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of the citizens of Miami County, Kansas, and to provide for efficiency and economy in the process of development, for the appropriate and best use of land, for convenience of traffic and circulation of people and goods, for the use and occupancy of buildings, for healthful and convenient distribution of population, and for land for trade, industry, and residence, by regulation and limiting or determining the height and bulk of buildings and structures, the area of yards and other open spaces, and the density of use. These Regulations have been made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the unincorporated territory of Miami County, Kansas.

1-3.02 Purpose: These Regulations are intended to serve the following purposes:

1. To promote the health, safety, morals, comfort and general welfare of the citizens of Miami County, Kansas.
2. To create a variety of zoning districts sensitive to the peculiarities of the various permitted uses and designed to protect and enhance the values inherent in each zone, while encouraging the redevelopment and revitalization of the cities within the County.

3. To conserve good agricultural land and protect it from the intrusion of incompatible uses, but not to regulate or restrict the principal use of land for agricultural uses.
4. To regulate and restrict the height, number of stories, and size of buildings, the percentage of lots that may be occupied by buildings and other structures, and the size of yards, courts and other open spaces.
5. To provide for adequate light and air, and acceptable noise levels.
6. To avoid the undue concentration of populations and to prevent overcrowding in the use of land and community facilities.
7. To provide adequate notice on subsequent changes to these Regulations and an opportunity for interested parties to be heard.
8. To provide information regarding possible flood hazards.
9. To facilitate the adequate provisions of transportation, water, sewage, schools, parks, and other public improvements and services, and to carry out the goals and objectives as set forth in applicable laws of the State of Kansas and the Comprehensive Plan for Miami County, Kansas.
10. To inform the public regarding future development in Miami County, Kansas, thereby providing a basis for wise decisions with respect to such development.

Section 1-4. Applicability

1-4.01 These Zoning Regulations shall apply to the unincorporated territory of Miami County, Kansas.

1-4.02 These Zoning Regulations shall not apply to the use of land for agricultural purposes, nor for the erection or maintenance of buildings so long as such land and buildings are used for agricultural purposes and not otherwise.

Section 1-5. Administration

1-5.01 Except as otherwise provided for herein, these Zoning Regulations shall be administered by the Planning Director, which office is hereby established by these Regulations.

1-5.02 Duties of the Planning Director: The Planning Director or his/her designee shall enforce these Regulations, and in addition thereto and in furtherance of said authority, shall:

1. Along with the Building Inspection Director or his/her designee, review applicable building permits, sign permits, and occupancy certificates for compliance with these Regulations.
2. Along with the Building Inspection Director or his/her designee, conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of these Regulations.

3. Receive, file, and forward to the Board of Zoning Appeals the records in all appeals and all applications for exceptions and variances.
4. Maintain permanent and current records of the Zoning Regulations, including, but not limited to, all zoning maps, amendments, conditional uses, exceptions, variances, appeals and applications thereof and records of hearings thereon.
5. Maintain for distribution to the public a supply of copies of the zoning map, the compiled text of the Zoning Regulations, and rules of the Board of Zoning Appeals. A fee for each copy shall be charged to defray the cost of printing.
6. 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.

Article 2

DEFINITIONS

Sections:

2-1 Definitions

Section 2-1. Definitions

2-1.01 Unless specifically defined below, words or phrases used in these Regulations shall be interpreted so as to give them the meaning they have in common usage and to give these Regulations their most reasonable application.

Words used in the present tense shall include both the past and the future, and words used in the future tense shall include the present; words in the singular number shall include the plural and words in the plural number shall include the singular; the word "dwelling" shall include the word "residence"; the word "lot" shall include the word "plot" and the word "parcel"; the word "person" shall include individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities; the word "shall" is mandatory and not directory while the word "may" is permissive; and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".

ABUTTING: Adjoining or bordering.

ACCESS: The right to cross between public and private property, allowing pedestrians and vehicles to enter and leave property.

ACCESSORY BUILDING: A detached building which is customarily incidental to or subordinate to the main building located on the same parcel or incidental or subordinate to the use of the land on which it is located.

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.

ADULT ENTERTAINMENT BUSINESS: Any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment (as defined in the Miami County Adult Entertainment Code) to a member of the membership organization, and including, but not limited to, business establishments identified as an adult arcade, adult bookstore, adult video store, adult cabaret, adult motion picture theater, adult theater, escort agency, juice bar, nude modeling studio, sexual encounter center, massage parlor, or similar or like business establishments.

AGRICULTURAL PURPOSE: The use of a tract or parcel of land for the following purposes:

1. animal husbandry
2. dairying
3. pasturing livestock
4. operating and maintaining a concentrated animal feeding operation
5. truck farming
6. cultivating and growing field crops, hay, and sod
7. cultivating and growing orchards and groves, including operating “pick your own” fruit, nut, vegetable, and berry facilities, except that sales of any product not raised, grown, or otherwise produced on the premises shall be prohibited
8. raising fish
9. raising birds or poultry
10. raising bees and producing apiary products
11. cultivating and growing trees, shrubs, and flowers for wholesale distribution
12. the operation or maintenance of greenhouses, nurseries, or hydroponic farms operated as a retail operation, except that sales of any product not raised, grown, or otherwise produced on the premises shall be prohibited
13. growing and harvesting woodland trees for wholesale distribution
14. operating a farm winery as defined by state statute
15. accessory uses necessary for the carrying out of farming operations, including structures for the storage and sale of products raised or grown on the premises.

Agricultural uses shall not include the following:

1. The operation or maintenance of greenhouses, nurseries, or hydroponic farms operated as a retail operation where products not raised, grown, or otherwise produced on the premises are sold.
2. Wholesale or retail sales of any product not raised, grown, or otherwise produced on the premises.
3. Lands which are used for recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
4. Parcels that contain less than 20 acres where the primary function is for residential or recreational purposes even though such properties may produce or maintain some of the plants or animals listed herein.
5. Any use required to obtain a conditional use permit or that is otherwise regulated by these regulations.

AIRPORT OR AIRCRAFT LANDING FIELD: Any landing area, runway or other facility designed, used, or intended to be used either publicly or privately by any person or persons for the landing and taking off of aircraft, including all necessary taxiways, aircraft storage, tiedown areas, hangars, and other necessary and customarily accessory buildings and open spaces. An airport includes all commercial uses located at the facility which serves airport users.

AIRPORT ZONING DEFINITIONS: As used in Article 13 (Airport Zoning Regulations) of these Zoning Regulations unless the context otherwise requires, the following definitions shall apply:

1. Airport: The Miami County, Kansas, Airport.

2. Airport Elevation: The highest point of an airport's usable landing area measured in feet from sea level. As shown on the current "Approach Plan" of the Miami County Airport Master Plan (approved by the Board of County Commissioners), the Airport's elevation is nine hundred forty feet (940') above sea level.
3. Airport Hazard: Any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at any airport or is otherwise hazardous to such landing or taking off of aircraft.
4. Airport Hazard Area: Any area of land or water upon which an airport hazard might be established if not prevented as provided in this article.
5. Approach Plan: The plan map in the Miami County Airport Master Plan that identifies height limitation areas. Said map is incorporated by reference and, thereby, made a part of these Zoning Regulations.
6. Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach overlay district height limitation slope set forth in this article. In plan, the perimeter of the approach surface coincides with the perimeter of the approach overlay district.
7. Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of four thousand feet (4000').
8. Hazard to Air Navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
9. Height: For the purpose of determining the height limits in all airport overlay districts in this section and shown on the "Approach Plan" incorporated herein by reference, the datum shall be mean sea level elevation unless otherwise specified.
10. Horizontal Surface: A horizontal plane one hundred fifty feet (150') above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal overlay district. As shown on the "Approach Plan" incorporated by reference herein, the horizontal surface elevation of the Miami County Airport is one thousand ninety feet (1090') above sea level.
11. Miami County Airport Master Plan: The current airport master plan approved by the Board of County Commissioners.
12. Nonconforming Use: Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of Article 13 of these Zoning Regulations or amendments thereto.
13. Non-precision Instrument Runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

14. **Obstruction:** Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Article 13 of these Zoning Regulations.
15. **Persons:** Any individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.
16. **Primary Surface:** A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred feet (200') beyond each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
17. **Runway:** A defined area on an airport prepared for landing and takeoff of aircraft along its length.
18. **Structure:** An object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.
19. **Transitional Surfaces:** These surfaces extend outward at ninety degree (90°) angles to the runway centerline and the runway centerline extended at a slope of seven feet (7') horizontally for each one foot (1') vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
20. **Tree:** Any object of natural growth.
21. **Utility runway:** A runway that is constructed for and intended to be used by propeller driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.
22. **Visual Runway:** A runway intended solely for the operation of aircraft using visual approach procedures.

ALLEY: A dedicated public right-of-way which provides a secondary means of access to and from streets and lots.

ALTERATION: Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing height or the moving from one location or position to another, shall be considered as an alteration.

AMATEUR RADIO OPERATOR: An individual licensed by the Federal Communications Commission to use equipment at an amateur radio station to engage in two-way personal communications with other similar individuals on radio frequencies assigned to the amateur radio service.

AMATEUR STATION: A station in an amateur radio service consisting of the apparatus necessary for carrying on radio communications.

AMATEUR STATION ANTENNA STRUCTURE: The antenna that serves a federally licensed amateur station, including such appurtenances and other structures such as a tower that may be necessary to support, stabilize, raise, lower or otherwise adjust the antenna.

AMENDMENT: A change or alteration to the Zoning Regulations in one of the following forms: 1) comprehensive revision or modification of the zoning text and/or map; 2) a text change in the zoning requirements; or 3) a change in the zoning map, i.e., the zoning designation of a particular parcel or parcels. The third form is also known as a rezoning.

ANIMAL, DOMESTIC: An animal bred for and adopted to use as an animal of burden, as a family pet capable of living within a household, or for use as a product of animal husbandry generally accepted by the school of agriculture at Kansas State University.

ANIMAL, EXOTIC: (a) Any non-native animal, bird, fowl, fish, amphibian or invertebrate which meets the definition of "exotic animal" set forth in 9 C.F.R. 1.1, pursuant to 7 U.S.C. sec. 213 et seq. and subject to rules and regulations of the Kansas livestock commissioner, as an exotic animal, under authority of K.S.A. 47-1832 and amendments thereto.

(b) The following animals and any other animals raised under a valid livestock permit issued by the State of Kansas shall be exempt from these Regulations:

1. Llamas, Camels, Alpacas
2. Fallow Deer, Sika Deer
3. Pea Fowl, Water Fowl
4. Elk, Reindeer and other animals belonging to the servidae species
5. Emus, Ostrich, Rhea

ANIMAL, WILD: Any nondomesticated animal, whether native or exotic.

ANIMAL HOSPITAL OR CLINIC: An establishment where animals are admitted principally for examination, treatment, board or care, by a Doctor of Veterinary medicine. This includes kennels which are totally enclosed within the establishment and which have no outdoor facilities.

APARTMENT: A room or a suite of rooms within an apartment complex arranged, intended or designed for a place of residence for a family.

APARTMENT COMPLEX: A building or buildings containing apartments used as a place of residence for three (3) or more families.

APPLICANT: The owner or duly designated representative concerning land for which a zoning amendment or other zoning action has been requested. Consent shall be required from the legal owner of the premises, if the applicant is other than the owner. The word "applicant" shall also include the Board of County Commissioners and the Planning Commission if a zoning amendment is initiated by the County.

APPURTENANCE: A subordinate or accessory building or structure or portion of the main building, the use of which is incidental and customary to that of the main building.

AUTOMOBILE SALES: The sale of new and used automobiles and other motor vehicles in operating condition; the storage of automobiles and other motor vehicles in operating condition; but not including storage of trucks of more than five (5) tons in weight or buses; and the repair

and servicing of such vehicles, but not including body work, painting, or motor rebuilding, unless specifically permitted by the zoning district regulations.

AUTOMOBILE SERVICE STATION: A structure and surrounding land used for the storage and sale of petroleum fuel primarily to passenger vehicles and for accessory uses such as the sale of lubricants, accessories or supplies, the incidental washing of motor vehicles and the performing of minor repairs.

BASEMENT: That portion of a building which is partially or wholly below grade.

BED AND BREAKFAST FACILITY: A single-family dwelling that operates as a boarding house where, for compensation and by pre-arrangement for definite periods, meals and/or lodging are provided for guests and where individual cooking facilities are not provided. A boarding house in this context means any single-family residential structure which is kept, maintained, advertised or held out to the public to be a place where sleeping accommodations are furnished for pay to transient guests and in which eight (8) or fewer guests may be accommodated.

BOARD OF COUNTY COMMISSIONERS: The Miami County, Kansas, Board of County Commissioners. Also known as the Governing Body.

BOARD OF ZONING APPEALS: The Miami County, Kansas, Board of Zoning Appeals.

BUILDING: A structure having a roof supported by columns or walls whether or not completely enclosed, and when separated by party walls without openings it shall be deemed a separate building.

BUILDING CODE OR MIAMI COUNTY BUILDING CODE: The Miami County Building Code, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

BUILDING HEIGHT: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point on a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable or hip roof. Chimneys, antennae, and other similar extensions above any of the above roof types shall not be considered part of a building height.

BUILDING INSPECTION DIRECTOR: The Miami County official assigned the responsibility of administering and enforcing the Miami County Building Code and associated codes. Whenever the terms Building Official, Chief Building Official or similar terms are used, such terms shall be interpreted and applied as referring to the Building Inspection Director.

BUILDING LINE: A line, usually fixed parallel to the lot line, beyond which a building cannot extend under the terms of these Regulations. The building line is equivalent to the building setback line.

BUILDING SETBACK LINE: A line within a lot or other parcel of land indicating the limit beyond which a building or structure may not be erected. (See “YARD” definitions.)

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. Maximum lot coverage.
3. Minimum size of yards and setbacks.

CAMPGROUND: A public or private area providing rental facilities for overnight or short-term occupancy, including campgrounds, day or youth camps, fishing or hunting camps, picnic areas and recreational vehicle parks.

CAMPING TRAILER: Any vehicular portable dwelling unit designed especially for short-term occupancy such as: travel trailers, tent trailers, truck or auto-mounted camping units, converted buses and trucks, and all other similar units whether self-propelled, pulled, or hauled, and designed primarily for highway travel without the necessity of a special permit.

CAMPING TRAILER PARK: Any plot of ground three (3) acres or larger upon which two (2) or more camping trailers are located, regardless of whether or not a charge is made for such accommodation.

CAMPING TRAILER SPACE: A plot of ground within a camping trailer park designed for the accommodation of one (1) camping trailer.

COMMERCIAL STABLE: A structure or structures for the boarding, breeding, training or raising of six (6) or more horses, two (2) years of age or older, not owned by the individuals residing on or owning the property; an establishment for teaching riding lessons to six (6) or more pupils at a time; and the rental of saddle horses to the general public or made available to a private club. Exercise rings and show rings shall be considered uses accessory to the use of the premises for a commercial stable.

COMPLIANCE OFFICER: The Miami County official assigned the responsibility of assisting the Building Inspection Director, Planning Director and other County officials in enforcing the Miami County Building Code and associated codes, the Miami County Zoning Regulations, and other County land use, development and nuisance regulations. Whenever the terms Code Compliance Officer, Code Enforcement Officer, Zoning Compliance Officer or similar terms are used, such terms shall be interpreted and applied as referring to the Compliance Officer.

COMPREHENSIVE PLAN: The adopted *Miami County Comprehensive Plan* for the unincorporated territory of Miami County, Kansas, including subsequent amendments.

CONCENTRATED ANIMAL FEEDING OPERATION: Any feeding operation that stables or confines in a building or feeding yard any livestock (cattle, swine, sheep, raites, and horses), chickens, turkeys, ducks, or other bird, whether or not the animals are owned by the owner of the property where the feeding operation is located.

CONDITIONAL USE: A use of any building, structure or parcel of land determined by the Board of County Commissioners that, by its nature, is perceived to require special care and attention in allowing such use, so as to assure compatibility with surrounding properties and uses. Conditional uses may have special conditions and safeguards attached to assure that the public interest is served. Conditional uses shall not be considered exceptions, which may be granted by the Board of Zoning Appeals as provided for in these Zoning Regulations.

CONTAINER, CARGO/SHIPPING/STORAGE, INCLUDING BUT NOT LIMITED TO ISO AND DOMESTIC INTERMODAL CONTAINERS: A simple, enclosed box of standardized size used for intermodal transport. A unit originally or specifically designed or used to store goods or merchandise during shipping or hauling by container ships, rail or other types of transportation, but having no attached wheel assemblies or chassis. Storage containers shall include PODS and other similar containers.

CONTRACTOR'S SHOPS AND/OR YARDS: The types of contractor's businesses allowed may include, but not be limited to the following: construction (all trades), excavating, exterminating, home improvement, landscaping, sewer installation and maintenance, paving, drilling, welding shops, trucking and hauling, (not including truck terminals or trash hauling), and similar uses and may include equipment and/or storage areas.

CONVENIENCE STORE: A retail establishment which sells gasoline and other petroleum products as well as other frequently or recurrently needed items for household use, such as prepackaged food products and groceries, but does not provide automobile maintenance, repair or service.

COUNTY: Miami County, Kansas.

COUNTY ENGINEER: The County Engineer of Miami County, Kansas, who is authorized by these Regulations to administer and enforce the Airport Zoning Regulations in Article 13 of these Zoning Regulations.

COUNTY ENVIRONMENTAL HEALTH DIRECTOR: The Miami County official assigned the responsibility of administering and enforcing the Miami County Environmental Health Sanitary Code.

DAY CARE CENTER: A building, residence, or portion thereof, used to care for eleven (11) or more children at any one time.

DAY CARE HOME: A building, residence, or portion thereof, used for the care of ten (10) or less children at any one time for a fee, unless otherwise allowed by these Regulations.

DENSITY: The average number of dwelling units per unit of land, expressed in terms of "per acre". (Example: 300 dwelling units occupying 40 acres of land is 7.5 dwelling units per acre.)

DEVELOPER: The owner, or any other person, firm or corporation authorized by the owner, undertaking proceedings under the provisions of these Regulations for the purpose of rezoning or seeking a conditional use on land.

DISABILITY: A condition, with respect to a person, which means:

1. A physical or mental impairment which substantially limits one (1) or more of such person's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment. Such terms do not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. sec. 802).

DRIVE-IN ESTABLISHMENT: An enterprise which accommodates the patrons' automobiles and from which the occupants of the automobiles may make purchases, transact business, or view motion pictures or other entertainment.

DRIVEWAY: That area which is necessary for vehicular traffic intended for access to parking areas, garages, or loading and unloading areas.

DUMP: A lot or land or part thereof used for the disposal, abandonment, dumping, burial, burning, or storage of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

DUPLEX: A building designed for or occupied exclusively by two (2) families living independently of each other, regardless of whether utility services are provided independently to each family.

DWELLING: Any building or portion thereof which is designed and used exclusively for residential purposes. For the purposes of these Zoning Regulations, manufactured homes, modular homes, and group homes shall be considered single-family dwellings.

DWELLING, ACCESSORY: An additional, self-contained, subordinate dwelling unit located within or attached to a single-family principal dwelling and having independent access. An accessory dwelling shall be secondary to a principal dwelling.

DWELLING, ATTACHED: A residential building which is joined to another dwelling at one or more sides by a party wall or walls.

DWELLING, FARM: Any building or portion thereof which is designed and used exclusively for residential purposes and which is located on land used exclusively for agricultural purposes. A farm dwelling shall be considered use of the land for agricultural purposes.

DWELLING, MULTI-FAMILY: A building designed for or occupied exclusively by three (3) or more families living independently of each other.

DWELLING, SINGLE-FAMILY: A detached dwelling designed for or occupied by one (1) family. For purposes of these Zoning Regulations, manufactured homes and modular homes shall be considered single-family dwellings. For purposes of allowing accessory dwellings, single-family dwelling is the same as principal dwelling.

DWELLING, TWO-FAMILY: A building designed for or occupied by two (2) families living independently of each other. See "DUPLEX."

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

EXCEPTION: An exception from the Zoning Regulations granted by the Board of Zoning Appeals, but only in those instances where said Board is specifically authorized to grant such exceptions and only under the terms of such Regulations.

FAMILY: One (1) or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit.

FEEDING YARD: Lots, pens or otherwise fenced outside areas used for the feeding of animals which are not used normally for raising crops and in which no vegetation, intended for livestock or animal feed, is growing.

FENCE: A structure of metal, masonry, composition or wood or any combination thereof resting on or partially buried in the ground and rising above ground level, and used for confinement, screening, landscaping, or partition purposes.

FLOODPLAIN REGULATIONS DEFINITIONS: Unless specifically defined below, words or phrases used in Article 12 (Floodplain Overlay District) shall be interpreted so as to give them the same meaning they have in common usage and to give this article its most reasonable application.

1. **“100-year Flood”** see “base flood”.
2. **“Accessory Structure”** means the same as “appurtenant structure”.
3. **“Actuarial Rates”** see “risk premium rates”.
4. **“Administrator”** means the Federal Insurance Administrator.
5. **“Agency”** means the Federal Emergency Management Agency (FEMA).
6. **"Agricultural Structure"** means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.
7. **"Agricultural Commodities"** means agricultural products and livestock.
8. **“Appeal”** means a request for review of the Floodplain Administrator's interpretation of any provision of this article or a request for a variance.
9. **“Appurtenant Structure”** means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.
10. **“Area of Shallow Flooding”** means a designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
11. **"Area of Special Flood Hazard"** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.
12. **"Base Flood"** means the flood having a one percent chance of being equaled or exceeded in any given year.

13. **"Basement"** means any area of the structure having its floor subgrade (below ground level) on all sides.
14. **"Building"** see "structure."
15. **"Chief Engineer"** means the Chief Engineer of the Division of Water Resources, Kansas Department Of Agriculture.
16. **"Chief Executive Officer"** or **"Chief Elected Official"** means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.
17. **"Community"** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.
18. **"Development"** means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
19. **"Elevated Building"** means for insurance purposes, a non-basement building, which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
20. **"Eligible Community"** or **"Participating Community"** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).
21. **"Existing Construction"** means for the purposes of determining rates, structures for which the "start of construction" commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. The term "existing construction" may also be referred to as "existing structures."
22. **"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.
23. **"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).
24. **"Flood" or "Flooding"** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland waters; (2) the unusual and rapid accumulation or runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding

anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

25. **"Flood Boundary and Floodway Map (FBFM)"** means an official map of a community on which the Administrator has delineated both special flood hazard areas and the designated regulatory floodway.
26. **"Flood Elevation Determination"** means a determination by the Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year.
27. **"Flood Elevation Study"** means an examination, evaluation and determination of flood hazards.
28. **"Flood Fringe"** means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.
29. **"Flood Hazard Boundary Map (FHBM)"** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.
30. **"Flood Hazard Map"** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) streets; (4) stream channel; and (5) other geographic features.
31. **"Flood Insurance Rate Map (FIRM)"** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
32. **"Flood Insurance Study (FIS)"** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
33. **"Floodplain" or "Flood-prone Area"** means any land area susceptible to being inundated by water from any source (see "flooding").
34. **"Floodplain Management"** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
35. **"Floodplain Management Regulations"** means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.
36. **"Floodproofing"** means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real

estate or improved real property, water and sanitary facilities, or structures and their contents.

37. **"Floodway" or "Regulatory 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 foot.
38. **"Floodway Encroachment Lines"** means the lines marking the limits of floodways on Federal, State and local floodplain maps.
39. **"Freeboard"** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.
40. **"Functionally Dependent Use"** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.
41. **"Highest Adjacent Grade"** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
42. **"Historic Structure"** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.
43. **"Lowest Floor"** means the lowest floor of the lowest enclosed area, including basement. 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 floodproofing design requirements of this article.
44. **"Manufactured Home"** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle."

45. **"Manufactured Home Park or Subdivision"** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
46. **"Map"** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).
47. **"Market Value" or "Fair Market Value"** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.
48. **"Mean Sea Level"** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.
49. **"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 FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.
50. **"New Manufactured Home Park or Subdivision"** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot 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 the community.
51. **"(NFIP)"** means the National Flood Insurance Program (NFIP).
52. **"Participating Community"** also known as an "eligible community," means a community in which the Administrator has authorized the sale of flood insurance.
53. **"Permit"** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as but not limited to: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state or federal authorities.
54. **"Person"** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.
55. **"Principally Above Ground"** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.
56. **"Reasonably Safe From Flooding"** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

57. **"Recreational Vehicle"** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently able to be towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
58. **"Remedy A Violation"** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.
59. **"Risk Premium Rates"** means those rates established by the Administrator pursuant to individual community studies and investigations, which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. "Risk premium rates" include provisions for operating costs and allowances.
60. **"Special Flood Hazard Area"** see "area of special flood hazard."
61. **"Special Hazard Area"** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.
62. **"Start of Construction"** includes substantial-improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were 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 slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not 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.
63. **"State Coordinating Agency"** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.
64. **"Structure"** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home. "Structure" for insurance purposes, means a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

65. **"Substantial-Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
66. **"Substantial-Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "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 that 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."
67. **"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.
68. **"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.
69. **"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

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:

- (A) For Determining Gross Floor Area: The sum of the following areas: (1) the basement floor area when more than one-half (1/2) of the basement height is above the finished lot grade level where curb level has not been established; (2) elevator shafts and stairwells at each floor; (3) floor space used for mechanical equipment (except equipment, open or enclosed, located on the roof); (4) penthouses; (5) attic space having headroom of seven feet, ten inches or more; (6) interior balconies and mezzanines; (7) enclosed porches; and (8) floor area devoted to accessory uses. Space devoted to off-street parking or loading shall not be included in the floor area. The floor area of structures devoted to bulk storage of materials, including, but not limited to, grain elevators and petroleum storage tanks, shall be computed by counting each ten feet of height, or fraction thereof, as being equal to one floor.
- (B) For Determining the Off-Street Parking and Loading Requirement: The sum of the following areas: (1) gross floor space devoted to the principal use of the premises; and (2) any basement area devoted to retailing activities or to the production or processing of goods or to business or professional offices. For this purpose, floor area shall not include space devoted primarily to storage purposes, off-street parking or loading

facilities, including aisles, ramps and maneuvering space, or basement floor area other than area devoted to retailing activities, the production or processing of goods, business or professional offices, or meeting rooms.

FOOD STORE: A store which sells foods, fresh or frozen, and other items commonly sold in connection therewith and including, but not limited to, stores commonly referred to as dairy stores, delicatessens, fruit and vegetable markets, grocery stores, health food stores, nut shops and supermarkets.

FOUNDATION, PERMANENT: A site-built foundation, with or without a basement, that meets or exceeds the foundation requirements of the Miami County Building Code.

FRONT: The part or side of any building or structure facing the street or frontage road which is used as the basis for establishing the permanent address for the building or structure.

FRONTAGE: That part of a lot or tract of land which borders along any given access to a public street or public right-of-way. Such public street or right-of-way shall not include an alley or access to the rear of such lot or tract.

FRONTAGE ROAD: A public or private roadway, generally paralleling and contiguous to a street or highway, which provides access to abutting properties and which is designed to promote safety by eliminating unlimited ingress and egress to such street or highway by providing points of access at generally uniformly spaced intervals.

GARAGE: A roofed structure that has a concrete or asphalt floor and that is enclosed on at least three (3) sides, each enclosed side being constructed of solid material, designed primarily for storage of motor vehicles. A garage may be attached to or detached from the primary building. For the purpose of this definition, the minimum floor area dimensions for a one-car garage shall be twelve (12) feet by twenty (20) feet.

GARDEN APARTMENT: An apartment building located on a lot either singly or together with other similar apartment buildings generally one (1) or two (2) stories in height and having landscaped grounds.

GOVERNING BODY: The Board of County Commissioners of Miami County, Kansas.

GROSS LOT AREA: The total combined area of the area within the property lines of a lot, parcel or tract and the adjacent half-width street right-of-way.

GROUP BOARDING HOME FOR MINORS: A residential facility for five (5) or more persons under eighteen (18) years of age who are not disabled and who, for various reasons, cannot reside in their natural home and where twenty-four (24) hour adult care, supervision and consultation shall exist and which is licensed by a regulatory agency of this state.

GROUP HOME FOR THE DISABLED: Any dwelling occupied by not more than ten (10) persons, including eight (8) or fewer persons with a disability who need not be related by blood or marriage and not to exceed two (2) staff residents who need not be related by blood or marriage to each other or to the residents of the home, which dwelling is licensed by a regulatory agency of this state.

HARDSHIP MOBILE HOME/MANUFACTURED HOME: Hardship mobile home/manufactured home is the use of a mobile home or manufactured home as a temporary residence which may be authorized by the Planning Director where one of the following criteria is met:

1. Evidence is submitted that the temporary use by the owner or family member is required to provide in-home care of family members, or to prevent the undue dislocation of family members due to illness, age or mental status.
2. Evidence is submitted that the temporary use is for use by a caretaker where the purpose of the caretaker is to assist the elderly, ill or disabled homeowner(s) in the care and protection of their property, provided that the elderly, ill or disabled homeowner(s) resides on the property.

HAZARDOUS WASTE DISPOSAL FACILITY: Any facility which meets the requirements as defined in K.S.A. 65-3402, as amended.

HISTORIC STRUCTURE: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in states without approved programs.

HOME OCCUPATION: Any occupation or activity which is clearly incidental and secondary to the use of the premises for a dwelling.

JUNK: Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, iron, steel and other old or scrap ferrous or nonferrous material.

JUNK YARD: Premises or a building which is maintained, operated, or used for storing, keeping, buying, or selling junk, and the term shall include garbage dumps.

KENNEL: A business establishment where four or more dogs or cats, or both, of six months of age or older, are maintained in any one week for boarding, training or similar purposes for a fee or compensation. For purposes of these Regulations, any establishment defined as "animal shelter" or "pound", "hobby breeder premises", "kennel operator premises", "animal breeder premises", "retail breeder premises" or "animal distributor premises", all such terms as defined in K.S.A. 1997 Supp. 47-1701 and amendments thereto, and licensed as such by the State of Kansas, shall be deemed a kennel under these Regulations regardless of the number of dogs and cats, or both, maintained on the premises.

LAND, BUILDABLE: Land that does not contain wetlands, floodways, and/or slopes in excess of twenty-five percent (25%). Only buildable land shall be included in calculating the overall density of a conservation subdivision or conservation development.

LAND, SENSITIVE: Land that contains, but is not limited to, wetlands, floodways, floodplains, slopes in excess of twenty-five percent (25%), soil types unsuitable for development, significant wildlife habitats and wildlife travel corridors (such as along floodplains), significant woodlands and vegetation areas (that provide habitat and soil stability), productive farmland, historic and cultural features (including archaeological sites), scenic vistas, watersheds, and groundwater resources and their recharge areas.

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

LODGING HOUSE: A building where lodging is provided for three (3) or more persons not members or employees of a family.

LOT: A parcel of land occupied or intended for occupancy by one (1) main building or a complex of buildings together with the accessory structures, including the open spaces and parking required by these Regulations, which may include more than one (1) lot of record or "metes and bounds" parcel.

LOT, CORNER: A lot which adjoins the point of intersection of meeting two or more streets and which the interior angle framed by the street lines is 135 degrees or less. If the street lines are curved, the angle shall be measured at the point of intersection of the extensions of the street lines, in the directions which they take at the intersections of the street line with the side lot line and with the rear lot line of the lot. If the street line is curved at its point of intersection with the side lot line or rear lot line, the tangent to the curve at that point shall be considered the direction of the street line. 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, DEPTH OF: The mean (average) horizontal distance between the front and rear lot lines.

LOT, WIDTH OF: The horizontal distance between the side lot lines as measured by the front building line.

LOT AREA: The total area within the property lines of a lot or tract.

LOT LINES: The boundary lines of a lot.

LOT OF RECORD: A lot which is a part of a subdivision plat which has been recorded in the office of the Miami County Register of Deeds, or an unplatted tract or parcel described by metes and bounds, the description of which has been recorded in the office of the Miami County Register of Deeds.

MANUFACTURED HOME OR HOUSE: A factory assembled structure or structures, which in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, and when installed on site, is nine hundred fifty (950) square feet or more in total living area. The manufactured home includes plumbing, heating, air conditioning, and electrical systems and is constructed on a permanent chassis with its own running gear, suitable for transporting on a public highway or is constructed with the intent to be transported in sections to the building site. Manufactured homes are designed to be used as residential dwelling units with or without a permanent foundation. Manufactured housing shall not include recreational vehicles, a trailer coach, travel trailer, or other licensed vehicle not designed for permanent residential uses.

MANUFACTURED HOME, PERMANENT: A manufactured home placed on a permanent foundation.

MANUFACTURED HOME, RESIDENTIAL DESIGN: A manufactured home on a permanent foundation which a) has a minimum dimension of twenty-two (22) body feet in width; b) a pitched roof; and c) siding and roofing materials which are customarily used on site-built homes.

MANUFACTURED HOME, TEMPORARY: A manufactured home not placed on a permanent foundation.

MANUFACTURED HOME STAND: That part of an individual manufactured home lot on which the manufactured home or mobile home shall be placed and shall include that area which will be enclosed when skirts are applied below the outside walls of the manufactured home or mobile home.

MOBILE HOME: A manufactured structure constructed of one (1) or more sections which has a body width of eight feet (8') or more and a body length of forty feet (40') or more, and when assembled or installed, contains a minimum of nine hundred fifty (950) square feet of total living area. A mobile home shall be constructed on a permanent foundation and shall be connected to the required utilities, including plumbing (water and sanitation), heating, air conditioning and electrical systems contained therein. For purposes of these Regulations, a mobile home shall be considered to be a single family residence, provided the unit is affixed to a permanent foundation in accordance with the Miami County Building Code and further complies with the U.S. Department of Housing and Urban Development Federal Manufactured Home Construction and Safety Standards.

MOBILE HOME, PERMANENT: A mobile home placed on a permanent foundation.

MOBILE HOME, TEMPORARY: A mobile home not placed on a permanent foundation.

MOBILE HOME PARK: Any plot of ground fifteen (15) acres or larger upon which two (2) or more mobile homes and/or manufactured homes not placed on a permanent foundation, occupied as dwellings or residences, are located, regardless of whether or not a charge is made for such accommodation.

MOBILE HOME SPACE: A plot of ground within a mobile home park designed for the accommodation of one (1) mobile home or one (1) manufactured home.

MODULAR HOME: A manufactured structure which is: a) transportable in one (1) or more sections; b) not constructed on a permanent chassis; c) designed as a single family dwelling unit to be placed on a permanent foundation in compliance with the foundation requirements of the Miami County Building Code and which shall be connected to the required utilities and which shall include the plumbing (water and sanitation), heating and air conditioning, and electrical systems contained therein; and d) certified by the manufacturer as being constructed in accordance with a nationally recognized building code.

NATURAL OR ARTIFICIAL BARRIER: Any river, pond, canal, railroad, levee, embankment, fence, or hedge.

NON-CONFORMING LOT: A legally created lot which does not comply with the lot requirements for the zoning district in which it is located.

NON-CONFORMING USE: Any land lawfully occupied by a use at the time of the effective date of these Regulations which does not conform with the provisions of the same.

NOXIOUS MATTER: Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

NURSERY: Any land used to raise trees, shrubs, flowers or other plants for sale at the nursery or for transporting such items to another location.

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

OPEN SPACE: The unoccupied area of any lot, excluding required side, rear or front yards, that is open and unobstructed to the sky, except for the ordinary projection of cornices, eaves or porches.

OVERLAY ZONING DISTRICT: A zoning district that is described in these Regulations in the text, is mapped, and is imposed in addition to those of the underlying zoning district. Developments within an overlay zoning district must conform to the requirements of both the overlay and underlying zoning districts.

OWNER: The person, firm, trust, partnership, association or corporation whose name appears as "owner" of record in the office of the Miami County Register of Deeds.

PARKING SPACE: Any area for the purpose of storing one (1) parked motor vehicle.

PERIMETER ENCLOSURE: A permanent enclosure constructed around the perimeter of a manufactured home (mobile home) which shall be constructed of concrete, masonry materials, or treated wood construction on a concrete footing that shall conform with the provisions of the NCSBCS A225.1 Manufactured Home Installation, 1987, as may be amended from time to time.

PERIMETER SKIRTING: A weather resistant material used as a temporary enclosure of the space from the bottom of the manufactured unit to the finished earth grade directly below the perimeter of the unit.

PERMITTED USE: A use by right which is specifically authorized in a particular zoning district.

PLAN, CONCEPTUAL: A plan that sets forth the basic concepts for development of a tract of land.

PLAN, SITE: A plan showing the definite proposed location and site design of buildings, facilities, landscaping, and uses upon a tract of land. This plan may or may not be required to be reviewed and approved by the Planning Commission, but shall be at the Planning Director's discretion or at the request of the developer.

PLANNING COMMISSION: The Miami County, Kansas, Planning Commission.

PLANNING DIRECTOR: The Miami County official assigned the responsibility of administering and enforcing the Miami County Zoning Regulations and other County land use and development regulations. Whenever the terms Development Director, Planning and Development Director, Zoning Administrator, Zoning Official or similar terms are used, such terms shall be interpreted and applied as referring to the Planning Director.

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

RECREATIONAL PURPOSE: Any lot, plot, parcel or tract of land and/or water, and/or any building or structure, or combination thereof, planned, intended or designed for recreational use. Said activities and/or facilities shall include, but not be limited to, such things as: athletic fields, ball diamonds, golf courses, golf driving ranges, swimming pools, natatoriums, tennis courts, recreational lakes for swimming or boating, racetracks, drag strips, gun clubs, hunting reserves, sporting clay ranges, private shooting ranges, and all common appurtenant accessory activities and facilities such as lighting, bleachers, and concession stands, etc.

RECREATIONAL VEHICLE: A vehicular unit built on or for use on a chassis and designed primarily as temporary living quarters for recreation, camping, vacation or travel use and which has its own motive power or is mounted on or drawn by another vehicle. A recreational vehicle for purposes of these Regulations shall not be considered as a single-family dwelling unit.

RECREATIONAL VEHICLE PARK: Any piece, parcel, tract, or plot of ground which provides space for transient occupancy and is used or intended to be used for the parking of one (1) or more recreational vehicles or camping trailers. The term Recreational vehicle park does not include sales lots on which unoccupied recreational vehicles, whether new or used, are parked for the purpose of storage, inspection, or sale.

REGISTER OF DEEDS: The Miami County, Kansas, Register of Deeds.

RESTAURANT: A public eating or drinking establishment, including, but not limited to, the types of business establishments customarily referred to as cafeterias, coffee shops, dairy bars, restaurants and soda fountains.

REZONING: See "AMENDMENT".

RIDING STABLE: A structure or structures in which saddle horses are kept, maintained and/or boarded, and in connection with which saddle horses may be used for riding lessons for up to five (5) pupils at a time, and in which the boarding of horses shall be limited to five (5) horses, two (2) years of age or older, not owned by the individuals residing on or owning the property. Exercise rings and show rings shall be considered uses accessory to the use of the premises for a riding stable.

RURAL RESIDENTIAL: A lot equal to or more than three (3) but less than twenty (20) acres in size, created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot.

SALVAGE YARD: An area of land with or without buildings, used for or occupied by a deposit, collection or storage, outside a completely enclosed building, of used or discarded materials such as wastepaper, rags or scrap material; or used building materials, house furnishings, machinery, motor vehicles or parts thereof with or without the dismantling, processing, salvage, sale or other use or disposition of the same. A salvage yard shall also include the dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot or parcel of land of two (2) or more motor vehicles, which, for a period of thirty (30) days or more have not been licensed and/or have not been capable of operating under their own power or from which parts have been or are to be removed for reuse or sale, regardless of the period of time such vehicle has been present upon such lot or parcel, shall be considered to be a salvage yard.

SANITATION CODE OR MIAMI COUNTY ENVIRONMENTAL HEALTH SANITARY CODE: The Miami County Environmental Health Sanitary Code, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

SEMI-TRAILER: (also known as a van, reefer, etc.): a freight trailer having wheels only in the rear with the front supported by the towing vehicle. Typically registered and used for over the road transport. Semi-trailers can be loaded and moved from site to site, town to town and state to state, whereas a container is typically not registered and can only be moved on site to remain at that site.

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

SHOOTING RANGE: A place utilized by persons who do not reside thereon, equipped with targets where shooting is practiced with firearms.

SIGN: Any device which shall display or include any letter, words, model, banner, flag, pennant, insignia, device, or representation used, or which is in the nature of an advertisement or announcement, which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of governmental notice or governmental, religious or fraternal flag.

SIGN DEFINITIONS:

1. Agricultural Sign: A sign displayed by a property owner on land or buildings owned by said property owner that directs attention to an agricultural use or purpose as defined in this article.
2. Billboard Sign: An illustration, generally known as outdoor advertising, mounted on a semi-permanent or permanent structure that depicts information not directly related to the property on which it is located.
3. Directly Illuminated Sign: Any sign where the source of illumination is located on the sign face and not diffused through a translucent material (as in an internally illuminated sign). The source of illumination may include, but is not limited to neon tubes, incandescent bulbs, fluorescent tubes, and light emitting diodes (LEDs). Electronic message boards such as video screens, LED message boards, and similar technologies, are also considered directly illuminated signs.

4. Detached Sign: Any sign located on the ground or on a structure located on the ground and not attached to a building.
5. Facade: The principal face or front of a building.
6. Ground Sign: A free-standing sign, not more than five feet (5') in height supported by uprights, braces, columns, poles, or other vertical members that are not attached to a building or structure.
7. Incidental Sign: A sign which indicates facilities or services available on the premises that are incidental to the property's use, or provide direction or way finding functions. Incidental signs include but are not limited to signs such as "service entrance", "loading area", "drive-through", "exit only", or signs indicating automobile clearance heights, and similar signs. Advertising, pricing, attention-attracting, or promotional signs specific to a business, brand, or product, or that do not provide a legitimate benefit to the coordinated function of the premises are not considered incidental signs.
8. Indirectly Illuminated Sign: Any sign that is partially or wholly illuminated at any time by a light source that is shielded so as not to be visible at eye level.
9. Internally Illuminated Sign: Any sign illuminated by diffused light through a translucent material so that the light source is not directly discernible.
10. Marquee Sign: A sign attached flat against or under the marquee or permanent sidewalk canopy of a building, but not on the upper surface of a marquee or canopy.
11. Memorial Sign/Tablet: A sign cut into the masonry or rock surface that is part of the building, or a bronze or similar material tablet inset into such building stating the name of the building and/or the date of erection.
12. Monument Sign: A detached sign where the width of the base of the sign is at least one-half (1/2) the width of the widest part of the sign face or where the base consists of two (2) or more supports where the sign face is not more than two feet (2') above the average grade of the ground. The materials of the base shall be one of the following: masonry, wood, anodized metal, stone, or concrete. A monument sign shall harmonize with the architecture of the building or complex it serves and be constructed of materials consistent with the same.
13. Non-conforming Sign: Any sign that does not comply with the standards, regulations, or restrictions of these Zoning Regulations.
14. Non-illuminating Sign: A sign that is not directly, indirectly or internally illuminated.
15. Outdoor Advertising: Any device for visual communication which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered on the premises or elsewhere than on the premises; used for the purpose of bringing the subject thereof to the attention of the public, excluding however, any flag, badge, or insignia of any government or government agency or any civic, charitable, religious, patriotic, fraternal, or similar organization.

16. **Permanent Sign:** Any sign that is fixed, continuing, lasting, stable, enduring, not subject to change, and generally opposed to "temporary", but not always meaning "perpetual."
17. **Political Sign:** Any sign supporting or opposing candidates for public office or measures on election ballots.
18. **Projecting Sign:** Any sign extending more than one foot (1') from the face of the building to which it is attached. A time and/or temperature instrument mounted on the face of a building shall be included in this definition.
19. **Sign Area:** The entire area within a single continuous perimeter enclosing all elements of the sign, which form an integral part of the display, including the perimeter border. Signs with more than one (1) face shall be calculated as one (1) face only.
20. **Snipe Sign:** Any sign of a material such as cardboard, paper, pressed wood, plastic or metal which is attached to a fence, tree, utility pole or temporary structure, or any sign which is not securely fastened to a building or firmly anchored to the ground.
21. **Temporary Sign:** Any sign that is not a permanent sign.
22. **Time and/or Temperature Instruments:** A sign displaying only time and/or temperature information with no additional advertising or comments other than the name of the company or organization which owns the sign. Depending on their design and placement, such instruments shall be considered wall, marquee, projecting, or monument signs.
23. **Wall Sign:** Any sign attached flat against the surface of a wall, facade, or canopy of a building but not projecting horizontally from the vertical surface more than one foot (1') or above the vertical surface. Wall signs include signs painted on the walls of buildings.
24. **Window Sign:** Any sign that is displayed in, attached to, or applied to the exterior or interior of any transparent glass or acrylic surface that could be considered a window.

STABLE: A structure or structures for the boarding, breeding, training or raising of horses owned by the individuals residing on or owning the property, and including up to five (5) horses, two (2) years of age or older, not owned by the individuals residing on or owning the property.

STORM SHELTER: A facility that meets or exceeds the storm shelter requirements of the Miami County Building Code.

STORY: That portion of a building, other than a basement, included between the surface of one floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it.

STORY, HALF: A space under a sloping roof which has the line of intersection of roof decking and wall face not more than three feet (3') above the top floor level, and in which space not more than two-thirds (2/3) of the floor area is finished off for use. A half story containing independent apartment or living quarters shall be counted as a full story.

STREET: A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties. Also includes the word "road."

STREET LINE: The dividing line between the street right-of-way and the abutting property.

STRUCTURAL ALTERATION: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purposes of these Regulations, the following shall not be considered a structural alteration:

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

STRUCTURE: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something to have a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

SUBDIVISION: Any land, vacant or improved, which is divided or resubdivided into two (2) or more lots, parcels, sites, units, plots, or interests for the purpose of sale or development. The creation of a street, alley or other public way by dedication shall be deemed a subdivision.

SUBDIVISION, AGRICULTURAL PRESERVATION: A subdivision designed to preserve agricultural land from being completely developed by clustering lots in a manner that will maintain a parcel for agricultural use, said parcel being at least seventy-five percent (75%) of the land being subdivided and being at least forty (40) contiguous acres in size. The allowed density and development regulations of an agricultural preservation subdivision are subject to the regulations of the zoning district in which it is located.

SUBDIVISION, CONSERVATION: A subdivision designed to protect sensitive land from development by clustering lots and development on the non-sensitive portions of the land as much as possible, and designating at least fifty percent (50%) of the buildable portions of the land and all wetlands, floodways and slopes exceeding twenty-five percent (25%) as permanent open space. Most or all of the open space should be sensitive land, and sensitive land shall always take priority over non-sensitive land for meeting the open space requirement. The allowed density and development regulations of a conservation subdivision are subject to the regulations of the zoning district in which it is located.

SUBDIVISION, STANDARD: A subdivision that is not designed to preserve agricultural land, protect sensitive land from development (except for wetlands, floodways and slopes exceeding 25%), nor required to designate at least fifty percent (50%) of the buildable portions of the land as permanent open space. The allowed density and development regulations of a standard subdivision are subject to the regulations of the zoning district in which it is located.

SUBDIVISION REGULATIONS: The Miami County Subdivision Regulations, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

SUBURBAN RESIDENTIAL: A lot less than three (3) acres in size, created for the purpose of providing a residential building site, notwithstanding the accessory agricultural use of some or all of said lot.

TOWNSHIP PLANNING ADVISORY COMMITTEE: A committee from each township appointed by the Board of County Commissioners to provide local input into the County's planning process as recommended by the adopted Miami County Comprehensive Plan.

TRAILER: The term "trailer" shall include a separate vehicle not driven or propelled by its own power, drawn by some independent power. For purposes of these Regulations, the term "trailer" shall not include mobile, manufactured, or modular homes.

TRANSPORTATION PLAN OR MIAMI COUNTY COMPREHENSIVE TRANSPORTATION PLAN: The Miami County Comprehensive Transportation Plan as adopted by the Miami County Board of County Commissioners and as amended from time to time.

USE: The specific purpose for which land or a building is used.

UTILITY: Any governmental utility, nonprofit organization, corporation, or any entity defined as a utility for any purpose by Kansas state law engaged in the production, generation, transmission, delivery, collection or storage of water, sewage, electricity, gas, oil or electronic signals.

VARIANCE: A specific exemption granted by the Board of Zoning Appeals from the specific terms of these Regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of these Regulations will, in an individual case, result in unnecessary hardship. Such variance, however, shall not permit any use not permitted by the Zoning Regulations in such district.

WECS - WIND ENERGY CONVERSION SYSTEM: An energy conversion system that consists of all necessary devices, including but not limited to, a wind turbine, rotor, generator, WECS tower and foundation, and electrical components along with supporting and accessory facilities that, in conjunction, convert wind energy to a form of usable energy.

COMMERCIAL WECS: A WECS that is designed to have a capacity in excess of the amount needed for residential and agricultural uses and has a combined nameplate generating capacity equal to or greater than 100 kW.

NON-COMMERCIAL WECS: A WECS that is designed to have capacity for residential and agricultural uses and has a combined nameplate generating capacity of less than 100 kW.

WECS – TOWER: The vertical structure that supports the WECS equipment.

WECS – TOWER HEIGHT: The total tower height shall be measured from the top surface of the structure's foundation to the highest point reached by the turbine rotor blade.

WIND FARM: Multiple commercial WECS placed in the same location for the purpose of generating large amounts of electric power and where some or all of the energy produced is to be distributed to an off site customer or customers. Developers proposing a wind farm shall set a pre-application meeting with staff to review the potential development.

WIND TURBINE: Any piece of electrical generating equipment that converts the kinetic energy of blowing wind into electrical energy through the use of airfoils or similar devices to capture the wind.

YARD: A required open space, other than a court, unoccupied and unobstructed by any structure or portion of a structure from the ground upward, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT: A yard extending across the full width of the lot, the depth of which is the least distance between the lot line or road easement or right-of-way line (including the ultimate right-of-way identified in the Miami County Comprehensive Transportation Plan) and the front building line.

YARD, REAR: A yard extending across the full width of the lot between the rear building line and the rear lot line, the depth of which is the least distance between the rear lot line and the rear building line.

YARD, SIDE: A yard between the side building line and the side lot line and extending from the front yard to the rear yard and being the least distance between the side lot line and the side building line.

ZONING DISTRICT: A section of the zoning area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space about buildings are herein established.

ZONING REGULATIONS: The Miami County Zoning Regulations, as adopted by the Miami County Board of County Commissioners and as amended from time to time.

Article 3

DISTRICTS AND DISTRICT MAP

Sections:

- 3-1 Zoning Districts and Zoning District Map Established
- 3-2 General Regulations Governing All Zoning Districts
- 3-3 Regulations Governing the Temporary Placement of Recreational Vehicles, Mobile Homes and Manufactured Homes
- 3-4 Obsolete Zoning Districts Identified on the Zoning District Map
- 3-5 Limited Asphalt or Concrete Plants

Section 3-1. Zoning Districts and Zoning District Map Established

3-1.01 Zoning Districts: In order to regulate and restrict the location of trades, callings, industries, commercial enterprises, and the location of buildings in designated “Zoning Districts,” there shall be nine zoning districts known as:

1. Planned Development District (PD)
2. Rural Residential District (R-1)
3. Countryside District (CS)
4. Agricultural District (AG)
5. Low Intensity Commercial District (C-1)
6. Commercial District (C-2)
7. Business Park District (BP)
8. Light Industrial District (I-1)
9. Heavy Industrial District (I-2)

3-1.02 Zoning District Map: The unincorporated territory of Miami County, Kansas, subject to these Regulations, shall be divided into the nine districts established in Section 3-1.01, and the boundaries of such districts shall be shown upon the Zoning District Map of the unincorporated territory of Miami County, Kansas, marked as required by State statutes, and incorporated herein by reference as authorized by K.S.A. 12-741 et seq. Said map shall be on file in the office of the County Clerk and in the office of the Planning Director as provided for by law. A duplicate Zoning District Map shall be on file in the office of the Board of County Commissioners.

3-1.03 Overlay Zoning Districts: In addition to the aforesaid zoning districts, there shall be seven (7) “Overlay Zoning Districts” known as:

1. Floodplain Overlay District (F-P)
2. Airport Approach Zone Overlay District 1 (AP-A1)
3. Airport Approach Zone Overlay District 2 (AP-A2)
4. Airport Transitional Zone Overlay District (AP-T)
5. Airport Horizontal Zone Overlay District (AP-H)
6. Airport Conical Zone Overlay District (AP-C)
7. Village Overlay District (V)

The boundaries of the F-P District are shown on the “Flood Hazard Boundary Maps” incorporated by reference in Article 12 of these Regulations. The boundaries of the AP-A1, AP-A2, AP-T, AP-H and AP-C Districts are shown on the “Approach Plan” map of the Miami County Airport Master Plan which is incorporated by reference in Article 13 of these Zoning Regulations. The boundaries of the Village Overlay District (V) shall be established by the Board of County Commissioners.

Section 3-2. General Regulations Governing All Zoning Districts

3-2.01 Except as otherwise provided for herein:

1. No land may be used except for a purpose permitted in the district in which it is located.
2. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building or part thereof be used, except for cause permitted in the district in which the building is located.
3. No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered to exceed the height, area and bulk regulations, the parking regulations, or the off-street loading regulations herein established for the district in which the building is located, unless otherwise provided for in these Regulations.
4. If a use in any structure is hereafter changed to another, then the new use must comply with the use regulations of these Regulations.
5. The minimum yards, parking spaces, open spaces, including lot area per family, required by these Regulations for each and every building existing at the time of the passage of these Regulations, or for any building hereafter erected, shall not be encroached upon or considered as required yard or open space for any building, nor shall any lot area be reduced below the requirements of these Regulations.
6. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and, except as hereinafter provided, in no case shall there be more than one main building on one lot.
7. No structure shall hereafter be built or moved, and no structure or land shall hereafter be used, occupied or designed for use or occupancy unless the minimum off-street parking and loading spaces required by the zoning district in which it is located and by Article 17 (and in some conditional use permit cases, by Article 14) 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 the zoning district in which it is located and by Article 17 (and in some conditional use permit cases, by Article 14) are provided for the whole structure or use as enlarged.
8. Nothing contained in these Regulations shall be deemed to be consent, license or permit to use any property; to locate, construct or maintain any structure or facility; or to carry on any trade, industry, occupation or activity.
9. Utility appurtenances, such as transformer enclosures, meter or cable cabinets or boxes, etc., but not including power poles, telephone pedestals and buried utility lines and appurtenances, shall comply with the following requirements:

- A. Such appurtenances shall not be located within the ultimate right-of-way of any County road, as identified in the Miami County Comprehensive Transportation Plan, or any internal subdivision road.
- B. Such appurtenances shall be located a minimum distance of 250 feet from a street intersection, unless the County Engineer approves a shorter distance based on, but not limited to, their being forty-two inches (42”) or less in height above average grade and their meeting ASHTO sight distance requirements.
- C. Such appurtenances shall be located a minimum distance of 30 feet from an existing driveway, unless the County Engineer approves a shorter distance based on, but not limited to, their being forty-two inches (42”) or less in height above average grade and their meeting ASHTO sight distance requirements.
- D. If such appurtenances are located within any required yard of a tract, parcel or lot, their maximum height shall be fifty-four inches (54”) above average grade and their maximum footprint shall be twelve (12) square feet in area.
- E. All required building permits shall be issued prior to their installation.

Section 3-3. Regulations Governing the Temporary Placement of Recreational Vehicles, Mobile Homes and Manufactured Homes

3-3.01 Temporary use of recreational vehicles (other than storage) for habitation is permitted, when such use is not associated with a building permit for a single family residence, for a period not to exceed 90 consecutive days per calendar year, provided the recreational vehicle complies with the Miami County Environmental Health Sanitary Code and other County regulations, and the applicant provides a notarized affidavit to the Planning Director prior to the placement of the recreational vehicle, which shall specify a beginning date and an ending date (both dates inclusive) during which the recreational vehicle may be used for habitation. The affidavit shall state that the owner understands and agrees that using the recreational vehicle for habitation other than as set forth in the affidavit constitutes a violation of the Zoning Regulations.

3-3.02 Temporary use of recreational vehicles (other than the type which is mounted on another vehicle or a “pop up” type unit) for temporary housing associated with a single family residential building permit may be used as habitation for a period not to exceed one (1) year or exceed five days after the date the residence is certified habitable by the County, whichever is sooner, provided the required temporary housing permit is obtained and the recreational vehicle complies with the Miami County Environmental Health Sanitary Code and other County regulations, and the owner provides a notarized affidavit to the Planning Director prior to occupying the recreational vehicle, agreeing to cease using the recreational vehicle for habitation within one (1) year or five days of the new dwelling being certified habitable by the County, whichever is sooner. The affidavit shall state that the owner understands and agrees that failure to cease using the recreational vehicle for habitation other than as set forth in the affidavit constitutes a violation of the Zoning Regulations. The temporary placement and use of a recreational vehicle for this purpose may be extended for one or more six (6) month periods of time, upon verification by the Planning Director that circumstances beyond the normal control of the applicant resulted in a delay in obtaining an occupancy permit. A new affidavit for each extension of time shall be required.

3-3.03 The Planning Director may approve the temporary placement and use of a mobile home or manufactured home in addition to an existing residence under conditions of extreme hardship as defined by these Regulations, provided:

1. The applicant shall clearly state the reason(s) for the hardship.
2. The temporary hardship residence shall be permitted only in the zoning districts that permit residential use by right.
3. All requirements of the Miami County Environmental Health Sanitary Code shall be met.
4. The Planning Director shall determine in each hardship situation the applicability of County-adopted building-related codes, and adequacy of the domestic water supply and service lines to the mobile home or manufactured home. No permanent foundation shall be required by the Planning Director as a condition of approval of the temporary placement under this subsection.
5. The applicant shall provide a notarized affidavit relevant to the application for the placement of a temporary hardship mobile home or manufactured home for a period of one (1) year, which acknowledges that failure to remove the temporary hardship home upon expiration of the term approved by the County constitutes a zoning violation punishable by a fine of \$500.00 for each day of violation.
6. The temporary placement and use of a hardship residence may be extended for one or more successive one-year periods of time, upon verification by the Planning Director that the hardship continues to exist. A new affidavit for each extension of time shall be required.
7. A hardship residence shall be limited solely for the use of the tenants of the verified hardship and shall not be rented, leased or otherwise occupied. If for any reason the hardship or reason of necessity shall cease to exist, the hardship residence shall be removed.

3-3.04 A mobile home or manufactured home may be used as a temporary office or other non-residential structure on the site of a construction project, provided such structure is removed upon completion or abandonment of the project, or upon the expiration of a period of one (1) year from the time of the placement of such temporary structure, whichever is sooner, and provided the applicant submits a notarized affidavit agreeing to the removal of the temporary structure. In conjunction with the construction project, all requirements of the Miami County Environmental Health Sanitary Code shall be met for the temporary structure, and a permit for the temporary structure shall be obtained from the Building Department prior to placing the structure on the project site. The temporary placement and use of a mobile home or manufactured home for this purpose may be extended for one or more six (6) month periods of time, upon verification by the Planning Director that circumstances beyond the normal control of the applicant resulted in a delay in obtaining an occupancy permit. A new affidavit for each extension of time shall be required.

Section 3-4. Obsolete Zoning Districts Identified on the Zoning District Map

3-4.01 In the past, some obsolete zoning districts were rezoned by assimilating them into some of the current zoning districts, after a public hearing (e.g., C-3 Districts were rezoned to C-2 Districts). However, not all obsolete zoning districts were rezoned. These obsolete zoning districts are still shown on the Zoning District Map. These obsolete zoning districts are the

Single-Family Residential District (R-1A), the Two-Family Residential District (R-2), the Garden Apartment District (R-3), and the Office District (C-O). Rather than treating these districts as nonconformities, they shall continue to be regulated under the provisions of the latest Miami County Zoning Regulations in which they are identified. This is intended to allow the reconstruction of structures that are damaged by more than 50% of their assessed valuation. It is not intended to allow any future rezonings to these obsolete zoning districts, which is why their regulations are not contained in these Zoning Regulations. The obsolete zoning districts may be rezoned to current zoning districts in the future, after a public hearing or series of public hearings.

Section 3-5. Limited Asphalt or Concrete Plants

3-5.01 Limited asphalt or concrete plants may be allowed by permit for County road or State or Federal highway projects in all zoning districts on a temporary basis. All standards within this section shall be complied with in order to qualify as a limited asphalt or concrete plant. If any one of these standards cannot be complied with, the plant shall be required to be located only in the zoning districts where a plant is allowed by conditional use permit, and a conditional use permit shall first be obtained and comply with all of the provisions outlined in Section 14-2 of these Regulations for asphalt or concrete plants. The standards for a limited asphalt or concrete plant are as follows:

1. The limited asphalt or concrete plant permit shall be renewed annually and shall be limited to a total of three consecutive years.
2. The limited asphalt or concrete plant and related materials and equipment shall be located no closer than 1,000 feet to any residence other than the residence of the owner of the land upon which the limited plant is to be located.
3. The asphalt or concrete plant shall comply with State air pollution regulations and a permit from the Kansas Department of Health and Environment shall be obtained by the applicant prior to operating the plant.
4. The applicant shall comply with State and County sanitation codes and obtain a permit from the Miami County Environmental Health Department.
5. No contaminated soils shall be stockpiled on the site, used for remediation, or used in the operation of the asphalt or concrete plant.
6. All fuel tanks shall include fuel/spill containment systems as approved by the Kansas Department of Health and Environment and/or the Miami County Environmental Health Department.
7. Any spills of materials capable of contaminating ground water shall be cleaned up immediately to the satisfaction of the Kansas Department of Health and Environment.
8. No washing or cleaning of trucks or truck beds shall be allowed on site unless a wastewater containment system is installed and used to the satisfaction of the Kansas Department of Health and Environment.
9. No waste, production materials, discarded equipment or other such items shall be buried on site.

10. All equipment and materials utilized in the operation of the limited asphalt or concrete plant shall be removed from the site and the site shall be returned to its original condition, or better, within 30 days following completion of the construction project for which the plant was established.
11. A surety in the form of a performance bond and/or letter of credit assuring the site will be returned to its original or improved condition shall be submitted to the County prior to the issuance of a permit.
12. An approved site plan as outlined in the “Procedures For Application For Permit For A Limited Asphalt/Concrete Plant” shall be submitted with the permit application.
13. A temporary entrance permit is required for access onto any County right-of-way.
14. Should the County Engineer determine that the proposed site is within ¼ mile of a water body, the applicant shall comply with Kansas Department of Transportation Special Provision #90M-37-R1, regarding environmental concerns.
15. A map of the designated haul roads shall be submitted with the permit application and the operation shall comply with Kansas Department of Transportation Special Provision #90M-6006. (If the project is not a KDOT project, an agreement must be drawn between the County and the contractor based on Special Provision #90M-6006.)

Article 4

PLANNED DEVELOPMENT DISTRICT (PD)

Sections:

- 4-1 Application
- 4-2 Use Regulations
- 4-3 Parking Regulations
- 4-4 Sign Regulations
- 4-5 Height, Area, Yard and Open Space Regulations
- 4-6 Infrastructure Requirements

Section 4-1. Application

4-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Planned Development District (PD). The purpose of this district is to provide for single-family and multiple-family residential developments with low overall density, commercial developments, light industrial developments, and mixed-use developments. The intent of the district is to protect sensitive land and agricultural uses through conservation design and extensive open space. Development will only occur when infrastructure requirements are met as a part of the rezoning and platting process. All new planned developments should be developed within or adjacent to the existing villages or town sites or adjacent to cities, but may be considered in other areas. In order to meet the intent of the district, all new subdivisions within a Planned Development District shall be conservation subdivisions, and all other new developments shall incorporate conservation design.

4-1.02 The standard rezoning application form of the County shall be used to submit a request for a Planned Development District. In addition to the required information for conceptual plans outlined in Section 22-3, all requests shall be accompanied by one colored conceptual plan, typical building elevations, and a written text, the required contents of which are outlined below in Section 4-1.03, for the entire property proposed to be developed. For projects approved by the Board of County Commissioners that are proposed for subdividing, the applicant shall proceed to prepare and submit a preliminary plat or series of preliminary plats, followed by a final plat or series of final plats, as set forth in the Subdivision Regulations. The plats shall conform to the approved development plan. For projects approved by the Board of County Commissioners that are not proposed for subdividing or have already gone through the subdividing process, the applicant shall proceed to prepare and submit building and development plans that comply with the adopted County codes, regulations and standards, and that conform to the approved development plan.

4-1.03 The contents of the written text shall include the following:

1. A list of all uses proposed for the development.
2. The projected use of land, including percentages devoted to the various types of land use, such as building coverage, parking area, landscaped area, etc.

3. The type, character and proposed height of all buildings. (If individual dwellings are to be custom homes, then indicate as such, but multiple-family dwellings and commercial and industrial developments should have common design themes).
4. The overall density in terms of dwellings per gross acre of buildable land.
5. A list of proposed school sites, church sites, recreational facilities, community buildings, parks, trails, other common or open spaces, and the sensitive lands that will be protected through conservation design.
6. A phasing plan, if the development is proposed to be developed in phases.
7. A description of the infrastructure (roads and utilities) currently serving the site and of the infrastructure proposed to serve the site (upgraded and new improvements). Verification as to the adequacy and availability of utilities shall be indicated by the supplying utility district, company or municipality.
8. A description of how utility appurtenances (i.e., transformers, etc.), refuse storage areas, outdoor storage areas, etc. shall be screened from public view.
9. An overview of the general circulation and drainage throughout the development.
10. A conceptual lighting plan indicating the locations and types of lights proposed for the development.
11. A conceptual sign program proposed for the development.
12. Any other design elements proposed for the development (i.e., fencing, benches, etc.).

4-1.04 A building permit for construction within the development shall be issued within two (2) years from the date of rezoning approval to Planned Development. Unless an extension of time has been granted by the County Commission, if a building permit has not been issued within the two (2) year time period, the property shall automatically revert back to its previous zoning without notification to the applicant by the County. To request an extension of time, a written petition shall be filed with the Planning Director at least thirty (30) days prior to the expiration date, requesting an extension of time in obtaining a building permit. The application shall state specific reasons for such an extension and shall include all reports from appropriate County agencies and shall be sent to the County Commission for consideration within thirty (30) days of filing of the application. The County Commission may grant an extension if it finds that circumstances beyond the normal control of the applicant resulted in a delay in obtaining a building permit.

4-1.05 Each phase of a Planned Development shall either stand on its own or incorporate the elements of previously developed phases in meeting the density, open space and infrastructure requirements of the district. Development phases shall not rely on future phases in meeting the density, open space and infrastructure requirements.

4-1.06 The development plan and list of allowed uses approved by the Board of County Commissioners constitute the Planned Development District, and any significant changes to the plan or list of allowed uses shall be processed as an amendment to the district. Any amendments

to the development plan or list of allowed uses shall be accomplished in the same manner as any other rezoning request. A new rezoning application, revised text, and/or plans shall be submitted to the Planning Director for placement on the Planning Commission agenda as a public hearing for their review and recommendation to the Board of County Commissioners. The approval of the revised development plan and list of allowed uses shall constitute the new Planned Development District.

Section 4-2. Use Regulations

4-2.01 In the Planned Development District, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, unless otherwise provided for in these Regulations, except for the following uses:

1. Residential uses, including single-family dwellings, two-family dwellings (duplexes), multiple-family dwellings, Group Homes for the Disabled, manufactured home parks and subdivisions, and recreational vehicle parks (for long term rentals) and subdivisions, provided the overall density does not exceed one (1) dwelling per one (1) acre of gross land area, including any rights-of-way. Except for manufactured homes located in a manufactured home park and recreational vehicles, all residences shall have a permanent foundation enclosing the perimeter as required by these Regulations. Manufactured homes located in a manufactured home park and recreational vehicles shall have perimeter skirting as required by these Regulations. Except for recreational vehicles, all residences shall have a minimum floor area of nine hundred fifty (950) square feet.
2. Public or private parks, playgrounds, recreational or sports-related facilities, community centers, schools (including vocational and trade schools), libraries, and museums.
3. Churches and parish halls, temples, convents, and monasteries, provided the minimum standards listed in Section 14-2 are met.
4. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.
5. A business, profession, or trade conducted as a home occupation subject to the standards set forth in *Article 20, Home Occupation Standards*.
6. Equestrian and agricultural uses and facilities.
7. Commercially operated recreational or sports-related facilities, whether operated by a public or private entity. This shall include, but not be limited to, such uses as: recreational lakes, camps, golf courses, country clubs, golf driving ranges, miniature golf courses, swimming pools, tennis courts, racquetball courts, commercial stables, shooting ranges, ice and roller skating rinks, race tracks for horses and dogs, bowling alleys, fee fishing lakes, athletic fields and baseball fields.
8. Public or private airports and/or landing fields.
9. Fire stations.
10. Hospitals and special care facilities for humans.

11. Preschool nurseries, day-care centers or day-care homes, provided the minimum standards listed in Section 14-2 are met.
12. Recreational vehicle parks, permanent or temporary, provided the minimum standards listed in Section 14-2 are met.
13. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner, provided the minimum standards listed in Section 14-2 are met.
14. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
15. Veterinary and small animal hospitals.
16. Bed and Breakfast facilities, provided the minimum standards listed in Section 14-2 are met.
17. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses, provided the minimum standards listed in Section 14-2 are met.
18. Shops and stores for selling at retail, including, but not limited to, the selling of foods (including retail bakeries or pastry shops and non-alcoholic beverages for human consumption), soft goods such as clothing and shoes, drugs and cosmetics, furniture and appliances, printed materials, notions, hardware and paint, kitchenware, toys and sporting goods, jewelry, gifts and novelties, flowers, tobacco products, photographic equipment, antiques, artist and hobby supplies, music supplies, medical supplies, bicycles, video tape rentals, department store merchandise, new automobiles and trucks (including used car lots accessory and subordinate thereto), automobile supplies, motorcycles, gasoline service stations, petroleum products (bulk plants not permitted), convenience stores with or without gasoline and/or cereal malt beverage sales, and food delivery outlets.
19. Services, including, but not limited to, those uses such as barber and beauty shops, optical shops, seamstress and tailoring shops, dry cleaning and laundry operations, eating establishments, interior decorator shops, photography studios and film processing shops, shoe repair shops, clinics, appliance and small equipment repair, general repair and fix-it shops, private clubs, liquor stores, any retail establishment selling alcoholic beverages, automobile repair and washing, radio and television broadcasting studios, public or private entertainment and recreation, charity and welfare services, farm machinery repair, frozen foods (including lockers), swimming pools, and motels and hotels.

20. Savings and loan institutions, credit union offices, and banks, all with or without drive-through facilities.
21. Shops and stores for the sale at retail or wholesale, and the rental of items, including, but not limited to, automotive equipment, trucks, trailers, boats, camping accessories, tools, farm machinery and supplies, building supplies, and lawn accessories.
22. Manufacture or assembly of products to be sold at retail on the premises or in conjunction with a retail use.
23. Research and development oriented activities, including, but not limited to, the fields of medicine, biomedicine, chemistry, animal science, computer science, transportation, energy, pharmacy, biology, environmental science, economics, atmospheric or oceanographic science, physics, and agriculture.
24. Engineering, accounting, research, management, and related services.
25. Research, development analysis, or testing as the principal use in laboratories, product development centers, testing facilities, or research centers.
26. Business, professional, medical or governmental offices.
27. Research and development activities with or without light fabrication and assembly operation, limited industrial/manufacturing activities, wholesale trade, and warehousing with or without associated administrative offices.
28. Manufacturing, processing, fabrication, or assembling of any commodity except junk or salvage.
29. Warehousing, wholesaling, and storage of any commodity except junk or salvage.
30. Auction facilities.
31. Funeral homes and mortuaries.
32. Cemeteries.
33. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.
34. Contractors' shops and/or yards, including construction equipment and/or material storage areas, provided the minimum standards listed in Section 14-2 are met.
35. Exposition centers and/or buildings.
36. Fairgrounds.
37. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances, with placement of said uses and facilities being allowed only in non-residential planned developments and the non-residential portion of mixed-use

planned developments, and provided the minimum standards listed in Section 14-2 are met.

38. Radio and television antennas and satellite dishes designed for an individual residence, and provided the height limit of the district is not exceeded.
39. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
40. Group boarding homes for minors, provided the minimum standards listed in Section 14-2 are met.
41. Accessory uses and structures customarily incidental to the normal operation of the above uses.
42. Any combination of the above uses, and any additional uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, as long as the uses are determined to be compatible with each other according to the designated and approved development plan, and except for those uses listed as prohibited uses in Article 15.

Section 4-3. Parking Regulations

4-3.01 Two (2) off-street parking spaces shall be provided for each dwelling unit. Except for manufactured homes located in a manufactured home park and recreational vehicles, all dwellings shall be provided with either a one-car garage, either attached to or detached from the main dwelling, or a detached, fully enclosed accessory structure at least 200 square feet in floor area. Said garage or accessory structure shall be located within 200 feet of the dwelling unit.

4-3.02 Driveway Access: For those parcels and lots fronting on a county maintained public road or an approved private road, any new entrance shall be located along that portion of the public or private road immediately in front of the subject property and not through another property. Two properties may share one common entrance at the shared property line as long as the center of the driveway is within ten feet of the shared property line.

4-3.03 Additional parking requirements are contained in Article 17 of these Zoning Regulations.

Section 4-4. Sign Regulations

4-4.01 Sign regulations are contained in Article 18 of these Zoning Regulations.

Section 4-5. Height, Area, Yard and Open Space Regulations

4-5.01 Height: Buildings or structures shall not exceed thirty-five feet (35') and/or two and one-half (2 1/2) stories in height.

4-5.02 Front Yard: The depth of the front yard shall be at least thirty-five feet (35').

4-5.03 Side Yard: There shall be a side yard of at least ten feet (10') on each side of a building or structure. All detached accessory buildings shall provide a minimum side yard of ten feet (10').

4-5.04 Rear Yard: The depth of the rear yard shall be at least twenty feet (20'). All detached accessory buildings shall provide a minimum rear yard of twenty feet (20').

4-5.05 Lot Dimensions: The minimum width of a single-family lot shall be seventy-five feet (75'), having its principal frontage upon a street. Lots fronting a cul-de-sac with a sixty foot (60') radius may have a width at the front lot line of not less than sixty feet (60') fronting upon a street. The minimum depth of a single-family lot shall be one hundred feet (100'). All other developments shall be designed according to the open space requirements outlined below.

4-5.06 Building or Structure Separation: There shall be a minimum building or structure separation of twenty feet (20').

4-5.07 Lot Area Per Dwelling: Every dwelling or residence established shall be located on a lot that shall have frontage on a street that meets Miami County access requirements. With an overall density of one (1) dwelling per one (1) acre of buildable land, a single-family lot shall be a minimum of 10,000 square feet, and all other developments shall be designed according to the open space requirements outlined below.

4-5.08 Required Open Space: A minimum of thirty percent (30%) of the land area of the subdivision or development, excluding any proposed or required on-site or off-site rights-of-way, shall be set aside for permanent open space. Most or all of the open space should be sensitive land, which shall always take priority over non-sensitive land for meeting the open space requirement. Permanent open space may be in the form of, but not limited to, wetlands, floodways, slopes exceeding twenty-five percent (25%), agricultural fields, pastures, parks, trails, recreational fields, or undisturbed natural areas. All sensitive lands of an area proposed for a Planned Development District shall be identified and prioritized as to their level of sensitivity first, and then the subdivision or development shall be designed around those sensitive lands. The permanent open space shall either be held in common by all property owners within the subdivision or development, be dedicated to the County or other public entity for recreational use in the form of public parks and/or public trail corridors or be granted to a public land trust as a conservation/open space easement. Solid, view-obscuring fences or walls shall not enclose the permanent open space.

4-5.09 Minimum District Size: The minimum size of a residential development shall be twenty (20) contiguous acres. This requirement does not apply to commercial, industrial or mixed-use developments, but minimum size appropriateness in relation to site location shall be determined prior to rezoning approval.

Section 4-6. Infrastructure Requirements

4-6.01 In the Planned Development (PD) District, no building shall be hereafter erected or altered unless: (a) such is otherwise provided for in these Regulations; and (b) the following public services are available:

1. Water: Water available for domestic use shall only be provided by a rural water district or incorporated municipality. The property owner shall provide written proof of the

adequacy and availability of the water supply from any applicable rural water district or municipality extending service to the property.

2. Streets: All planned developments adjacent to and including existing or planned public streets shall provide for the dedication and improvements of said streets by complying with the “Road Design Standards For New Construction” outlined in the Miami County Comprehensive Transportation Plan, and the Miami County Street and Storm Drainage Standards for New Subdivisions, whichever applies, and according to the existing street classifications or the need for upgraded classifications due to the increased traffic volume that will be generated by the new development. Additionally, all access into a planned development shall be by way of a paved public street that intersects with another paved public street, consistent with Miami County paving standards, the Miami County Comprehensive Transportation Plan and the Miami County, Kansas Subdivision Regulations. The amount of dedications and improvements for public streets that will be required of the developer shall be determined prior to the approval of the Planned Development District and will be specified in an Improvement Agreement. All new streets that are interior to the development shall be improved according to the “Design Criteria and Standards” outlined in the Miami County Street and Storm Drainage Standards for New Subdivisions if they are to be dedicated as public streets. If the new streets are to be designated as private streets, said streets may, at a minimum, be improved according to the Type B street standards outlined in the Miami County Street and Storm Drainage Standards for New Subdivisions. However, the adequacy of a Type B street standard shall be determined prior to the approval of the Planned Development District. A homeowners’ or property owners’ association shall be established to maintain all private streets.
3. Sewage: All sewage collection and treatment facilities shall be in compliance with the Miami County Environmental Health Sanitary Code and/or the requirements of the Kansas Department of Health and Environment.
4. Fire Protection: Information as to (a) street and road layout, (b) points of ingress and egress to the development and each lot therein, and (c) adequacy of the planned water supply system and/or surface water features for fire fighting purposes shall be provided to the Building Inspection Director and the rural fire district within which the proposed development is located. The Building Inspection Director and the fire chief for such district shall review the information provided and require any alterations or improvements which, in the Building Inspection Director’s and the fire chief’s discretion, are necessary to protect lives and property within the development.
5. Storm Drainage: All storm drainage improvements shall comply with the minimum standards of Miami County as adopted by the Board of County Commissioners, and as outlined in the Miami County Street and Storm Drainage Standards for New Subdivisions, and shall be approved by the County Engineer prior to construction. The increase in the volume and rate of storm water runoff due to new development shall be addressed by providing on-site detention or other acceptable design methods approved by the County Engineer.
6. Variances Not Allowed: No variances from the standards for infrastructure requirements contained in this Section shall be granted by the Board of Zoning Appeals under Section 23-2 of the Zoning Regulations.

Article 4A

RURAL RESIDENTIAL DISTRICT (R-1)

Sections:

- 4A-1 Application
- 4A-2 Use Regulations
- 4A-3 Parking Regulations
- 4A-4 Sign Regulations
- 4A-5 Height, Area and Yard Regulations

Section 4A-1. Application

4A-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Rural Residential District (R-1). The purpose of this district is to provide for low density residential development that retains the character of the basically rural area, but also requires the clustering of dwellings through conservation subdivisions in order to protect sensitive land and preserve open space. All new subdivisions should be developed adjacent to planned developments, the existing villages or town sites, or the cities, but may be considered in other areas.

Section 4A-2. Use Regulations

4A-2.01 In the Rural Residential District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, unless otherwise provided for in these Regulations, except for the following uses:

1. One single-family dwelling per legal lot or parcel: Any single-family dwelling shall have a permanent foundation and perimeter enclosure as required by these Regulations, and shall have a minimum floor area of nine hundred fifty (950) square feet. Single-family dwellings shall include residential-design manufactured homes, modular homes, Group Homes for the Disabled, and mobile homes.
2. Public parks and playgrounds.
3. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.
4. Home occupations allowed in Article 20, Home Occupation Standards.
5. Radio and television antennas and satellite dishes, and non-commercial wind energy conversion systems (WECS) designed for an individual residence, provided the height limit of the district is not exceeded.

6. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
7. Churches, parish halls and temples in existence as of the effective date of these regulations provided the standards of Section 16-8 of these regulations are met.
8. Accessory uses, structures and buildings customarily incidental to the normal operation of the above uses.

4A-2.02 In the Rural Residential District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

1. Private landing fields.
2. Residential-compatible athletic fields and baseball fields.
3. Cemeteries.
4. Fire stations.
5. Preschool nurseries, day-care centers or day-care homes (refer to Section 14-2 for minimum development standards).
6. Residential-compatible commercially operated recreational or sports-related facilities, whether operated by a public or private entity. This shall include, but not be limited to, such uses as: recreational lakes, golf courses, country clubs, golf driving ranges, swimming pools, tennis courts, racquetball courts, and commercial stables.
7. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
8. Amateur station antenna structures for use by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
9. Bed and Breakfast facilities (refer to Section 14-2 for minimum development standards).
10. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).

11. Community centers, public libraries and museums.
12. Schools.
13. Churches, parish halls and temples constructed after the effective date of these regulations or when such has exceeded the limits of expansion set forth in Section 16-8 of these regulations; convents and monasteries (refer to Section 14-2 for minimum development standards).
14. Commercial or Non-commercial WECS that exceed the height restriction of the district (refer to Section 14-2 for minimum development standards).
15. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 4A-3. Parking Regulations

4A-3.01 Two (2) off-street parking spaces shall be provided for each dwelling unit. All dwellings shall be provided with either a one-car garage, either attached to or detached from the main dwelling, or a detached, fully enclosed accessory structure at least 200 square feet in floor area. Said garage or accessory structure shall be located within 200 feet of the dwelling unit.

4A-3.02 Driveway Access: For those parcels and lots fronting on a county maintained public road or an approved private road, any new entrance shall be located along that portion of the public or private road immediately in front of the subject property and not through another property. Two properties may share one common entrance at the shared property line as long as the center of the driveway is within ten feet of the shared property line.

4A-3.03 Additional parking requirements are contained in Article 17 of these Zoning Regulations.

Section 4A-4. Sign Regulations

4A-4.01 Sign regulations are contained in Article 18 of these Zoning Regulations.

Section 4A-5. Height, Area and Yard Regulations

4A-5.01 Height: Buildings or structures shall not exceed thirty-five feet (35') and/or two and one-half (2 1/2) stories in height.

4A-5.02 Front Yard: The depth of the front yard shall be at least fifty feet (50').

4A-5.03 Side Yard: There shall be a side yard of at least twenty feet (20') on each side of a dwelling. All detached accessory buildings shall provide a minimum side yard of twenty feet (20').

4A-5.04 Rear Yard: The depth of the rear yard shall be at least twenty feet (20'). All detached accessory buildings shall provide a minimum rear yard of twenty feet (20').

4A-5.05 Lot Dimensions: The minimum width of a lot shall be two hundred twenty feet (220'), having its principal frontage upon a public street. Lots fronting a cul-de-sac with a sixty foot (60') radius may have a width at the front lot line of not less than sixty feet (60') fronting upon a public street. The minimum depth of a lot shall be one hundred fifty feet (150'). There shall not be a lot depth-to-width ratio greater than 4:1 (i.e., the depth of a lot cannot be greater than 4 times its width). In the event of unusual lot configurations, the Planning Director shall determine whether the lot dimensions meet the spirit and intent of these requirements.

4A-5.06 Lot Area: Every dwelling or residence established shall be located on a lot that shall have frontage on a dedicated public street that meets Miami County access requirements. Lot area and required conservation subdivision standards are as follows:

With an overall density of one (1) dwelling per five (5) acres of gross land area, including any rights-of-way, an individual lot shall be a minimum of one (1) acre. A minimum of thirty percent (30%) of the land area of the subdivision, excluding any proposed or required on-site or off-site rights-of-way, shall be set aside for permanent open space. Most or all of the open space should be sensitive land, which shall always take priority over non-sensitive land for meeting the open space requirement. Permanent open space may be in the form of, but not limited to, wetlands, floodways, slopes exceeding twenty-five percent (25%), agricultural fields, parks, trails, recreational fields, or undisturbed natural areas. All sensitive lands of an area proposed for a conservation subdivision shall be identified and prioritized as to their level of sensitivity first, and then the subdivision shall be designed around those sensitive lands. The permanent open space shall either be held in common by all property owners within the subdivision, be dedicated to the County or other public entity for recreational use in the form of public parks and/or public trail corridors or be granted to a public land trust as a conservation/open space easement. Solid, view-obscuring fences or walls shall not enclose the permanent open space.

4A-5.07 Minimum District Size: The minimum size of an R-1 District shall be twenty (20) contiguous acres.

Article 5

COUNTRYSIDE DISTRICT (CS)

Sections:

- 5-1 Application
- 5-2 Use Regulations
- 5-3 Parking Regulations
- 5-4 Sign Regulations
- 5-5 Height, Area and Yard Regulations

Section 5-1. Application

5-1.01 The Regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the Regulations in the Countryside District (CS). This district is primarily intended to provide for the development of a rural residential lifestyle with adequate open space that may include equestrian use, but also encourages the clustering of dwellings through conservation subdivisions by allowing an increase in density. This district is also intended to provide for agricultural uses on the larger parcels, and encourages the preservation of agricultural lands by allowing agricultural preservation subdivisions.

Section 5-2. Use Regulations

5-2.01 In the Countryside District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, unless otherwise provided for in these Regulations, except for the following uses:

1. Agricultural purposes.
2. Grain storage structures.
3. One single-family dwelling per legal lot or parcel: Any single-family dwelling shall have a permanent foundation and perimeter enclosure as required by these Regulations and shall have a minimum floor area of nine hundred fifty (950) square feet. Single-family dwellings shall include residential-design manufactured homes, Group Homes for the Disabled, modular homes and mobile homes.
4. Home occupations allowed in Article 20, Home Occupation Standards.
5. Public parks and playgrounds.
6. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.
7. Radio and television antennas and satellite dishes designed for an individual residence, provided the height limit of the district is not exceeded.
8. Commercial and Non-commercial wind energy conversion systems (WECS) designed for an individual residence, agricultural use or conditional use. The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.

9. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
10. Machinery repair, welding and similar activities relating to maintenance and repair of agriculture equipment, when such equipment is owned and operated by the property owner.
11. Churches, parish halls and temples in existence as of the effective date of these regulations provided the standards of Section 16-8 of these regulations are met.
12. One accessory dwelling provided the following standards are met.
 - A. The accessory dwelling shall be constructed within or attached to an existing principal dwelling. An attached accessory dwelling shall be physically connected to the principal dwelling by, at a minimum, a roofed structure no longer than 25 feet.
 - B. The principal dwelling shall be a minimum of 2,000 square feet in gross floor area as defined in these regulations.
 - C. Construction of an accessory dwelling in an existing garage of the principal dwelling shall not relieve the requirement of providing a garage or comparable accessory structure for the principal dwelling as noted in the parking regulations of this article.
 - D. The entryway to the accessory dwelling shall not be located on the same plane as the principal dwelling's main entrance.
 - E. The minimum required total floor area of the accessory dwelling shall be 250 square feet.
 - F. The maximum allowed total floor area of the accessory dwelling shall be the lesser of 25% of the total floor area of the principal dwelling, excluding the principal dwelling's garage, or 900 square feet.
 - G. The accessory dwelling shall not be allowed within or attached to a mobile home but may be allowed within or attached to a manufactured home.
 - H. The accessory dwelling shall use the same driveway as the principal dwelling. A second driveway accessing the accessory dwelling shall not be allowed.
 - I. The accessory dwelling may have to be served with an onsite wastewater system separate from that of the principal dwelling if the existing onsite wastewater system is inadequate per code to serve the new dwelling.
 - J. The accessory dwelling shall not be located within a barn unless the principal dwelling is also located within a barn.
 - K. The accessory dwelling shall be constructed of the same or similar building materials as the principal dwelling.
 - L. The accessory dwelling shall meet all other applicable development codes and regulations of the county.
13. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
 - A. A tower may be permitted under the following height and location restrictions.

- i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
- B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.
 - C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any highway right-of-way, as listed above, shall be no less than one time the tower height.
 - E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.
 - H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.
 - I. Any tower that is no longer in use for its original purpose shall be removed at the owner’s expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property. In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.

- J. If these standards cannot be met, then a conditional use permit may be requested.
14. Retail sales of raw and/or processed agricultural products where an agricultural use is established and where the processed products are produced offsite from the raw materials grown or raised on the property where the agricultural use is established.
 15. Accessory uses, structures and buildings customarily incidental to the normal operation of the above uses.

5-2.02 In the Countryside District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

1. Public or private airports and/or landing fields.
2. Athletic fields and baseball fields.
3. Cemeteries.
4. Exposition centers and/or buildings.
5. Fairgrounds.
6. Fire stations.
7. Contractors' shops and/or yards (refer to Section 14-2 for minimum development standards).
8. Greenhouses, nurseries and/or hydroponic farms operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.
9. Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).
10. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
11. Amateur station antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
12. Preschool nurseries, day-care centers or day-care homes (refer to Section 14-2 for minimum development standards).
13. Recreational vehicle parks, permanent or temporary (refer to Section 14-2 for minimum development standards).
14. Commercially operated recreational or sports-related facilities, whether operated by a public or private entity. This shall include, but not be limited to, such uses as: recreational lakes, camps, golf courses, country clubs, golf driving ranges, miniature golf courses, swimming pools, tennis courts, racquetball courts, commercial stables, shooting ranges, ice and roller skating rinks, race tracks for horses and dogs, bowling alleys and fee fishing lakes.
15. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner (refer to Section 14-2 for minimum development standards).

16. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
17. Veterinary and small animal hospitals.
18. Kennels (refer to Section 14-2 for minimum development standards).
19. The keeping of wild animals, as defined in these Regulations (refer to Section 14-2 for minimum development standards).
20. Bed and Breakfast facilities (refer to Section 14-2 for minimum development standards).
21. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).
22. Community centers, public libraries and museums.
23. Schools.
24. Churches, parish halls and temples constructed after the effective date of these regulations or when such has exceeded the limits of expansion set forth in Section 16-8 of these regulations; convents and monasteries (refer to Section 14-2 for minimum development standards).
25. Research or development activities and pharmaceutical preparations related to veterinary services or other animal services.
26. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 5-3. Parking Regulations

5-3.01 Two (2) off-street parking spaces shall be provided for each dwelling unit. All dwellings shall be provided with either a one-car garage, either attached to or detached from the main dwelling, or a detached, fully enclosed accessory structure at least 200 square feet in floor area. Said garage or accessory structure shall be located within 200 feet of the dwelling unit.

5-3.02 Driveway Access: For those parcels and lots fronting on a county maintained public road or an approved private road, any new entrance shall be located along that portion of the public or private road immediately in front of the subject property and not through another property. Two properties may share one common entrance at the shared property line as long as the center of the driveway is within ten feet of the shared property line.

5-3.03 Additional parking requirements are contained in Article 17 of these Zoning Regulations.

Section 5-4. Sign Regulations

5-4.01 Sign regulations are contained in Article 18 of these Zoning Regulations.

Section 5-5. Height, Area and Yard Regulations

5-5.01 Height: Buildings or structures, other than those actually used for agricultural purposes, shall not exceed thirty-five feet (35') and/or two and one-half (2 1/2) stories in height.

5-5.02 In the Countryside District, the minimum lot area, dimensions of lots and yards shall be as follows:

1. Lot Area: Every dwelling or residence established shall be located on a lot that shall have frontage on a dedicated public street that meets Miami County access requirements. Lot area shall be according to the following types of subdivisions:
 - A. Standard Subdivisions: With an overall density of one (1) dwelling per fifteen (15) acres of gross land area, including any rights-of-way, an individual lot shall maintain a minimum gross lot area of fifteen (15) acres.
 - B. Conservation Subdivisions: Conservation subdivisions shall be approved only by the Planning Commission via a request for a preliminary and final plat. With an overall density of one (1) dwelling per ten (10) acres of gross land area, including any rights-of-way, an individual lot shall be a minimum of two acres. A minimum of thirty percent (30%) of the land area of the subdivision, excluding any proposed or required on-site or off-site rights-of-way, shall be set aside for permanent open space. Most or all of the open space should be sensitive land, which shall always take priority over non-sensitive land for meeting the open space requirement. Permanent open space may be in the form of, but not limited to, wetlands, floodways, slopes exceeding twenty-five percent (25%), agricultural fields, pastures, parks, trails, recreational fields, or undisturbed natural areas. All sensitive lands of an area proposed for a conservation subdivision shall be identified and prioritized as to their level of sensitivity first, and then the subdivision shall be designed around those sensitive lands. The permanent open space shall either be held in common by all property owners within the subdivision, be dedicated to the County or other public entity for recreational use in the form of public parks and/or public trail corridors or be granted to a public land trust as a conservation/open space easement. Solid, view-obscuring fences or walls shall not enclose the permanent open space.
 - C. Agricultural Preservation Subdivisions: With an overall density of one (1) dwelling per fifteen (15) acres of gross land area, including any rights-of-way, an individual lot shall be a minimum of two acres, and at least one parcel shall be preserved for agricultural use. The preserved parcel may contain a farm dwelling, and shall be a minimum of seventy-five percent (75%) of the total land area of the subdivision, excluding any proposed or

required on-site or off-site rights-of-way, and shall be a minimum of forty (40) contiguous acres in size.

2. **Lot Dimensions:** The minimum width of a lot shall be 330 feet in Standard and Conservation Subdivisions, and 220 feet in Agricultural Preservation Subdivisions. The minimum depth of a lot shall be 330 feet in Standard and Conservation Subdivisions and 150 feet in Agricultural Preservation Subdivisions. There shall not be a lot depth-to-width ratio greater than 4:1 (i.e., the depth of a lot cannot be greater than 4 times its width), except for the parcel being preserved for agricultural use in an Agricultural Preservation Subdivision, which shall not exceed 8:1. In the event of unusual lot configurations, the Planning Director shall determine whether the lot dimensions meet the spirit and intent of these requirements.
3. **Front Yard:** The depth of the front yard shall be at least 50 feet.
4. **Side Yard:** The depth of the side yard shall be at least 20 feet.
5. **Rear Yard:** The depth of the rear yard shall be at least 20 feet.

Article 6

AGRICULTURAL DISTRICT (AG)

Sections:

- 6-1 Application
- 6-2 Use Regulations
- 6-3 Parking Regulations
- 6-4 Sign Regulations
- 6-5 Height, Area and Yard Regulations

Section 6-1. Application

6-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the Agricultural District (AG). The purpose of this district is to provide for a full range of agricultural activities on land used for agricultural purposes, including processing and sale of agricultural products raised on the premises; and at the same time offer protection to land used for agricultural purposes from the depreciating effect of objectionable, hazardous, incompatible and unsightly uses. The district is also intended to protect watersheds and water supplies; to protect forest and scenic areas; to conserve fish and wildlife habitat; to promote forestry; and to prevent and/or discourage untimely scattering of residential and other more dense urban development. This district is intended to direct nonagricultural growth to cities, where full services can be provided. All lands used for agricultural purposes, as defined in these Regulations, are and shall be exempt from the restrictions and limitations of these Regulations. No administrative interpretation shall be made that results in any restrictions or stipulation on land used for agricultural purposes as herein defined; provided, however, that consistent with state law, new agricultural buildings shall be subject to setback requirements on that part of agricultural lands fronting on designated collectors and arterials as identified in the Miami County Comprehensive Transportation Plan and state and federal highways. Any proposal for change of land used for agricultural purposes to nonagricultural uses shall be subject to the requirements of these Regulations.

Section 6-2. Use Regulations

6-2.01 In the Agricultural District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, unless otherwise provided for in these Regulations, except for the following uses:

1. Agricultural purposes.
2. Grain storage structures.
3. Wellhead stations, well separators, tank batteries or other similar above ground facilities used merely for oil and/or gas well drilling operations, distribution, transmission or temporary storage of oil or natural gas.
4. One single-family dwelling per legal lot or parcel: Any single-family dwelling shall have a permanent foundation and perimeter enclosure as required by these Regulations, and

- shall have a minimum floor area of nine hundred fifty (950) square feet. Single-family dwellings shall include residential-design manufactured homes, Group Homes for the Disabled, modular homes and mobile homes.
5. Railroad rights-of-way, including and limited to a strip of land with tracks and auxiliary facilities for track operation only.
 6. Home occupations allowed in Article 20, Home Occupation Standards.
 7. Machinery repair, welding and similar activities relating to maintenance and repair of agriculture equipment, when such equipment is owned or operated by the property owner.
 8. Public parks and playgrounds.
 9. Radio and television antennas and satellite dishes designed for an individual residence, provided the height limit of the district is not exceeded.
 10. Commercial and Non-commercial wind energy conversion systems (WECS) designed for an individual residence, agricultural use or conditional use. The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
 11. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
 12. Churches, parish halls and temples in existence as of the effective date of these regulations provided the standards of Section 16-8 of these regulations are met.
 13. One accessory dwelling provided the following standards are met.
 - A. The accessory dwelling shall be constructed within or attached to an existing principal dwelling. An attached accessory dwelling shall be physically connected to the principal dwelling by, at a minimum, a roofed structure no longer than 25 feet.
 - B. The principal dwelling shall be a minimum of 2,000 square feet in gross floor area as defined in these regulations.
 - C. Construction of an accessory dwelling in an existing garage of the principal dwelling shall not relieve the requirement of providing a garage or comparable accessory structure for the principal dwelling as noted in the parking regulations of this article.
 - D. The entryway to the accessory dwelling shall not be located on the same plane as the principal dwelling's main entrance.
 - E. The minimum required total floor area of the accessory dwelling shall be 250 square feet.
 - F. The maximum allowed total floor area of the accessory dwelling shall be the lesser of 25% of the total floor area of the principal dwelling, excluding the principal dwelling's garage, or 900 square feet.
 - G. The accessory dwelling shall not be allowed within or attached to a mobile home but may be allowed within or attached to a manufactured home.

- H. The accessory dwelling shall use the same driveway as the principal dwelling. A second driveway accessing the accessory dwelling shall not be allowed.
 - I. The accessory dwelling may have to be served with an onsite wastewater system separate from that of the principal dwelling if the existing onsite wastewater system is inadequate per code to serve the new dwelling.
 - J. The accessory dwelling shall not be located within a barn unless the principal dwelling is also located within a barn.
 - K. The accessory dwelling shall be constructed of the same or similar building materials as the principal dwelling.
 - L. The accessory dwelling shall meet all other applicable development codes and regulations of the county.
14. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
- A. A tower may be permitted under the following height and location restrictions.
 - i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
 - B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.
 - C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any highway right-of-way, as listed above, shall be no less than one time the tower height.

- E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.
 - H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.
 - I. Any tower that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property. In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.
 - J. If these standards cannot be met, then a conditional use permit may be requested.
- 15. Retail sales of raw and/or processed agricultural products where an agricultural use is established and where the processed products are produced offsite from the raw materials grown or raised on the property where the agricultural use is established.
 - 16. Accessory uses, structures and buildings customarily incidental to the normal operation of the above uses.

6-2.02 In the Agricultural District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

- 1. Public or private airports and/or landing fields.
- 2. Athletic fields and baseball fields.
- 3. Cemeteries.
- 4. Contractors' shops and/or yards (refer to Section 14-2 for minimum development standards).
- 5. Exposition centers and/or buildings.
- 6. Fairgrounds.
- 7. Farm equipment and implement repair services when the use of the property is not substantial enough to be classified under agricultural purposes (refer to Section 14-2 for minimum development standards).
- 8. Fire stations.
- 9. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.

10. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
11. Amateur station antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
12. Sanitary landfills not otherwise prohibited by law.
13. Preschool nurseries, day-care centers or day-care homes (refer to Section 14-2 for minimum development standards).
14. Recreational vehicle parks, permanent or temporary (refer to Section 14-2 for minimum development standards).
15. Commercially operated recreational or sports-related facilities, whether operated by a public or private entity. This shall include, but not be limited to, such uses as: recreational lakes, camps, golf courses, country clubs, golf driving ranges, miniature golf courses, swimming pools, tennis courts, racquetball courts, commercial stables, shooting ranges, ice and roller skating rinks, race tracks for horses and dogs, bowling alleys and fee fishing lakes.
16. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner (refer to Section 14-2 for minimum development standards).
17. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
18. Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).
19. Quarrying, mining or the removal of sand, gravel or stone, and the processing of the same, including asphalt and concrete plants, or the removal of more than one acre of topsoil when not related to an on-site building or construction project (refer to Section 14-2 for minimum development standards).
20. Veterinary and small animal hospitals.
21. Kennels (refer to Section 14-2 for minimum development standards).
22. Auction facilities.
23. The keeping of wild animals, as defined in these Regulations (refer to Section 14-2 for minimum development standards).
24. Bed and Breakfast facilities (refer to Section 14-2 for minimum development standards).

25. Construction and demolition landfills, as defined in K.S.A. 65-3402 and amendments thereto (refer to Section 14-2 for minimum development standards).
26. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).
27. Community centers, public libraries and museums.
28. Schools.
29. Churches, parish halls and temples constructed after the effective date of these regulations or when such has exceeded the limits of expansion set forth in Section 16-8 of these regulations; convents and monasteries (refer to Section 14-2 for minimum development standards).
30. Research or development activities and pharmaceutical preparations related to veterinary services or other animal services.
31. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 6-3. Parking Regulations

6-3.01 Two (2) off-street parking spaces shall be provided for each dwelling unit. All dwellings shall be provided with either a one-car garage, either attached to or detached from the main dwelling, or a detached, fully enclosed accessory structure at least 200 square feet in floor area. Said garage or accessory structure shall be located within 200 feet of the dwelling unit.

6-3.02 Driveway Access: For those parcels and lots fronting on a county maintained public road or an approved private road, any new entrance shall be located along that portion of the public or private road immediately in front of the subject property and not through another property. Two properties may share one common entrance at the shared property line as long as the center of the driveway is within ten feet of the shared property line.

6-3.03 Additional parking requirements are contained in Article 17 of these Zoning Regulations.

Section 6-4. Sign Regulations

6-4.01 Sign regulations are contained in Article 18 of these Zoning Regulations.

Section 6-5. Height, Area and Yard Regulations

6-5.01 Height: Buildings or structures, other than those actually used for agricultural purposes, shall not exceed thirty-five feet (35') and/or two and one-half (2 1/2) stories in height.

6-5.02 In the Agricultural District, the minimum lot area, dimensions of lots and yards shall be as follows:

1. Lot Area: Every dwelling or residence established shall be located on a lot that shall have frontage on a street that meets Miami County access requirements. Lot area shall be according to the following types of subdivisions:
 - A. Standard Subdivisions: With an overall density of one (1) dwelling per twenty (20) acres of gross land area, including any rights-of-way, an individual lot shall maintain a minimum gross lot area of 20 acres.
 - B. Agricultural Preservation Subdivisions: With an overall density of one (1) dwelling per twenty (20) acres of gross land area, including any rights-of-way, an individual lot shall be a minimum of two acres, and at least one parcel shall be preserved for agricultural use. The preserved parcel may contain a farm dwelling, and shall be a minimum of seventy-five percent (75%) of the total land area of the subdivision, excluding any proposed or required on-site or off-site rights-of-way, and shall be a minimum of forty (40) contiguous acres in size.
2. Lot Dimensions: The minimum width of a lot shall be two hundred twenty feet (220') and the minimum depth of a lot shall be one hundred fifty feet (150'). There shall not be a lot depth-to-width ratio greater than 4:1 (i.e., the depth of a lot cannot be greater than 4 times its width), except for the parcel being preserved for agricultural use in an Agricultural Preservation Subdivision, which shall not exceed 8:1. In the event of unusual lot configurations, the Planning Director shall determine whether the lot dimensions meet the spirit and intent of these requirements.
3. Front Yard: The depth of the front yard shall be at least 50 feet.
4. Side Yard: The depth of the side yard shall be at least 20 feet.
5. Rear Yard: The depth of the rear yard shall be at least 20 feet.

Article 7

LOW INTENSITY COMMERCIAL DISTRICT (C-1)

Sections:

- 7-1 Application
- 7-2 Use Regulations
- 7-3 Parking Regulations
- 7-4 Sign Regulations
- 7-5 Height, Area and Yard Regulations
- 7-6 Performance Standards

Section 7-1. Application

7-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Low Intensity Commercial District (C-1). The purpose of this district is to provide for retail shopping and personal service uses to be developed either as a unit or in individual parcels to serve the needs of nearby residential neighborhoods.

Section 7-2. Use Regulations

7-2.01 In the Low Intensity Commercial District, no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these Regulations, except for the following uses:

1. Shops and stores for selling at retail, including, but not limited to, the selling of foods, including retail bakeries or pastry shops and non-alcoholic beverages for human consumption, soft goods such as clothing and shoes, drugs and cosmetics, furniture and appliances, printed materials, notions, hardware and paint, kitchenware, toys and sporting goods, jewelry, gifts and novelties, flowers, tobacco products, photographic equipment, antiques, artist and hobby supplies, music supplies, medical supplies, bicycles, and video tape rentals.
2. Services, including, but not limited to, those uses such as barber and beauty shops, optical shops, seamstress and tailoring shops, dry cleaning operations, eating establishments, interior decorator shops, photography studios and film processing shops, shoe repair shops, clinics, and small appliance repair shops.
3. Savings and loan institutions, credit union offices, and banks, all with or without drive-through facilities.
4. Fire stations.
5. Veterinary and small animal hospitals.

6. Engineering, accounting, research, management, and related services.
7. Business, professional, medical or governmental offices.
8. Community centers, public libraries and museums.
9. Public parks and playgrounds.
10. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
11. Commercial and Non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
12. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
 - A. A tower may be permitted under the following height and location restrictions.
 - i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
 - B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.
 - C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any

highway right-of-way, as listed above, shall be no less than one time the tower height.

- E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.
 - H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.
 - I. Any tower that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property. In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.
 - J. If these standards cannot be met, then a conditional use permit may be requested.
13. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these Regulations.

7-2.02 In the Low Intensity Commercial District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

- 1. Athletic fields and baseball fields.
- 2. Farm equipment and implement repair services (refer to Section 14-2 for minimum development standards).
- 3. Funeral homes and mortuaries.
- 4. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.
- 5. Hospitals and special care facilities for humans.
- 6. Contractors' shops and/or yards in conjunction with a retail shop of the same trade (refer to Section 14-2 for minimum development standards).
- 7. Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).

8. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
9. Preschool nurseries, day-care centers or day-care homes (refer to Section 14-2 for minimum development standards).
10. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner (refer to Section 14-2 for minimum development standards).
11. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
12. Kennels (refer to Section 14-2 for minimum development standards).
13. Bed and Breakfast facilities (refer to Section 14-2 for minimum development standards).
14. Residential use of structures zoned and used for commercial or industrial purposes, when such auxiliary residential use is by the owner of the structure or by employees of the business, which is the principal use.
15. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).
16. Schools.
17. Churches and parish halls, temples, convents and monasteries (refer to Section 14-2 for minimum development standards).
18. Amateur antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
19. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 7-3. Parking Regulations

7-3.01 Parking requirements are contained in Article 17 of these Zoning Regulations.

Section 7-4. Sign Regulations

7-4.01 Sign regulations are contained in Article 18 of these Regulations.

Section 7-5. Height, Area and Yard Regulations

7-5.01 Height: Buildings or structures shall not exceed thirty-five feet (35') and/or two and one-half (2 1/2) stories in height.

7-5.02 Front Yard: The depth of the front yard shall be at least thirty-five feet (35').

7-5.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than fifteen feet (15').

7-5.04 Rear Yard: The depth of the rear yard shall be at least twenty-five feet (25').

7-5.05 Lot Area: Every lot shall be a minimum of one-half (1/2) acre (21,780 square feet).

Section 7-6. Performance Standards

7-6.01 The following standards shall apply to this district:

1. No noise, smoke, obnoxious odor, radiation, vibration or concussion, or heat or glare shall be produced that is perceptible outside a building or tenanted space; and no dust, fly ash, or gas that is noxious, toxic, caustic, or obviously injurious to humans or property shall be produced.
2. Merchandise which may be appropriately displayed or stored outside a building shall be kept off the public sidewalks and streets, shall not reduce capacity of a parking lot below that required by these Regulations, and shall not occupy an area greater than twenty percent (20%) of the ground floor of the building.
3. Upon development, this district shall be adequately screened from adjacent residential districts with fencing and/or landscaping. Except for the display of merchandise as described above, outdoor storage shall also be adequately screened from adjacent streets with fencing and/or landscaping, while maintaining safe and adequate sight distance for the traveling public and those who will be entering and leaving the site.

Article 8

COMMERCIAL DISTRICT (C-2)

Sections:

- 8-1 Application
- 8-2 Use Regulations
- 8-3 Parking Regulations
- 8-4 Sign Regulations
- 8-5 Height, Area and Yard Regulations
- 8-6 Performance Standards

Section 8-1. Application

8-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Commercial District (C-2). The purpose of this district is to provide sufficient space in appropriate locations for all types of businesses, commercial, and miscellaneous service activities, particularly along certain existing major streets where a general mixture of commercial and service activity now exists or is planned to exist, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of materials, or the nuisance factors of dust, odor, or noise associated with manufacturing.

Section 8-2. Use Regulations

8-2.01 In the Commercial District, no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these Regulations, except for the following uses:

1. Any use permitted in the Low Intensity Commercial District (C-1) or the Business Park District (BP).
2. Stores for the retail sale of, including but not limited to, department store merchandise, new and used automobiles and trucks, automobile supplies, motorcycles, gasoline service stations, petroleum products (bulk plants not permitted), convenience stores with or without gasoline and/or cereal malt beverage sales, and food delivery outlets.
3. Services, including but not limited to those uses such as private clubs, liquor stores, and any retail establishment selling alcoholic beverages, automobile repair in connection with new auto sales or as an auxiliary use to a service station, dry cleaning and laundries, appliance and small equipment repair, radio and television broadcasting studios, public or private entertainment and recreation, charity and welfare services, and schools, including vocational and trade schools.
4. Shops and stores for the sale at retail or wholesale, and the rental of items, including, but not limited to, automotive equipment, trucks, trailers, boats, camping accessories, tools, farm machinery and supplies, building supplies, and lawn accessories.

5. Services, including but not limited to those uses such as automobile repair and washing, farm machinery repair, general repair and fix-it shops, frozen foods (including lockers), swimming pools, and motels and hotels.
6. Manufacture or assembly of products to be sold only at retail on the premises or in conjunction with a retail use.
7. Funeral homes and mortuaries.
8. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.
9. Auction facilities.
10. Bed and Breakfast facilities, provided the minimum standards listed in Section 14-2 are met.
11. Preschool nurseries, day-care centers or day-care homes, provided the minimum standards listed in Section 14-2 are met.
12. Churches and parish halls, temples, convents and monasteries.
13. Adult entertainment businesses, subject to full compliance with the Miami County Adult Entertainment Code.
14. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
 - A. A tower may be permitted under the following height and location restrictions.
 - i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
 - B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.

- C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any highway right-of-way, as listed above, shall be no less than one time the tower height.
 - E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.
 - H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.
 - I. Any tower that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property. In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.
 - J. If these standards cannot be met, then a conditional use permit may be requested.
15. Commercial and non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
16. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these Regulations.

8-2.02 In the Commercial District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

1. Public or private airports and/or landing fields.
2. Athletic fields and baseball fields.
3. Cemeteries.
4. Contractors' shops and/or yards (refer to Section 14-2 for minimum development standards).
5. Drive-in theaters.
6. Exposition centers and/or buildings.
7. Fairgrounds.
8. Group boarding homes for minors (refer to Section 14-2 for minimum development standards).
9. Hospitals and special care facilities for humans.
10. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
11. Amateur antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
12. Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).
13. Recreational vehicle parks, permanent or temporary (refer to Section 14-2 for minimum development standards).
14. Commercially operated recreational or sports-related facilities, whether operated by a public or private entity. This shall include, but not be limited to, such uses as: recreational lakes, camps, golf courses, country clubs, golf driving ranges, miniature golf courses, swimming pools, tennis courts, racquetball courts, commercial stables, shooting ranges, ice and roller skating rinks, race tracks for horses and dogs, bowling alleys and fee fishing lakes.
15. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner (refer to Section 14-2 for minimum development standards).
16. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers

or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.

17. Kennels (refer to Section 14-2 for minimum development standards).
18. The keeping of wild animals, as defined in these Regulations (refer to Section 14-2 for minimum development standards).
19. Residential use of structures zoned and used for commercial or industrial purposes, when such auxiliary residential use is by the owner of the structure or by employees of the business, which is the principal use.
20. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).
21. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 8-3. Parking Regulations

8-3.01 Parking requirements are contained in Article 17 of these Zoning Regulations.

Section 8-4. Sign Regulations

8-4.01 Sign regulations are contained in Article 18 of these Regulations.

Section 8-5. Height, Area and Yard Regulations

8-5.01 Height: Buildings or structures shall not exceed thirty-five feet (35') and/or two and one-half (2 1/2) stories in height. However, steeples, bell towers, or other religious-related appurtenances, such as cross structures, related to a church, parish hall, temple, convent or monastery may exceed thirty-five feet (35'), but shall not exceed sixty feet (60') in height.

8-5.02 Front Yard: The depth of the front yard shall be at least thirty-five feet (35').

8-5.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than fifteen feet (15').

8-5.04 Rear Yard: The depth of the rear yard shall be at least twenty-five feet (25').

8-5.05 Lot Area: Every lot shall be a minimum of one-half (1/2) acre (21,780 square feet).

Section 8-6. Performance Standards

8-6.01 The following standards shall apply to this district:

1. Drive-up or drive-in service may be provided at any establishment.
2. Any manufacturing or assembly of products as permitted above shall be entirely within a totally enclosed building.
3. No noise, smoke, obnoxious odor, radiation, vibration or concussion, or heat or glare shall be produced that is perceptible outside a building or tenanted space; and no dust, fly ash, or gas that is noxious, toxic, caustic, or obviously injurious to humans or property shall be produced.
4. Automobiles and trucks for sale may be stored or displayed outside a building but not within fifteen (15) feet of other property lines. Other merchandise which may appropriately be displayed or stored outside a building shall be kept off the public sidewalks and streets, shall not reduce capacity of a parking lot below that required by these Regulations, and shall not occupy an area greater than twenty percent (20%) of the ground floor of the building.
5. Upon development, this district shall be adequately screened from adjacent residential districts with fencing and/or landscaping. Except for the display of merchandise as described above, outdoor storage shall also be adequately screened from adjacent streets with fencing and/or landscaping, while maintaining safe and adequate sight distance for the traveling public and those who will be entering and leaving the site.

Article 9

BUSINESS PARK DISTRICT (BP)

Sections:

- 9-1 Application
- 9-2 Use Regulations
- 9-3 Parking Regulations
- 9-4 Sign Regulations
- 9-5 Height, Area and Yard Regulations

Section 9-1. Application

9-1.01 Intent: The intent of this district is to provide for development of aesthetically attractive locations for research and development institutions, specialized manufacturing establishments, offices and related facilities in locations that are supported by adequate infrastructure and facilities. It is further the intent of this district to accommodate the planned and coordinated development of large tracts of land in a business park, office park, or industrial park, campus style atmosphere or setting. The Business Park District may provide for a mixture of uses in single, coordinated development.

Section 9-2. Use Regulations

9-2.01 Permitted Uses: In the Business Park District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, unless otherwise provided for in these Regulations, except for one or more of the following uses:

1. Research and development oriented activities, including, but not limited to, scientific, technical and research oriented laboratories engaged in research, development, analysis and testing by a professional staff employed by either a corporation, institute, foundation or educational organization involved in the study or advancement of science or technology.

The research or development may be conducted in, but not limited to, the fields of medicine, bio-medicine, chemistry, animal science, computer science, transportation, energy, pharmacy, biology, environmental science, economics, atmospheric or oceanographic science, physics, and agriculture.

2. Engineering, accounting, research, management, and related services.
3. Research, development analysis, or testing as the principal use in laboratories, product development centers, testing facilities, or research centers.
4. Business, professional, medical or governmental offices related to one or more of the following products:

- A. Agriculture, animal science, biology, biochemistry, bio-medicine, chemistry, dentistry, energy, geology, medicine, metallurgy, petroleum, pharmacy, physics, or veterinary sciences;
 - B. Industrial and commercial machines for robotic or automated assembly, fabrication, handling, manufacture, packaging, processing, or treating of products and also including engines and turbines; farm and garden machinery; special and general industrial machinery; computer and peripheral equipment and office machinery; and refrigeration and service industry machinery;
 - C. Electronic and other electrical equipment including machinery, apparatus, and supplies for the generation, storage, transmission, transformation, and utilization of electrical energy, and including electrical distribution equipment, household appliances, electrical wiring and lighting equipment, radio and television receiving equipment, communications equipment, and electronic components and accessories;
 - D. Transportation equipment including equipment for transportation of passengers and cargo by land, air, and water; including motor vehicles, aircraft, ships, boats, railroad equipment, and miscellaneous transportation equipment such as motorcycles, bicycles, and snowmobiles;
 - E. Instruments for measuring, testing, analyzing, and controlling, and their associated sensors and accessories; optical instruments and lenses; surveying and drafting instruments; hydrological, hydrographic, meteorological, and geophysical equipment; search, detection, navigation, and guidance systems and equipment; surgical, medical, and dental instruments, equipment, and supplies; ophthalmic goods; photographic equipment and supplies, and watches and clocks;
 - F. Communications equipment or systems;
 - G. Computer equipment, office machines and computer services;
 - H. Heating, ventilating, air conditioning, air purification equipment or components;
 - I. Energy conservation, energy systems or equipment;
 - J. Fluid movement or controlling systems or equipment;
 - K. Building components, materials, or structural systems;
 - L. Photography, printing, or cartography systems, methods, or equipment or services;
 - M. As accessory uses to the above uses, packaging, servicing, storage, warehousing, wholesale sales or distribution, or light fabrication or processing or assembly operations related to the principal research, development, analysis, testing or office use.
5. Research and development activities with or without light fabrication and assembly operation, limited industrial / manufacturing activities, wholesale trade, and warehousing with or without associated administrative offices related to one or more of the following products or services:
- A. Agricultural services including establishments performing soil preparation services, crop services, veterinary services, or other animal services, farm labor and management services, and landscape and horticultural services, for others on a

contract or fee basis, but not including feed lots or poultry hatcheries operated on a contract or fee basis;

- B. Building construction including general contractors and operative builders primarily engaged in the construction of residential, farm, industrial, commercial or other buildings without outside storage unless a conditional use permit has been approved;
- C. Special trade contractors including those involved in painting, carpentry work, communications, plumbing, heating, air-conditioning, roofing, and sheet metal work but not including contractors primarily engaged in activities that are clearly of a type specialized to heavy construction, such as grading for highways and airport runways; guard rail construction; installation of highway signs; underwater rock removal; and asphalt and concrete construction of roads, highways, streets, and sidewalks;
- D. Food for human consumption, prepared feeds for animals or fowls, and certain food-related products, such as manufactured ice, vegetable and animal fats and oils, and chewing gum;
- E. Apparel and other finished fabric products including the production of clothing and the fabrication of products by cutting and sewing purchased woven or knit textile fabrics and related materials, such as leather, rubberized fabrics, plastics, and furs;
- F. Lumber and wood products including the wholesaling and warehousing of dimensioned lumber cut, milled and planed elsewhere; or including the cutting, milling, planing, and assembly of cabinets for permanent installations, shutters, windows, doors and door jamb frames, and ornamental woodwork for architectural trim, wainscots, trellises, and railings;
- G. Furniture and fixtures for households, offices, public buildings, stores or restaurants; including only the wholesaling and warehousing of such items if fabricated with stone or concrete;
- H. Paper and related products including paperboard, corrugated and solid fiber boxes; fiber cans, tubes, drums, and similar products; sanitary food containers; and die-cut paper, paperboard and cardboard;
- I. Printing, publishing including printing by one or more common processes, such as letterpress; lithography (including offset), gravure, or screen; and including services for the printing trade, such as bookbinding and platemaking;
- J. Pharmaceutical preparations for human or veterinary use in forms typically intended for final consumption, such as ampules, tablets, capsules, vials, ointments, medicinal powders, solutions and suspensions; and including vitro and in vivo diagnostic substances which are chemical, biological, or radioactive substances used in diagnosing or monitoring the state of human or veterinary health by measuring the state of human or veterinary health whether or not packaged for retail sales;
- K. Fabricated metal products including cutlery; hand and edge tools; miscellaneous hardware such as hinges, latches, locks, or handles; plumbing fixture fittings and trim; heating equipment other than electric and warm air furnaces; metal doors, sash, frames, moldings, and trim; sheet metal work; architectural and ornamental metal work such as metal plaster bases, fabricated bar joists, and concrete reinforcing bars; bolts, nuts, screws, rivets and washers; metal stampings not larger than nine (9) square feet; wire springs; and miscellaneous wire products;

- L. Household, industrial and commercial machines including home lawn and garden tractors and equipment; power-driven hand tools; computer and office equipment; and automatic vending machines;
- M. Electronic and other electrical equipment including household appliances; electric lighting and wiring equipment; household audio and video equipment; communications equipment; electronic components and accessories; electrical equipment for internal combustion engines; and magnetic and optical recording media;
- N. Instruments for measuring, testing, analyzing, and controlling, and their associated sensors and accessories; optical instrument and lenses; surveying and drafting instruments; hydrological, hydrographic, meteorological, and geophysical equipment; search, detection, navigation, and guidance systems and equipment; surgical, medical and dental instruments, equipment, and supplies; ophthalmic goods; photographic equipment and supplies; and watches and clocks;
- O. Miscellaneous manufactured goods including jewelry, silverware, and plated ware; musical instruments; dolls, toys, games and sporting and athletic goods; pens, pencils and artist's material; costume jewelry buttons, and miscellaneous notions; and signs and advertising specialties;
- P. Bus, taxi, or limousine dispatching centers;
- Q. Warehouse/Distribution including trucking and courier services; public warehousing and storage; and motor freight transportation terminals and maintenance facilities;
- R. Communications services for point-to-point aural, visual or electronic communications; television or film production studios; and radio or television broadcasting or receiving stations but not including towers or other structures higher than sixty (60) feet;
- S. Wholesale trade;
- T. Business services including mailing, reproduction, stenographic, word-processing, data entry, computer programming, photocopying, duplicating, data processing, business machine servicing and temporary labor services;
- U. Perfumes, perfume bases, cosmetics and other toilet preparations and shampoos and shaving products from soap or synthetic detergents;
- V. Printing ink including gravure ink, screen process ink and lithographic ink;
- W. Pesticides and agricultural chemicals including ready-to-use agricultural and household pest control chemicals, such as insecticides, fungicides and herbicides, and trace element products and soil conditioners as well as concentrates requiring further processing;
- X. Plastic products including unsupported plastic film, sheet and profile shapes; laminated plastic plate, sheet and profile shapes; plastic pipe, plastic bottles; plastic foam products; costume compounding of plastic resins and plastic plumbing fixtures; and
- Y. As accessory uses to the above uses; offices, packaging, servicing, storage, warehousing, wholesale sales or distribution, or light fabrication or processing or assembly operations related to the principal research, development, analysis, or testing use.

6. Fire stations.
7. Community centers, public libraries and museums.
8. Public parks and playgrounds.
9. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
 - A. A tower may be permitted under the following height and location restrictions.
 - i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
 - B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.
 - C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any highway right-of-way, as listed above, shall be no less than one time the tower height.
 - E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.

- H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.
 - I. Any tower that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property. In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.
 - J. If these standards cannot be met, then a conditional use permit may be requested.
- 10. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
 - 11. Commercial and Non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
 - 12. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these Regulations.

9-2.02 Use Limitations for Permitted Uses:

- 1. Each use shall be of a type that no equipment or vehicle other than employees' personal vehicles shall be stored outside a building unless completely screened from all adjacent property and roadways.
- 2. Each use shall be of a type that has limited contact with the general public and which does not produce traffic volumes which would exceed the traffic capacity of the available roadways.
- 3. All operations and activities shall be conducted within a building or buildings. Storage may be maintained outside said building or buildings provided the view of said storage area is properly screened from adjacent streets and residential areas.
- 4. No buildings shall be used for residential purposes except that security personnel may reside on the premises if a conditional use permit has been approved.

9-2.03 In the Business Park District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

- 1. Public or private airports and/or landing fields.
- 2. Athletic fields and baseball fields.

3. Contractors' shops and/or yards (refer to Section 14-2 for minimum development standards).
4. Exposition centers and/or buildings.
5. Fairgrounds.
6. Farm equipment and implement repair services (refer to Section 14-2 for minimum development standards).
7. Greenhouses, nurseries and/or hydroponic farms, operated as a retail business where products not raised, grown, or otherwise produced on the premises are sold.
8. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
9. Amateur antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
10. Non-commercial and Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).
11. Preschool nurseries, day-care centers or day-care homes (refer to Section 14-2 for minimum development standards).
12. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
13. Residential use of structures zoned and used for commercial or industrial purposes, when such auxiliary residential use is by the owner of the structure or by employees of the business, which is the principal use.
14. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).
15. Hotels and motels.
16. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 9-3. Parking Regulations

9-3.01 Parking requirements are contained in Article 17 of these Zoning Regulations.

Section 9-4. Sign Regulations

9-4.01 Sign regulations are contained in Article 18 of these Regulations.

Section 9-5. Height, Area and Yard Regulations

9-5.01 Area Regulations:

1. Minimum District Size: The minimum size of a BP District shall be 25 contiguous acres, provided that upon application to the Board of Zoning Appeals, the minimum size may be reduced to not less than 20 acres.
2. Minimum Lot Area: 10,000 square feet.
3. Lot Width: The minimum lot width shall be 75 feet.
4. Maximum Lot Coverage: Buildings, drives and off-street parking areas shall not cover more than 75 percent of the lot area.

9-5.02 Height Regulation: The maximum height of any structure or building shall not exceed 45 feet within 150 feet of a residential district and 75 feet when more than 150 feet from a residential district.

9-5.03 Yard Regulations:

1. Front Yard:
 - A. The front yard setback shall be 25 feet, provided that the setback shall increase 1 foot for each additional 1 foot of building height above 45 feet.
 - B. Where lots have double frontage, the required front yard setback shall be provided on both streets.
 - C. In those instances where lots front on both intersecting streets within the same block, the corner lot shall maintain a front yard setback as set out in "A" above on both streets.
2. Side Yard: 10 feet, provided that the setback shall increase 1 foot for each additional 1 foot of building height above 45 feet.
3. Rear Yard: 25 feet or 20 percent of the depth of the lot, whichever is smaller.

Article 10

LIGHT INDUSTRIAL DISTRICT (I-1)

Sections:

- 10-1 Application
- 10-2 Use Regulations
- 10-3 Performance Standards
- 10-4 Parking Regulations
- 10-5 Sign Regulations
- 10-6 Height, Area and Yard Regulations

Section 10-1. Application

10-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Light Industrial District (I-1). The Light Industrial District is intended primarily for production, processing, and assembly plants that are operated so that noise, odor, dust, and glare of such operations are completely confined within an enclosed building. These industries will, by their nature, generate traffic; however, the size and volume of raw materials and finished products should not produce the volume of traffic generated by heavy industrial uses. The Light Industrial District is also intended for the development of office/warehouse uses.

Section 10-2. Use Regulations

10-2.01 In the Light Industrial District, no building, structure, land, or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these Regulations, except for the following uses:

1. Manufacturing, processing, fabrication, or assembling of any commodity except junk or salvage.
2. Warehousing, wholesaling, and storage of any commodity except junk or salvage.
3. Freight terminals.
4. Offices, office/warehouses, laboratories.
5. Farm equipment and implement repair services, provided the minimum standards listed in Section 14-2 are met.
6. Fire stations.
7. Veterinary and small animal hospitals.
8. Auction facilities.

9. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
 - A. A tower may be permitted under the following height and location restrictions.
 - i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
 - B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.
 - C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any highway right-of-way, as listed above, shall be no less than one time the tower height.
 - E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.
 - H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.
 - I. Any tower that is no longer in use for its original purpose shall be removed at the owner’s expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property.

In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.

- J. If these standards cannot be met, then a conditional use permit may be requested.
10. Amateur station antenna structures for use by amateur radio operators, which do not exceed 40 meters (131.234 feet) in height and if it should fall or collapse it will be contained within the confines of the property on which it is installed.
 11. Commercial and non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
 12. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these Regulations.

10-2.02 In the Light Industrial District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

1. Public or private airports and/or landing fields.
2. Athletic fields and baseball fields.
3. Contractors' shops and/or yards (refer to Section 14-2 for minimum development standards).
4. Exposition centers and/or buildings.
5. Fairgrounds.
6. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
7. Amateur antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
8. Non-commercial and Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).
9. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner (refer to Section 14-2 for minimum development standards).
10. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers

or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.

11. Kennels (refer to Section 14-2 for minimum development standards).
12. Residential use of structures zoned and used for commercial or industrial purposes, when such auxiliary residential use is by the owner of the structure or by employees of the business, which is the principal use.
13. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses (refer to Section 14-2 for minimum development standards).
14. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 10-3. Performance Standards

10-3.01 The following standards shall apply to this district:

1. All operations shall be conducted within a fully enclosed building.
2. The use cannot be noxious or offensive by reason of vibration, noise, emission of dust, fumes, gas, odor, or smoke, beyond the confines of any building.
3. All storage of materials, products, or equipment shall be within a fully enclosed building or in an open yard so screened that the materials stored are not visible within one thousand (1000) feet of the property lines. Where topographic conditions make effective screening impractical so as to create an unnecessary hardship, the Board of Zoning Appeals may consider a variance from this screening requirement.
4. Upon development, this district shall be adequately screened from adjacent residential districts with fencing and/or landscaping.

Section 10-4. Parking Regulations

10-4.01 Parking requirements are contained in Article 17 of these Zoning Regulations.

Section 10-5. Sign Regulations

10-5.01 Sign regulations are contained in Article 18 of these Regulations.

Section 10-6. Height, Area and Yard Regulations

10-6.01 Height: Buildings or structures shall not exceed forty-five feet (45') and/or two and one-half (2 1/2) stories in height.

10-6.02 Front Yard: The depth of the front yard shall be at least thirty-five feet (35').

10-6.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than fifteen feet (15').

10-6.04 Rear Yard: The depth of the rear yard shall be at least twenty-five feet (25').

10-6.05 Lot Area: Every lot shall be a minimum of one (1) acre.

Article 11

HEAVY INDUSTRIAL DISTRICT (I-2)

Sections:

- 11-1 Application
- 11-2 Use Regulations
- 11-3 Parking Regulations
- 11-4 Sign Regulations
- 11-5 Height, Area and Yard Regulations
- 11-6 Performance Standards

Section 11-1. Application

11-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations, when referred to in this Article, are the regulations in the Heavy Industrial District (I-2). The Heavy Industrial District is intended for the purpose of allowing those industrial uses that are more intensive than those uses allowed in the Light Industrial District. Of special concerns are the volume of traffic, the potential need for rail access, and the presence of noxious or offensive emission.

Section 11-2. Use Regulations

11-2.01 In the Heavy Industrial District, no building, structure, land or premises shall be used and no building or structure shall be hereafter erected or altered unless otherwise provided for in these Regulations, except for the following uses:

1. Any use permitted in the Light Industrial District (I-1).
2. Manufacturing, processing, or assembly plants requiring railroad siding or frequent pick up and delivery by motor truck.
3. Warehouses or storage of all types of merchandise requiring railroad siding or frequent pick up and delivery by motor truck.
4. Wholesale establishments.
5. Truck and rail terminals.
6. Contractors' shops and/or yards, provided the minimum standards listed in Section 14-2 are met.
7. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner, provided the minimum standards listed in Section 14-2 are met.

8. Commercial and Non-commercial wind energy conversion systems (WECS). The system shall not exceed 150 feet in total height and all of the minimum development standards in Section 14-2 of these regulations must be met.
9. Radio towers, television towers, cellular communication towers, and microwave transmitting and/or receiving towers and appurtenant facilities if the following standards can be met.
 - A. A tower may be permitted under the following height and location restrictions.
 - i. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “collector” provided it shall not exceed a height of 130 feet and all other standards noted below are met.
 - ii. A tower may be located within 660 feet of the right-of-way of any road designated by the 1995 Miami County Comprehensive Transportation Plan, or any subsequent revisions to the plan, as “arterial” provided it shall not exceed a height of 150 feet and all other standards noted below are met.
 - iii. A tower may be located within 660 feet of the right-of-way of the following highways: U.S. Highway 69, U.S. Highway 169, Interstate-35, K-68 and K-7 provided it shall not exceed a height of 199 feet and all other standards noted below are met.
 - iv. Towers located outside of these locations or exceeding these heights shall not be permitted without receiving approval of a conditional use permit.
 - B. The tower shall not be lighted. Only security lighting for ground equipment shall be permitted and shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to ten (10) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb.
 - C. All building exteriors shall be brick or concrete block / prefabricated concrete with an aggregate or stucco finish. Metal clad buildings shall be prohibited.
 - D. If the tower is located on a leased parcel which is a portion of a larger legal parcel, the tower shall be setback from the property lines of the parent parcel a minimum distance of two times the tower height except that the setback adjacent to any highway right-of-way, as listed above, shall be no less than one time the tower height.
 - E. If the tower will be located on a parcel owned by the company or entity that will maintain the tower and not leased within a larger parcel, then the parcel on which the tower will be located will be required to comply with the lot size standards of this zoning district, as well as the setback standards of this section.
 - F. The tower shall be designed and constructed as a monopole type structure and shall be designed to accommodate at least one (1) additional pcs/cellular or other similar platform.
 - G. The tower shall not be located within two linear miles of an existing tower.
 - H. The tower shall comply with all of the height restrictions of Article 13, Airport Zoning regulations.

- I. Any tower that is no longer in use for its original purpose shall be removed at the owner's expense. The owner shall have ninety (90) days from the date operations cease in which to remove the tower and all appurtenant buildings from the property. In case of multiple users of a single tower, this provision shall not become effective until all users cease operations. A bond in the amount of \$50,000 shall be placed with Miami County for the life of the tower via forms prescribed by the Planning Department to ensure that the tower is removed when its use has ceased for a period of more than ninety (90) consecutive days.
 - J. If these standards cannot be met, then a conditional use permit may be requested.
10. Accessory uses customarily incidental to the normal operation of the above uses, including parking lots and signs, as provided for in these regulations.

11-2.02 In the Heavy Industrial District, the following uses may be allowed upon the approval of a conditional use permit, in accordance with the provisions outlined in Article 14:

- 1. Public or private airports and/or landing fields.
- 2. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances (refer to Section 14-2 for minimum development standards).
- 3. Sanitary landfills not otherwise prohibited by law.
- 4. Public utility stations, as well as buildings, structures, and premises for public utility services or public service corporations, including water treatment facilities, water towers or storage facilities, electric utility substations, power generation plants, sewage treatment facilities, or any other like facility. Notwithstanding any other provisions of these Zoning Regulations, none of these uses shall be required to comply fully with the lot size and height regulations of this zoning district, except as may be recommended by the Planning Commission and approved by the Board of County Commissioners to meet the standards of this Article.
- 5. Quarrying, mining or the removal of sand, gravel or stone, and the processing of the same, including asphalt and concrete plants (refer to Section 14-2 for minimum development standards).
- 6. Junk yards or salvage yards (refer to Section 14-2 for minimum development standards).
- 7. Residential use of structures zoned and used for commercial or industrial purposes, when such auxiliary residential use is by the owner of the structure or by employees of the business, which is the principal use.
- 8. Construction and demolition landfills, as defined in K.S.A. 65-3402 and amendments thereto (refer to Section 14-2 for minimum development standards).
- 9. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be

compatible with surrounding uses (refer to Section 14-2 for minimum development standards).

10. Petroleum refining and fuel storage.
11. Amateur antenna structures to be used by amateur radio operators, which exceed 40 meters (131.234 feet) in height and are set back from property lines 1.1 times the total structure height.
12. Non-commercial and Commercial WECS that exceed 150 feet in height (refer to Section 14-2 for minimum development standards).
13. Other uses determined by the Planning Commission to be consistent with the intent and purpose of this zoning district, except for those uses listed as prohibited uses in Article 15.

Section 11-3. Parking Regulations

11-3.01 Parking requirements are contained in Article 17 of these Zoning Regulations.

Section 11-4. Sign Regulations

11-4.01 Sign regulations are contained in Article 18 of these Regulations.

Section 11-5. Height, Area and Yard Regulations

11-5.01 Height: Buildings or structures shall not exceed sixty feet (60') and/or two and one-half (2 1/2) stories in height.

11-5.02 Front Yard: The depth of the front yard shall be at least fifty feet (50').

11-5.03 Side Yard: There shall be a side yard on each side of a building; no side yard shall be less than fifteen feet (15').

11-5.04 Rear Yard: The depth of the rear yard shall be at least twenty-five feet (25').

11-5.05 Lot Area: Every lot shall be a minimum of one (1) acre.

Section 11-6. Performance Standards

11-6.01 The following standards shall apply to this district:

1. All storage of materials, products, or equipment in an open yard shall be screened so that the materials stored are not visible within one thousand (1000) feet of the property lines. Where topographic conditions make effective screening impractical so as to create an unnecessary hardship, the Board of Zoning Appeals may consider a variance from this screening requirement.
2. Upon development, this district shall be adequately screened from adjacent residential districts with fencing and/or landscaping.

3. If the County determines that any road associated with a use in this district is inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, the applicant shall be required to improve and maintain the road(s) to a standard acceptable to the County. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the road(s) used by the operation will be appropriately improved and maintained.

Article 12

FLOODPLAIN OVERLAY DISTRICT (F-P)

Sections:

- 12-1 Statutory Authorization, Findings of Fact, and Purposes
- 12-2 General Provisions
- 12-3 Warning and Disclaimer of Liability
- 12-4 Severability
- 12-5 Administration
- 12-6 Provisions For Flood Hazard Reduction
- 12-7 Floodplain Management Variance Procedures
- 12-8 Penalties For Violations
- 12-9 Amendments
- 12-10 Certificate of Adoption

Section 12-1. Statutory Authorization, Findings of Fact, and Purposes

12-1.01 Statutory Authorization

1. Approval of Draft Ordinance by Kansas Chief Engineer Prior to Adoption

The following floodplain management regulations, as written, were approved in draft form by the Chief Engineer of the Division of Water Resources of the Kansas Department of Agriculture on May 16, 2008.

2. Kansas Statutory Authorization

The Legislature of the State of Kansas has in K.S.A. 12-741 et seq, and specifically in K.S.A. 12-766, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the County Commissioners of Miami County, Kansas, ordains as follows:

12-1.02 Findings of Fact

1. Flood Losses Resulting from Periodic Inundation

The special flood hazard areas of Miami County, Kansas, are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.

2. General Causes of the Flood Losses

These flood losses are caused by (1) the cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and (2) the occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.

3. Methods Used To Analyze Flood Hazards

The Flood Insurance Study (FIS) that is the basis of this article uses a standard engineering method of analyzing flood hazards, which consist of a series of interrelated steps.

- a. Selection of a base flood that is based upon engineering calculations, which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this article is representative of large floods, which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one percent chance of occurrence in any one year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials dated August 19, 2008 as amended, and any future revisions thereto.
- b. Calculation of water surface profiles that are based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- c. Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
- d. Delineation of floodway encroachment lines within which no development is permitted that would cause **any** increase in flood height.
- e. Delineation of floodway fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

12-1.03 Statement of Purpose

It is the purpose of this article to promote the public health, safety, and general welfare; to minimize those losses described in Section 12-1.02(1); to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) and K.A.R. 5-44-4 by applying the provisions of this article to:

1. Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
2. Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
3. Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

Section 12-2. General Provisions

12-2.01 Lands to Which Article Applies: This article shall apply to all lands within the jurisdiction of Miami County identified as numbered and unnumbered A Zones, AE, AO, and AH Zones, on the Index Map dated August 19, 2008 of the Flood Insurance Rate Map (FIRM). In all areas covered by this article no development shall be permitted except through the issuance of a floodplain development permit, granted by the County Commission or its duly designated representative under such safeguards and restrictions as the County Commission or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in Section 12-6.

12-2.02 Compliance: No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

12-2.03 Abrogation and Greater Restrictions: It is not intended by this article to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other articles inconsistent with this article are hereby repealed to the extent of the inconsistency only.

12-2.04 Interpretation: In their interpretation and application, the provisions of this article shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.

Section 12-3. Warning and Disclaimer of Liability

12-3.01 The degree of flood protection required by this Article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Article shall not create liability on the part of Miami County, Kansas, or by any officer or employee thereof, for any flood damages that result from reliance on these floodplain regulations or any administrative decision lawfully made thereunder.

Section 12-4. Severability

12-4.01 If any section; clause; provision; or portion of this article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this article shall not be affected thereby.

Section 12-5. Administration

12-5.01 Floodplain development permit: A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 12-2.01. No person, firm, corporation, or unit of government shall initiate any development or substantial-improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

12-5.02 Designation of Floodplain Administrator: The Planning Director with assistance from the County Engineer is hereby appointed to administer and implement the provisions of this article.

12-5.03 Duties and Responsibilities of Floodplain Administrator: Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied;
2. Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required by Federal, State, or local law;
3. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
4. Issue floodplain development permits for all approved applications;
5. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
6. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse; and
7. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
8. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed;
9. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.

12-5.04 Application for Floodplain Development Permit: To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

1. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
2. Identify and describe the work to be covered by the floodplain development permit;
3. Indicate the use or occupancy for which the proposed work is intended;

4. Indicate the assessed value of the structure and the fair market value of the improvement;
5. Specify whether development is located in designated flood fringe or floodway;
6. Identify the existing base flood elevation and the elevation of the proposed development;
7. Give such other information as reasonably may be required by the floodplain administrator;
8. Be accompanied by plans and specifications for proposed construction; and
9. Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

Section 12-6. Provisions For Flood Hazard Reduction

12-6.01 General Standards:

1. No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including the placement of manufactured homes, within any numbered or unnumbered A zones, AE, AO, and AH zones, unless the conditions of this section are satisfied.
2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If Flood Insurance Study data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources.
3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones, or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
4. All new construction, subdivision proposals, substantial-improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:
 - a. Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 - b. Construction with materials resistant to flood damage;
 - c. Utilization of methods and practices that minimize flood damages;
 - d. All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- e. 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 onsite wastewater systems be located so as to avoid impairment or contamination; and
 - f. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
 - (1) All such proposals are consistent with the need to minimize flood damage;
 - (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
 - (3) Adequate drainage is provided so as to reduce exposure to flood hazards; and
 - (4) All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
5. Storage, Material, and Equipment

- a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
- b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

6. Nonconforming Use

A structure, or the use of a structure or premises that was lawful before the passage or amendment of the article, but which is not in conformity with the provisions of this article, may be continued subject to the following conditions:

- a. If such structure, use, or utility service is discontinued for six (6) consecutive months, any future use of the building shall conform to this article.
- b. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost to reconstruct is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.

7. Agricultural Uses

Structures used solely for agricultural purposes in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; there is no permanent retail, wholesale, or manufacturing use included in the structure; a variance has been granted from the floodplain management requirements of this article; and a floodplain development permit has been issued.

8. Accessory Structures

Structures used solely for parking and limited storage purposes, not attached to any other structure on the site, of limited investment value, and not larger than 400 square feet, may be constructed at-grade and wet-floodproofed provided there is no human habitation or occupancy of the structure; the structure is of single-wall design; a variance has been granted from the standard floodplain management requirements of this article; and a floodplain development permit has been issued.

9. Hazardous Materials

All hazardous material storage and handling sites shall be located out of the special flood hazard area.

10. Cumulative Improvement

A structure may be improved (remodeled or enlarged) without conforming to current requirements for elevation so long as the cumulative value of all work done within the last five calendar years does not exceed fifty (50) percent of the structure's current market value. If the cumulative value of the improvement exceeds fifty (50) percent of the structure's current market value, the structure must be brought into compliance with Section 12-6.02(1) which requires elevation of residential structures to one (1) foot above the base flood elevation or the elevation/floodproofing of non-residential structures to one (1) foot above the base flood elevation.

12-6.02 Specific Standards:

1. In all areas identified as numbered and unnumbered A zones, AE, and AH Zones, where base flood elevation data have been provided, as set forth in Section 12-6.01(2) the following provisions are required:

- a. Residential Construction

New construction or substantial-improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

- b. Non-Residential Construction

New construction or substantial-improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in Section 12-5.03(7), (8) & (9).

- c. Require, for all new construction and substantial-improvements, that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and 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 flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
 - (1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
 - (2) The bottom of all opening shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

12-6.03 Manufactured Homes

1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones, on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
 - a. Outside of a manufactured home park or subdivision;
 - b. In a new manufactured home park or subdivision;
 - c. In an expansion to and existing manufactured home park or subdivision; or
 - d. In an existing manufactured home park or subdivision;

where a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of Section 12-6.03(2) of this article, be elevated so that either:
 - a. The lowest floor of the manufactured home is a minimum of one (1) foot above the base flood level; or
 - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**

12-6.04 Areas Of Shallow Flooding (AO And AH Zones): Located within the areas of special flood hazard as described in Section 12-12.01 are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:

1. AO Zones
 - a. All new construction and substantial-improvements of residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
 - b. All new construction and substantial-improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed to that level so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.
 - c. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

2. AH Zones

- a. The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in Section 12-6.02.
- b. Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.

12-6.05 Floodway: Located within areas of special flood hazard established in Section 12-2.01, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:

1. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
2. The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
3. If Section 12-6.05(2) is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provisions of Section 12-6.
4. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in Section 12-6.01(2).

12-6.06 Recreational Vehicles: Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AE, AH, and AO Zones on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days, or
2. Be fully licensed and ready for highway use*; or
3. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this article.

*A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions.

Section 12-7. Floodplain Management Variance Procedures

12-7.01. Establishment Of Appeal Board: The Board of Zoning Appeals, the appeal board as established by the Miami County Commission, shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.

12-7.02. Responsibility Of Appeal Board: Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in Section 12-7.01.

The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.

12-7.03 Further Appeals: Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.

12-7.04 Floodplain Management Variance Criteria: In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this article, and the following criteria:

1. Danger to life and property due to flood damage;
2. Danger that materials may be swept onto other lands to the injury of others;
3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
4. Importance of the services provided by the proposed facility to the community;
5. Necessity to the facility of a waterfront location, where applicable;
6. Availability of alternative locations, not subject to flood damage, for the proposed use;
7. Compatibility of the proposed use with existing and anticipated development;
8. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9. Safety of access to the property in times of flood for ordinary and emergency vehicles;
10. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
11. Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.

12-7.05 Conditions For Approving Floodplain Management Variances:

1. Generally, variances may be issued for new construction and substantial-improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination, provide the proposed activity will not preclude the structure's continued historic designation.
3. Variances shall not be issued within any designated floodway if any significant increase in flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon: (a) showing of good and sufficient cause, (b) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) determination that the granting of a variance 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.
6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

12-7.06 Conditions For Approving Variances For Agricultural Structures: Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Sections 12-7.04 and 12-7.05 of this article.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed:

1. All agricultural structures considered for a variance from the floodplain management regulations of this article shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures, such as farm houses, cannot be considered agricultural structures.

2. Use of the varied structures must be limited to agricultural purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 12-6.01(4b) of this article.
4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 12-6.01(4a) of this article. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 12-6.01(4d) of this article.
6. The agricultural structures must meet all National Flood Insurance Program (NFIP) opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Section 12-6.02(1c) of this article.
7. The agricultural structures must comply with the floodplain management floodway encroachment provisions of Section 12-6.05(2) of this article. No variances may be issued for agricultural structures within any designated floodway, if any increase in flood levels would result during the one percent annual chance flood event, also referred to as the 100-year flood.
8. Major equipment, machinery, or other contents must be protected from any flood damage.
9. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the agricultural structures.
10. A community shall notify the applicant in writing over the signature of a community official that: (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.
11. Wet-floodproofing construction techniques must be reviewed and approved by Miami County and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

12-7.07. Conditions For Approving Variances For Accessory Structures: Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the

building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in Section 12-7.04 and Section 12-7.05 of this article.

In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-floodproofed:

1. Use of the accessory structures must be solely for parking and limited storage purposes in Zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
2. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 12-6.01(4b) of this article.
3. The accessory structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structure in accordance with Section 12-6.01(4a) of this article. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
4. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 12-6.01(4d) of this article.
5. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure or foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with Section 12-6.02(1c) of this article.
6. The accessory structures must comply with the floodplain management floodway encroachment provisions of Section 12-6.05(2) of this article. No variances may be issued for accessory structures within any designated floodway, if any increase in flood levels would result during the 100-year flood.
7. Equipment, machinery, or other contents must be protected from any flood damage.
8. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
9. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

10. Wet-floodproofing construction techniques must be reviewed and approved by the community and registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

Section 12-8. Penalties For Violation

12-8.01 Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000 per the “Schedule of Fines for Violations of Codes and Resolutions”, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent Miami County or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 12-9. Amendments

12-9.01 The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in Miami County. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the FEMA Region VII office. The regulations of this article are in compliance with the NFIP regulations.

Section 12-10. Certificate of Adoption

This Floodplain Management Article for the community of Miami County, Kansas was passed and adopted by the Board of County Commissioners of Miami County, Kansas on July 23, 2008, Resolution No. R08-07-032.

Article 12A

VILLAGE OVERLAY DISTRICT (V)

Sections:

- 12A-1 Statement of Purpose
- 12A-2 Village Overlay District
- 12A-3 Use Restrictions
- 12A-4 Development Standards
- 12A-5 Height, Area and Yard Regulations

Section 12A-1. Statement of Purpose

12A-1.01 The regulations set forth in this Article, or set forth elsewhere in these Regulations when referred to in this Article, are the regulations in the Village Overlay District (V). This overlay district is designed to encourage the continued existence of small unincorporated “villages” by placing very narrow restrictions on their use, lot size and further development. No development of new “villages” is contemplated under these provisions unless they are served by a public sewer system approved and designated by the Board of County Commissioners. This district is designed to encourage fill-in type of development and limited expansions of existing “villages” with low intensity uses.

Section 12A-2. Village Overlay District

12A-2.01 The Village Overlay District shall include only those parcels, tracts and lots within the designated village areas and incorporated into this Article. The boundaries of Village Overlay Districts (V) shall be established by the Board of County Commissioners. Only areas that are served by a community sewage collection and treatment facility will be considered for the Village Overlay District. The Village Overlay District created for this Article is (V) “Village Overlay District”.

Section 12A-3. Use Restrictions

12A-3.01 The Village Overlay District is an overlay zoning district, and does not impact uses allowed on the property. In the Village Overlay District, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for the uses allowed in the base underlying zoning district.

Section 12A-4. Development Standards

12A-4.01 Any property to be divided or subdivided utilizing the Village Overlay District (V) shall be final platted. The Planning Commission and the Board of County Commissioners shall review all plat applications and other development proposals in the Village Overlay District (V) and shall make findings of fact and assure that:

1. All lots within the proposed development can be served by a public sewer system.

2. That water service can be extended to serve all lots within the proposed development.
3. That the proposed development is in character with the existing village neighborhood and that it will not overburden the infrastructure.

Section 12A-5. Height, Area and Yard Regulations

Newly platted lots created under this overlay zoning provision must comply with the following height, area and yard setback requirements. Existing lots of record should comply with the provisions of Article 16-2, Nonconforming Lots of Record.

12A-5.01 Height: Buildings or structures other than those actually used for agricultural purposes shall not exceed 35 feet and/or two and one-half stories in height.

12A-5.02 In the Village Overlay District, the minimum dimensions of yards required shall be as follows:

1. Front Yard: The front yard setback is established by averaging the established front yard setbacks of existing structures fronting on the same street. No front yard shall be less than fifteen feet (15').
2. Side Yard: There shall be a side yard on each side of a building. No side yard shall be less than ten feet (10').
3. Rear Yard: The depth of the rear yard shall be at least twenty feet (20').
4. Lot Dimensions: No minimum lot dimensions are established, however, it is anticipated that every lot shall provide sufficient setbacks as specified herein and still provide adequate building area.
5. Lot Area: No minimum lot area is established, however, it is expected that sufficient area will be provided to meet the requirements established herein and provide for the proper provision of safe water and the sanitary disposal of sewage.

Article 13

AIRPORT ZONING REGULATIONS

Sections:

- 13-1 Statement of Purpose
- 13-2 Authority and Reasonableness
- 13-3 Conflict
- 13-4 Establishment of Airport Zoning Commission
- 13-5 Procedure for Adoption of or Amendment to Airport Zoning Regulations
- 13-6 Airport Overlay Zoning Districts
- 13-7 Airport Overlay Zoning District Height Limitations
- 13-8 Airport Overlay Zoning District Use Restrictions
- 13-9 Nonconforming Uses
- 13-10 Permits
- 13-11 Variances
- 13-12 Obstruction Marking and Lighting
- 13-13 Administration and Enforcement

Section 13-1. Statement of Purpose

13-1.01 It is hereby found that an airport hazard endangers the lives and property of users of the Miami County Airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment or interest therein. Accordingly, it is hereby declared:

1. That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the Miami County Airport;
2. That it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention or the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or making and lighting of existing airport hazards are public purposes for which the Board of County Commissioners may raise and expend public funds and acquire land or property purposes therein, as provided in K.S.A. 3-702.

Section 13-2. Authority and Reasonableness

13-2.01 Authority: In order to prevent the creation or establishment of airport hazards, these Airport Zoning Regulations are adopted by the Board of County Commissioners of Miami County, Kansas, under powers conferred by K.S.A. 3-703. Further, these Airport Zoning Regulations are incorporated in and made a part of these County Zoning Regulations as authorized by K.S.A. 3-704(1).

13-2.02 Reasonableness: These Airport Zoning Regulations impose reasonable requirements and restrictions that are necessary to effectuate the purposes of this Article. In determining these regulations and airport zoning district boundaries, the following were considered from the *Miami County Airport Master Plan* and the *Miami County Comprehensive Plan*:

1. The character of the flying operations expected to be conducted at the Miami County Airport;
2. The nature of the terrain within the airport hazard area;
3. The character of the surrounding neighborhood; and
4. The uses to which the property to be zoned is put and adaptable.

Section 13-3. Conflict

13-3.01 In the event of conflict between any Airport Zoning Regulations in this Article and any other zoning regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land or any other matter, the more stringent limitation or requirement as to airport hazards shall govern and prevail.

Section 13-4. Establishment of Airport Zoning Commission

13-4.01 The Miami County Planning Commission is hereby appointed as the Miami County Airport Zoning Commission, as provided for in K.S.A. 3-705(2).

Section 13-5. Procedure for Adoption of or Amendment to Airport Zoning Regulations

13-5.01 Notice of Hearing by Board of County Commissioners: These Airport Zoning Regulations may be adopted, amended, or changed by action of the Board of County Commissioners. Prior to such action, said Board shall hold at least one (1) public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least twenty (20) days' notice of the hearing shall be published in the official paper, or a paper of general circulation, of Miami County, Kansas, as provided for in K.S.A. 3-705(1).

13-5.02 Recommendation and Hearing by the Planning Commission: Prior to the initial zoning of the airport hazard area, the Miami County Planning Commission shall, in its authority as the Airport Zoning Commission, recommend the boundaries of the various zoning districts to be established and the regulations to be adopted therefore. The Planning Commission shall make a preliminary report and hold one or more public hearings thereon before submitting its final report. The Board of County Commissioners shall not adopt these Airport Zoning Regulations until the final report of the Planning Commission is received. As provided for in Article 22 of these Zoning Regulations, all proposed amendments to this Article shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made by the Board of County Commissioners without a hearing before the Planning Commission.

Section 13-6. Airport Overlay Zoning Districts

13-6.01 Applicability: In order to carry out the provisions of this Article, there are hereby created and established certain airport overlay districts which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Miami County Airport.

13-6.02 Land to Which This Article Applies: The aforementioned airport overlay districts and the land lying beneath each are shown on the most recently approved Miami County “Airport Layout Drawing” and “Airport Airspace Drawing,” collectively referred to as the Approach Plan, prepared by Bucher, Willis & Ratcliff. The Board of County Commissioners hereby designates said Approach Plan as the official maps to be used in determining those areas that require special airport height regulations and use restrictions. Said Approach Plan is incorporated herein by reference and made a part of these Zoning Regulations.

13-6.03 Rules for Interpretation of Airport Overlay District Boundaries: The boundaries of the airport overlay districts shall be determined by reviewing the Approach Plan map incorporated by reference herein. Where interpretation is needed as to the exact location of the boundaries of the airport overlay districts, the Planning Director shall make the necessary interpretation based upon data available. The Planning Director will maintain said official Approach Plan map. In such cases where the interpretation of airport overlay district boundaries is contested, the Board of Zoning Appeals shall resolve the dispute. An area located in more than one (1) of the following airport overlay districts shall be considered to be only in the airport overlay district with the more restrictive height limitation.

13-6.04 Airport Overlay Zoning Districts Established and Defined: The various airport overlay districts are hereby established and defined as follows:

1. Airport Approach Zone Overlay District 1 (AP-A1): The inner edge of this approach overlay district (the utility runway visual approach zone) coincides with the width of the primary surface and is two hundred fifty feet (250’) wide. This approach overlay district expands outward uniformly to a width of one thousand two hundred fifty feet (1250’) at a horizontal distance of five thousand feet (5000’) from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Airport Approach Zone Overlay District 2 (AP-A2): The inner edge of this approach overlay district (the utility runway non-precision instrument approach zone) coincides with the width of the primary surface and is five hundred feet (500’) wide. This approach overlay district expands outward uniformly to a width of two thousand feet (2000’) at a horizontal distance five thousand feet (5000’) from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Airport Transitional Zone Overlay District (AP-T): This overlay district (or the transitional zone) includes areas beneath the transitional surfaces.
4. Airport Horizontal Zone Overlay District (AP-H): This overlay district (or the horizontal zone) is established by swinging arcs of a five thousand foot (5000’) radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by

drawing lines tangent to those arcs. The Airport Horizontal Zone Overlay District does not include the approach and transitional districts.

5. Airport Conical Zone Overlay District (AP-C): This overlay district (or the conical zone) is established as the area that commences at the periphery of the Airport Horizontal Zone Overlay District and extends outward therefrom a horizontal distance of four thousand feet (4000').

Section 13-7. Airport Overlay Zoning District Height Limitations

13-7.01 Except as otherwise provided for in this Article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any overlay district created by this section to a height in excess of the applicable height limit herein established for such overlay district. Such applicable height limitations are hereby established for each of the overlay districts in question as follows:

1. Airport Approach Zone Overlay District 1 (AP-A1): Slopes twenty feet (20') outward for each one foot (1') upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5000') along the extended runway centerline.
2. Airport Approach Zone Overlay District 2 (AP-A2): Slopes twenty feet (20') outward for each one foot (1') upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand feet (5000') along the extended runway centerline.
3. Airport Transitional Zone Overlay District (AP-T): Slopes seven feet (7') outward for each one foot (1') upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty feet (150') above the airport elevation which is nine hundred forty feet (940') above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet (7') outward for each one foot (1') upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
4. Airport Horizontal Zone Overlay District (AP-H): Established at one hundred fifty feet (150') above the airport elevation or at a height of one thousand ninety feet (1090') above mean sea level.
5. Airport Conical Zone Overlay District (AP-C): Slopes twenty feet (20') outward for each one foot (1') upward beginning at the periphery of the Airport Horizontal Zone Overlay District and at one hundred fifty feet (150') above the Miami County Airport elevation and extending to a height of three hundred fifty feet (350') above said Airport's elevation.

Section 13-8. Airport Overlay Zoning District Use Restrictions

13-8.01 Use Restrictions Generally: Notwithstanding any other provisions of this Article, no use may be made of land or water within any airport overlay zone established by said Article in such a manner as to create electrical interference with navigational signals or radio communication between the Miami County Airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

13-8.02 Use Restrictions in Airport Approach Zone Overlay Districts: Only non-residential uses shall be permitted within the Airport Approach Zone Overlay Districts (AP-A1 and AP-A2). Permitted uses shall meet the height limitation standards established in Section 13-7 of this Article. The following uses are permitted in districts AP-A1 and AP-A2:

1. Agricultural uses.
2. Public and private recreational uses such as golf courses, parks, and wildlife and nature preserves.
3. Any use permitted in the Light Industrial District (I-1) or Heavy Industrial District (I-2).

Section 13-9. Nonconforming Uses

13-9.01 All nonconforming uses within the airport overlay districts established in this Article shall be subject to the regulations of this section in addition to the provisions of Article 16 (Nonconforming Uses) of these Zoning Regulations.

13-9.02 Regulations Not Retroactive: Nothing in this Article shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to these Airport Zoning Regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided for in Subsection 13-9.03 hereunder, provided, however, that the Board of County Commissioners may require, upon thirty (30) days' notice in writing, any person, firm, association or corporation owning and maintaining any nonconforming pole or pole line upon the roads and highways immediately adjoining the airport, to remove, lower, change, or alter said nonconforming pole or pole line, upon prior payment by the Board of County Commissioners to said person, firm, association or corporation of the reasonable and necessary expense of removing, lowering, changing, or altering said pole or pole line; or in lieu thereof, to execute good and sufficient bond with corporate surety thereon, as security for the payment of the reasonable and necessary expense of removing, lowering, changing, or altering such pole or pole line. Reasonable and necessary expense of removing, lowering, changing, or altering said pole or pole line shall include among other items of expense, the actual cost of:

1. Constructing underground conduits and the construction of such wires and equipment in such conduits; and

2. Rerouting wires, together with the poles, crossarms and other equipment connected thereto, together with the cost, if any, of new rights-of-way made necessary by such rerouting.

13-9.03 Marking and Lighting: Notwithstanding the preceding provisions of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights, as shall be deemed necessary by the County Engineer, to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of Miami County Public Works Department, Airport Division.

Section 13-10. Permits

13-10.01 Permits Required: Except as specifically provided for in Subsection 13-10.02, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any airport overlay district hereby created unless a permit therefor shall have been applied for and granted by the Planning Director. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations prescribed in this Article. If such determination is in the affirmative, the permit shall be granted by the Planning Director, except as provided herein. Said permit shall be in addition to any required building permit, if applicable.

13-10.02 Permits Not Required: The following uses do not require permits in the airport zoning districts established in this Article.

1. AP-H and AP-C Overlay Districts: In the area lying within the limits of the Airport Horizontal Zone Overlay District (AP-H) and the Airport Conical Zone Overlay District (AP-C), no permits shall be required for any tree or permitted structure less than seventy-five feet (75') of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such tree or structure would extend above the height limits prescribed for such districts.
2. AP-A1 and AP-A2 Overlay Districts: In areas lying within the limits of the Airport Approach Zone Overlay District 1 (AP-A1) and the Airport Approach Zone Overlay District 2 (AP-A2), but at a horizontal distance of not less than four thousand two hundred feet (4200') from each end of the runway, no permit shall be required for any tree or permitted structure less than seventy-five feet (75') of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such district.
3. AP-T Overlay District: In the areas lying within the limits of the Airport Transitional Zone Overlay District (AP-T) beyond the perimeter of the Airport Horizontal Zone Overlay District (AP-H), no permit shall be required for any tree or permitted structure less than seventy-five feet (75') above the ground, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such AP-T District.

4. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this section, except as set forth in Subsection 13-7.01 of this Article.

13-10.03 Permits for Nonconforming Uses: No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

13-10.04 Permits for Nonconforming Uses Abandoned or Destroyed: Whenever the Planning Director determines that a nonconforming use has been abandoned, torn down, or damaged more than fifty percent (50%) of its assessed valuation by fire, explosion, act of God, or the public enemy, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from these Zoning Regulations.

Section 13-11. Variances

13-11.01 Application for Variance: As authorized by K.S.A. 3-707(2), any person desiring to erect any structure or increase the height of any structure, or permit the growth of any tree, or otherwise use his or her property in violation of the Airport Zoning Regulations established in this Article, may apply to the Board of County Commissioners for a variance from the zoning regulation in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Article, provided, however, that any variance may be allowed subject to any reasonable conditions that the Board of County Commissioners may deem necessary to effectuate the purposes of this Article.

13-11.02 Determination by Federal Aviation Administration: An application for variance to the requirements of this Article shall be accompanied by a determination from the Federal Aviation Administration (FAA) as to the effect of the proposal on the operation of air navigation facilities, and the safe, efficient use of navigable airspace.

13-11.03 Recommendation of Planning Director: No application for variance to the requirements of this Article shall be considered by the Board of County Commissioners unless a copy of the application has been furnished to the Planning Director for advice as to the aeronautical effects of the variance. If the Planning Director does not respond to the application for variance within fifteen (15) days after receipt of same, the Board of County Commissioners may act on its own to grant or deny said application.

Section 13-12. Obstruction Marking and Lighting

13-12.01 Any permit or variance granted under the authority of this Article may, if such action is deemed advisable to effectuate the purposes of this Article and be reasonable in the

circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights that may be necessary. If deemed proper by the Board of County Commissioners, this condition may be modified to require the owner to permit the County Engineer, at the County's expense, to install, operate, and maintain the necessary markings and lights.

Section 13-13. Administration and Enforcement

13-13.01 It shall be the duty of the Planning Director to administer and enforce the regulations prescribed in this section. Applications for permits and variances shall be made to the Planning Director upon a form furnished for that purpose. Applications required by this section to be submitted to the Planning Director shall be promptly considered and granted or denied. Application for variance by the Board of County Commissioners shall be forthwith transmitted by the Planning Director.

Article 14

CONDITIONAL USES

Sections

- 14-1 Application of Conditional Uses
- 14-2 Conditional Uses Enumerated
- 14-3 Continuance, Expiration and Revocation or Modification of Conditional Use Permits
- 14-4 Parking Regulations
- 14-5 Sign Regulations
- 14-6 Height, Area and Yard Regulations

Section 14-1. Application of Conditional Uses

14-1.01 Recognizing that certain uses may be desirable when located in the community, and that these uses may be incompatible under general conditions, but compatible under specific conditions with other uses permitted in a district, certain conditional uses, when found to be in the interest of the public health, safety, morals, and general welfare of the community, may be permitted by conditional use permit, except as otherwise specified.

14-1.02 Before the location or establishment of, or before any changes in a conditional use permit, the application procedures, posting of sign requirements, public hearing requirements, Planning Commission actions, and Board of County Commissioners actions as outlined in Article 22 of these Regulations, and the site plan requirements as outlined in Article 19 of these Regulations, shall be followed.

14-1.03 If within fourteen (14) days after the date of the conclusion of the Planning Commission public hearing, a petition signed by the owners of twenty percent (20%) or more of any property proposed for a conditional use permit, or by the owners of twenty percent (20%) of the total area, except public streets and ways, located within one thousand feet (1000') of the boundaries of the property proposed for a conditional use permit is filed in the office of the County Clerk, the conditional use shall not be approved except by at least a $\frac{3}{4}$ vote of all of the members of the governing body.

14-1.04 The Board of County Commissioners may, within the specifications herein provided, permit such buildings, structures, or uses authorized pursuant to this Article, provided that the public health, safety, morals, and general welfare will not be unduly or adversely affected. Regulations, conditions, limitations, requirements and safeguards shall be imposed upon said buildings, structures, or uses that are reasonably necessary to protect persons, property, neighborhood values and character of the community in general, and to carry out the general purpose and intent of these Regulations. Said regulations, conditions, limitations, requirements and safeguards shall be in place prior to the commencement of the use and prior to the occupancy of any building or structure associated with the use.

Section 14-2. Conditional Uses Enumerated

14-2.01 The minimum development standards for the following conditional uses are stated herein (additional conditions may be required on a case by case basis, in the interest of the public health, safety, morals, and general welfare of the community):

1. Contractors' shops and/or yards.
 - A. All open storage areas shall be adequately screened from rights-of-ways and all adjoining properties with fencing and/or landscaping in all approved zoning districts.
 - B. Infrastructure such as roads and available water flows to meet applicable fire codes will be evaluated for each proposal. Refer to Sections 5-3.12 and 5-3.13 of the Miami County Subdivision Regulations for minimum infrastructure requirements for conditional uses.
 - C. The following standards shall also apply to this use in the Agricultural and Countryside Zoning Districts:
 - (1) Minimum lot size of five (5) acres when open storage of equipment and/or materials is **not** proposed.
 - (2) Minimum lot size of ten (10) acres when open storage of equipment and/or materials is proposed.
 - (3) All open storage areas shall be a minimum of 100 feet from all property lines.
 - (4) Except in emergencies, activities that cause noise, odor, smoke, illumination, heat, vibration or similar effects shall not occur earlier than 5:30 a.m. nor later than 10:30 p.m.
2. Farm equipment and implement repair services.
 - A. Sales shall be restricted to repair services and replacement parts.
 - B. All open storage areas shall be adequately screened with fencing and/or landscaping.
3. Group boarding homes for minors.
 - A. The applicant shall submit, as a part of the application, the plans for the proposed facility, giving the type of services to be rendered, the number of persons to be placed on the facility, the number of staff to be employed, and other information that will help in determining the extent of services to be provided.

- B. A letter from the Miami County Community Health Department Director shall be submitted by the applicant, giving the current status of the applicant's license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operations.
 - C. The following requirements shall be provided and sufficient information provided to assure their being met:
 - (1) Off-street parking at a rate of one (1) space per employee plus two (2) additional spaces for guests.
 - (2) Adequate potable water supply sufficient for both domestic and fire protection service.
 - (3) Adequate police protection and patrol.
4. Radio or television towers, communication towers, microwave transmitting and/or receiving towers and/or stations, radio antennas, commercial satellite earth stations and similar appurtenances. (Note: Adding antennas to existing communication towers or facilities shall not require an amendment to an existing conditional use permit, unless the Planning Director determines, based on the existing and proposed intensity of use of the site, that the additions require Planning Commission and Board of County Commissioner review and approval. In any event, such additions shall require site plan approval by the Planning Director.)
- A. The applicant shall present satisfactory proof that the proposed location and use is reasonably necessary. In providing said proof, a Communication Facilities Master Plan shall be submitted to the Planning Commission for their review and approval, if a Master Plan has not yet been approved, prior to the Planning Commission acting on the conditional use permit request for a new facility (the Master Plan may be reviewed at the same hearing as the conditional use permit request). The Master Plan shall show the locations and types of existing facilities and the approximate locations, but not the types, of future facilities, for the company proposing said facility. The Master Plan shall include existing and future locations for the incorporated and unincorporated areas of the county. Any amendment to a communication company's Master Plan shall again be submitted to the Planning Commission for their review and approval.
 - B. None of the above uses shall be required to comply fully with the lot size and height regulations of the zoning district in which they are located except as may be required by the conditions imposed upon the applicant.
 - C. Such structures must be set back from all adjacent property lines and streets and highways a distance equal to not less than its height plus ten (10) feet.

- D. The applicant must document that co-location on an existing tower or other existing structure within five (5) miles of the proposed location is not feasible, or that efforts were made to locate on existing towers or other existing structures, but such efforts were not successful. Documentation of this requirement shall be placed in the record by affidavit of the applicant or intended user of the tower. At the request of the Planning Commission, additional evidence in the form of testimony may be required from the applicant or intended user of the tower.
 - E. All proposed communication towers 150 feet or less in height, not including lightning rods, shall be designed to accommodate at least one (1) additional PCS/Cellular or other similar platform. All proposed communication towers in excess of 150 feet shall be designed to accommodate at least two (2) additional PCS/Cellular or other similar platforms.
 - F. Any application for a proposed tower in excess of 150 feet in height shall include documentation regarding the necessity for the proposed height from an RF and/or other Licensed Professional Engineer. Such documentation shall be in the form of an affidavit acceptable to the Planning Commission and signed by said Engineer. At the request of the Planning Commission, additional evidence in the form of testimony may be required from said Engineer.
 - G. The tower and accessory equipment must meet all requirements of the Federal Aviation Administration. To the extent allowed by such requirements, any required lighting for such tower shall be red during time of darkness.
5. Preschool nurseries, day-care centers or day-care homes.
- A. The applicant shall submit, as a part of the application, the plans for the proposed facility, giving the type of services to be rendered, the maximum number of children allowed at a facility, the number of staff to be employed, the hours of operation, and any other information that will help in determining the extent of services to be provided.
 - B. A letter from the Miami County Community Health Department Director shall be submitted by the applicant, giving the current status of the applicant's state license to operate the proposed facility and listing all requirements yet to be met in order for the proposed facility to be granted authorization to begin its operation.
 - C. The following requirements shall be provided and sufficient information provided to assure their being met:
 - (1) Off-street parking at a rate of one (1) space per employee plus two (2) additional spaces for guests.
 - (2) Adequate potable water supply sufficient for both domestic and fire protection service.

- D. A site plan shall be submitted showing the lot, location of all buildings, location of play-ground facilities, location of all off-street parking, location of all utility lines serving the facility, location of septic system if necessary, and any other information that may be relevant.
6. Recreational vehicle park, permanent or temporary.
- A. The tract to be used for a recreational vehicle park shall not be less than three (3) acres. The applicant shall designate the maximum area desired for the recreational vehicle park.
- B. The applicant for the recreational vehicle park must satisfy the Board of County Commissioners that he or she is financially able to carry out the proposed plan and shall prepare and submit a schedule of construction, which construction shall commence within a period of one (1) year following approval by the Board of County Commissioners and shall be completed within a period of two (2) years, as to the original three-acre or larger tract.
- C. The applicant for a recreational vehicle park shall prepare or cause to be prepared a development plan and shall present twenty (20) copies of said plan for review by the Planning Commission and the Board of County Commissioners. This plan shall show the proposed development, which shall conform with the following requirements:
- (1) Recreational vehicle parks hereafter approved shall have a maximum density of twelve (12) recreational vehicle spaces per gross acre.
 - (2) Each recreational vehicle space shall be at least thirty (30) feet wide and clearly defined.
 - (3) Recreational vehicles shall be so located on each space that there shall be at least a five (5) foot clearance between vehicles. No recreational vehicle space shall be located closer than twenty-five (25) feet from any building within the park or from any property line bounding the park.
 - (4) All recreational vehicle spaces shall front upon a private roadway of not less than twenty-five (25) feet in paved width, which shall have unobstructed access to a public street or highway. Access to the recreational vehicle park shall be from at least a collector or arterial street as identified by the *Comprehensive Transportation Plan*, the number and location of access drives shall be controlled for traffic safety and protection of surrounding properties, and no recreational vehicle space shall be designed for or allow direct access to a public road outside the boundaries of the recreational vehicle park.
 - (5) All roadways and walkways within the recreational vehicle park shall be adequately lighted at night and improved so as to meet the County=s standards

as adopted by resolution of the Board of County Commissioners. Said standards may be obtained from the office of the County Engineer.

- (6) Laundry facilities shall be provided and may be located in a service building.
 - (7) At least one (1) electrical outlet supplying at least 110 volts shall be provided at each recreational vehicle space.
 - (8) Off-roadway parking shall be provided sufficient to locate the towing unit for each camping trailer.
 - (9) A recreation area of not less than one-half (2) acre shall be provided at a central location in said park.
 - (10) The recreational vehicle park shall be surrounded by a landscaped strip of open space fifty (50) feet wide along any street or road frontage and twenty-five (25) feet wide along all other lot lines. A solid or semi-solid fence or wall, a minimum of six (6) feet and a maximum of eight (8) feet high, shall be provided between this conditional use and any adjoining property or property immediately across the street which is zoned for a residential use. In lieu of said fence or wall, a landscaped screen may be provided. Said landscaped screen shall be planted with coniferous and deciduous plant material so as to provide proper screening for the park. When the landscaped screen is used in lieu of the fence or wall, the landscaped screen shall not be included as any part of the required area for the camping space. The fence, wall, or landscaped screen shall be properly policed and maintained by the owner.
 - (11) A storm shelter and storm siren shall be provided in a central location within the recreational vehicle park. The storm shelter shall have the capability of sheltering two (2) persons for each established vehicle space. The applicant shall form a benefit district to address the operation and maintenance of the storm siren. If the County determines that the park can be served by an existing storm siren, then the applicant may not be required to install another storm siren, but shall be required to include the park property in a benefit district to address the operation and maintenance of the existing storm siren serving the park.
 - (12) No recreational vehicle park shall be located within two hundred fifty (250) feet of an established residence.
- D. Proper provisions shall be made for adequate water supply, sanitary sewers, fire protection, refuse collection, and laundry.
- (1) Application for a conditional use permit for a recreational vehicle park shall include engineering plans and specifications of the water supply and distribution system approved by the water supplier and/or the Kansas Department of Health and Environment.

- (2) Application for a conditional use permit for a recreational vehicle park shall include engineering plans and specifications of sewage disposal facilities and sewer lines approved by the County Environmental Health Director and/or the Kansas Department of Health and Environment.
 - (3) All refuse shall be stored in flytight, watertight, rodent proof containers. Containers shall be provided in sufficient number and capacity to properly store all refuse.
 - (4) Where disposal service is not available, the park operator shall dispose of the refuse by transporting it to a disposal site approved by any authority having jurisdiction over such disposal areas.
 - E. The proposed park shall comply with all provisions of this Article and state and local laws and regulations.
 - F. All service buildings and the grounds of the park shall be maintained in a clean, sightly condition and kept free of any condition that will menace the health of any occupant or the public, or constitute a nuisance.
 - G. A responsible attendant shall be in charge of the park at all times. Such attendant shall supervise the park, and, together with the holder of the conditional use permit, shall be responsible for any violation of the provisions of this Article, which may occur in the operation of such park.
 - H. It shall be unlawful for any person to maintain or operate a recreational vehicle park within the unincorporated territory of Miami County unless such a person shall first obtain a conditional use permit or unless the recreational vehicle park is a legal nonconforming use as provided for in these Regulations.
 - I. At any time after the issuance of a conditional use permit for a recreational vehicle park, the Planning Director shall have the authority to inspect said park, and if it shall be found that the holder of said permit has made any false or misleading statements in his or her application or has not complied with the provisions of this application in the establishment of such park, or that said holder of said permit has violated or caused to be violated any of the above provisions of this Article or the laws and regulations of the State of Kansas governing the same, the Board of County Commissioners shall have the power to revoke said permit.
7. Boat and recreational vehicle storage, open or enclosed, for one (1) or more boats or recreational vehicles, which are not the property of the landowner.
- A. All open storage areas shall be adequately screened with fencing and/or landscaping.

8. Quarrying, mining or the removal of sand, gravel or stone, and the processing of the same, including asphalt and concrete plants, or the removal of more than one acre of topsoil when not related to an on-site building or construction project.
 - A. All such uses shall be screened by a method approved by the Board of County Commissioners when the same are visible from any public road or zoning district that permits single-family residences. The hot storage silos and cement silos of asphalt and concrete plants shall not be required to comply fully with the height regulations of the zoning district in which they are located except as may be required by the conditions imposed upon the applicant, but in any event, shall be limited to a maximum height of sixty feet (60').
 - B. The applicant shall submit complete operational plans, providing details as to such matters as planned future excavation, noise and dust control, blasting safety, storm-water drainage and detention or retention, hours of operation, interior roads, security and lighting.
 - C. If the County determines that any road associated with the use is inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, the applicant shall be required to improve and maintain the road(s) to a standard acceptable to the County. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the road(s) used by the operation will be appropriately improved and maintained.
 - D. A plan for reclamation of the site shall be prepared and submitted as a part of the application. The plan shall indicate a timetable for the reclamation to the proposed use of the site and a general plan of the proposed use. The reclamation plan submitted shall be binding only to the extent that said plan shows the intent of the applicant for reclamation. The actual reclamation plan may be amended at such time that the applicant is ready to begin such reclamation, however, the amended plan must be approved by the Board of County Commissioners before reclamation work may begin. Said approval shall require a public hearing under the same procedures as the original conditional use permit.
 - E. All areas quarried or mined shall not endanger the lateral support of abutting or adjoining properties. A minimum setback of one hundred (100) horizontal feet from any road right-of-way and thirty (30) horizontal feet from all other property lines, measured on the surface, must be maintained free of any quarrying or mining activity, either surface or subsurface.
 - F. No building, equipment, quarry products or other materials shall be erected or stored within one hundred feet (100') of any property or right-of-way line.
 - G. A copy of the annual survey of mining operation as required to be filed by State law with the State, shall also be filed with the Board of County Commissioners. Said

annual survey applies only to underground mining activities, not to open pit quarries.

- H. A stormwater pollution prevention plan shall be prepared and certified by a professional engineer and shall incorporate reporting and monitoring elements. The plan shall be submitted to the County for review and approval.
- I. All necessary state and federal permits for the operation of any of the above-noted uses (including air quality and water quality permits) shall be obtained, and the facility shall remain in compliance with all state and federal regulations.

9. Wind Energy Conversion Systems (WECS).

- A. Non-commercial WECS must be approved by a small wind certification program recognized by the American Wind Energy Association.
- B. Installation of any WECS must comply with all requirements of the Miami County Building Code. All building permit applications shall be accompanied by standard drawings of the WECS structure, including but not limited to the tower, base, footings and electrical components.
- C. All WECS shall comply with applicable FAA regulations, including any necessary approvals for installations close to any public or private airport.
- D. The minimum setback distance for any WECS shall be 1.1 times the total height of the tower from any property line or overhead utility line.
- E. Intra-project power lines shall be buried underground.
- F. All WECS shall maintain a galvanized finish or be painted white, gray, pale blue, pale green or another non-obtrusive color. Blades may be black in order to facilitate deicing. Painted finishes shall be matt or non-reflective.
- G. All WECS towers shall be reasonably protected against unauthorized climbing.

Commercial WECS shall also meet the following requirements and standards:

- (1) A sign or signs shall be posted on the site to warn of high voltage and notice of no trespassing. Signs with emergency contact information shall also be posted.
- (2) The system shall be considered abandoned if the use is discontinued (no energy production) for a period of at least twelve (12) consecutive months unless a plan has been submitted and approved by the Planning Director, which outlines steps and a schedule for returning the WECS to service.

- (3) A decommissioning plan shall be submitted, which outlines the anticipated means of removing the WECS, including the foundation, and all other accessory facilities at the end of their serviceable life or at abandonment. All systems shall be decommissioned and all foundations removed to four feet below grade within 180 calendar days of abandonment.
- (4) The owner/operator of the WECS shall be responsible for maintenance and restoration of all county roads leading to the project site that may be damaged during construction or due to activities involving the operation of the WECS.
- (5) Structural design shall be in compliance with industry standards and manufacturer's specifications. The structural design shall be approved and certified by a professional engineer licensed in the state of Kansas.
- (6) The system shall be lighted as required by the Federal Aviation Administration (FAA). The applicant shall submit a copy of the FAA's determination to establish the required marking and/or lights for the system.
- (7) Submittal of an acoustical analysis is required, which verifies that the sound level at the nearest property line shall not exceed 60 dBA. This level may be exceeded during short-term events and/or severe windstorms.

10. Kennels.

- A. The kennel shall occupy a minimum lot size of five (5) acres.
- B. No kennel building or runs shall be located nearer than one hundred fifty (150) feet to any property line.
- C. All kennel runs or open areas shall be screened around such areas or at the property lines to prevent the distraction or excitement of the animals.
- D. The kennel shall have adequate measures to prevent odor, dust, noise or drainage from becoming objectionable to uses on other properties. No incineration of animal refuse shall be permitted.
- E. All state licensing and operation requirements shall be met.

11. Junk yards or salvage yards.

- A. The junk yard or salvage yard shall occupy a minimum lot size of ten (10) acres.
- B. All such uses, including any parking, fencing or other accessory uses, shall be set back at least fifty (50) feet from front property lines, as measured from the ultimate road rights-of-way identified in the Miami County Comprehensive Transportation

Plan, and thirty (30) feet from all other property lines. These setback areas shall at all times be well maintained and free of junk, trash and debris.

- C. All such uses shall be completely surrounded on all sides by a solid fence or wall at least eight (8) feet high. The fence or wall material, design and placement shall be approved by the Planning Commission and shall be of uniform height, uniform texture and color, and shall be so maintained as to insure maximum safety to the public, obscure the junk or salvage from normal view of the public, and preserve the general welfare of the neighborhood. The fence or wall shall be installed in such a manner as to retain all scrap, junk or other materials within the yard. No scrap, junk or other salvaged materials shall be piled so as to exceed the height of the enclosing fence or wall. The fence or wall shall be maintained in its originally approved condition, and any damaged fence or wall shall be repaired within thirty (30) days from the date of damage.
 - D. No materials shall be loaded, unloaded, or otherwise placed, either temporarily or permanently, outside the fence or wall.
 - E. All licenses and certificates required by the State of Kansas shall be maintained, including a Salvage & Storage Certificate of Compliance from the Kansas Department of Transportation and a Dealers License from the Kansas Department of Revenue.
 - F. Clear and safe access for the general public and emergency vehicles shall be provided for and maintained by complying with the Fire Code adopted by the County and by obtaining an annual operating permit required by said Fire Code.
 - G. A stormwater pollution prevention plan shall be prepared and certified by a professional engineer and shall incorporate reporting and monitoring elements. The plan shall be submitted to the County for review and approval and implementation shall take place prior to storing materials on site.
12. The keeping of wild animals, as defined in these Regulations.
- A. The minimum lot size for keeping wild animals shall be ten (10) acres.
 - B. All wild animals must be kept within an enclosure, which shall be located not less than three hundred (300) feet from the nearest property line.
 - C. All enclosures shall be screened, either completely around the enclosure facility or at the property lines, to prevent the distraction or excitement of the animals.
 - D. All enclosures shall be maintained in healthy, sanitary conditions pursuant to the Miami County Environmental Health Sanitary Code and in compliance with all State licensing and operation requirements. No incineration of animal refuse shall be permitted.

- E. All bears, canine and canine hybrids, and feline and feline hybrids shall be securely enclosed in a locked building, pen or kennel. All structures used for the keeping/housing of animals must be locked with a key or combination lock. Such pens, kennels, or other structures shall have secure metal or concrete sides and a secure metal top attached to the sides. In addition, there must be a concrete floor which shall be attached to the sides or the sides shall be embedded into the ground no less than two (2) feet deep.
- F. All State and County licensing and operation requirements shall be met.

13. Bed and Breakfast facilities.

- A. A Bed and Breakfast facility shall be configured to resemble a single family dwelling in respect to its appearance and function.
- B. Bed and Breakfast facilities shall contain a dwelling unit for use by the proprietor/owner, which the proprietor/owner is required to occupy as his/her main residence. There shall be no permanent barriers or lockable doors separating the proprietor/owner dwelling unit from the remainder of the Bed and Breakfast facilities such that 2 separate dwelling units are created.
- C. Use of any manufactured or modular home as a Bed and Breakfast is prohibited.
- D. All bedrooms used as part of the Bed and Breakfast operation shall have a common internal access.
- E. Any structure occupied for a Bed and Breakfast facility shall remain a single-family residential structure and shall not be remodeled into a commercial kitchen or dining facility.
- F. The maximum number of bedrooms shall not exceed five (5), with at least one bedroom being designated for the owner/proprietor.
- G. Sleeping accommodations may be provided for up to eight (8) guests. Each guest bedroom shall be considered to accommodate a minimum of two (2) guests.
- H. Meals served shall be limited to residents and overnight customers/guests.
- I. Bed and Breakfast facilities shall comply with County and State sanitary requirements.
- J. Bed and Breakfast facilities shall comply with County and State requirements/licenses as a lodging facility.
- K. Parking requirements for a Bed and Breakfast facility shall be one (1) space per guest bedroom in addition to the two (2) spaces required for the owner occupied residential use. No parking shall be permitted within the required setbacks.

- L. Short-term overnight lodging shall be permitted, however, monthly rentals or leasing shall be prohibited.
 - M. Any new structure constructed for use as a Bed and Breakfast facility shall use an architectural style and materials representative of the historical district era in which said structure is being constructed.
14. Construction and demolition landfills, as defined in K.S.A. 65-3402 and amendments thereto.
- A. The applicant shall hold a valid, state-issued construction and demolition landfill permit at all times such landfill is in operation.
 - B. The landfill operation shall be limited to the disposal of construction and demolition waste as such is defined in K.S.A. 65-3402(u) and amendments thereto.
 - C. The minimum parcel size shall be 20 acres.
 - D. Setbacks shall be in accordance with K.S.A. 49-501 and shall be a minimum of one hundred (100) horizontal feet from any road right-of-way and thirty (30) horizontal feet from all other property lines, measured on the surface, and must be maintained free of any activity, either surface or subsurface.
 - E. The applicant shall submit complete plans for the design and operation of the landfill, providing detail as to such matters as noise and dust control, stormwater drainage and detention or retention, hours of operation, interior roads, fire suppression, security and lighting.
 - F. If the County determines that any road associated with the use is inadequate for the expected quantities of traffic, especially with respect to heavy truck traffic, the applicant shall be required to improve and maintain the road(s) to a standard acceptable to the County. An Improvement and Maintenance Agreement between the applicant and the County shall be required to assure that the road(s) used by the operation will be appropriately improved and maintained.
 - G. A stormwater pollution prevention plan shall be prepared and certified by a professional engineer and shall incorporate reporting and monitoring elements. The plan shall be submitted to the County for review and approval.
 - H. All landfill operations shall be screened by a method approved by the Board of County Commissioners.
15. The adaptive reuse of public and semi-public buildings, such as, but not limited to, church buildings, township halls, school buildings, and other historically significant structures for limited commercial and limited industrial operations that would be compatible with surrounding uses.

- A. A site plan per Article 19 shall be submitted for consideration and approval with the conditional use permit request.
 - B. Off street parking shall be provided for the approved use(s) in compliance with the parking requirements for the use(s) as outlined in these Regulations.
 - C. The applicant shall demonstrate that the building(s) or structure(s) shall be improved to meet commercial building code requirements and that said improvements shall be made prior to occupancy.
16. Churches and parish halls, temples, convents and monasteries.
- A. Steeples, bell towers, or other religious-related appurtenances, such as cross structures, may exceed the maximum height of the underlying zoning district but shall not exceed 60 feet in height.

Section 14-3. Continuance, Expiration and Revocation or Modification of Conditional Use Permits

14-3.01

- 1. Any conditional use permit shall be allowed to continue, unless specifically limited in time as a condition of its approval, and provided that all conditions attached to the permit by the County Commission are met.
- 2. All conditional use permits will automatically expire, be considered abandoned and become invalid by operation of law when:
 - A. A definite time frame has been established as a condition by the County Commission and that time frame has elapsed.
 - B. An approved conditional use permit has not been initiated or utilized by commencing the activity or use at the site specified in said permit within one (1) year of the date of authorization, unless the County Commission finds that the use is of such a scale that additional time is needed prior to its initiation. The authorization date shall be the date that the permit is approved by resolution of the County Commission. If more than one (1) year is needed as found by the County Commission, the amount of time to initiate the use shall be specified in the approving resolution.
 - C. Conditional use permits in which the authorized activity, service or use has ceased for three hundred and sixty-five (365) continuous days, for any reasons. However, if a particular use has ceased in order to overhaul or provide maintenance to the

facility as it directly relates to the use, said overhauling or maintenance shall be considered as being in continual use.

- D. Holders of conditional use permits subject to termination due to the provisions of paragraphs B and C above, may file a written petition with the Planning Director at least thirty (30) days prior to the expiration date, requesting an extension of time to begin or to reinstitute the activity, service or use. The application shall state specific reasons for such an extension and shall include all reports from appropriate County agencies and shall be sent to the County Commission for consideration within thirty (30) days of filing of the application. The County Commission may grant an extension if it finds that circumstances beyond the normal control of the holders of the permit resulted in a delay of the initiation of or a cessation of the activity, service or use for three hundred sixty-five (365) continuous days.
- 3. Any conditional use permit, authorized in accordance with this Article, may be revoked or modified when the County Commission finds, following a public hearing pursuant to Article 22 of these Regulations:
 - A. That there has been a failure to comply with the conditions established for that conditional use permit.
 - B. That the conditional use permit has substantially expanded or deviated from its original use and intent. Original use and intent shall be interpreted as being the actual use(s) of a conditional use permit that existed on September 5, 1991, for uses in place prior to that date, or the uses specifically defined in the resolution approving the conditional use permit for permits granted after September 5, 1991. If the Planning Commission finds that there has been no change or that the change is minimal, the original conditional use permit will remain in effect.
 - C. That the conditional use permit has been found by a court of law and/or federal or state administrative agency to be an illegal activity or to be a nuisance as defined by Kansas statutes.
 - 4. Action to modify or revoke a conditional use permit may be initiated by the County department responsible for enforcing these Regulations or upon a complaint filed with the County Planning Department and/or other affected County departments. Upon receipt of a complaint, the Planning Director or a designated representative shall investigate the complaint. If an investigation finds that the complaint is valid and sufficient grounds exist for modification or revocation of a conditional use permit, the matter shall be referred to the Planning Commission for a hearing.

Section 14-4. Parking Regulations

14-4.01 Unless specified in this Article and/or Article 17 of these Regulations, parking requirements for conditional uses shall be recommended by the Planning Commission and

approved by the Board of County Commissioners. The following shall be taken into consideration when reviewing and approving parking requirements:

1. The use of the facility.
2. The square footage of the building.
3. The surrounding land uses and zoning districts.

14-4.02 Where appropriate, the parking regulations of the underlying zoning district or the most analogous zoning district shall be followed.

14-4.03 Additional parking requirements are contained in Article 17 of these Regulations.

Section 14-5. Sign Regulations

14-5.01 Sign regulations are contained in Article 18 of these Regulations.

Section 14-6. Height, Area and Yard Regulations

14-6.01 All conditional uses shall comply with the height, area and yard regulations of the zoning district in which they may be located, unless otherwise specifically granted in this Article.

Article 15

USES PROHIBITED

Sections:

15-1 Designated

Section 15-1. Designated

15-1.01 No temporary or incomplete building, basement, garage or appurtenances incidental to a family dwelling shall be erected, maintained or used for residential purposes within the unincorporated territory except as allowed by conditional use permit issued in accordance with these Regulations. Provided, where the exterior and more than fifty percent (50%) of the interior of a permanent residential building has been completed, this restriction shall not apply.

15-1.02 No temporary or outwardly incomplete structure or building, no open excavation for a basement or foundation, and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained or remain in such condition within the unincorporated territory for a period of more than six (6) months, except by special permission of the Board of County Commissioners upon recommendation by the Planning Commission.

15-1.03 No building material, construction equipment (unless completely screened from public view by landscaping, fencing, berming and/or buildings), machinery or refuse shall be stored, maintained or kept in the open upon any lot, tract or parcel within a residential district, other than during actual construction operations upon said premises or related premises. However, the Board of Zoning Appeals may grant an exception to said requirement in unusual cases for a limited time.

15-1.04 Unless a conditional use permit has been issued for an approved salvage yard and the conditions set forth in the conditional use permit are being met, no owner or resident of any land within the unincorporated territory shall permit the storage on premises of any junked, dismantled, inoperable or abandoned automobile for more than thirty (30) consecutive days, unless the automobile so junked, dismantled, inoperable or abandoned shall be housed in a building and not be open to view to the general public. Any one or more of the following conditions shall raise the presumption that a vehicle is junked, dismantled, inoperable or abandoned:

1. The vehicle is not currently tagged or registered pursuant to Kansas statutes;
2. The vehicle is incapable of moving under its own power;
3. Placement of the vehicle or parts thereof upon jacks, blocks or other supports;
4. Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle on the public streets or highways, airways or waterways;
5. Vegetation, including weeds and trees, growing on, around or within a vehicle to such an extent that it is obvious that the vehicle has not been moved for at least 30 days.

15-1.05 No building or premises now located within the unincorporated territory, nor any building hereafter erected therein, shall be used or occupied for any of the following purposes:

1. Dump or dumping ground.
2. Roadside stands for sale of merchandise or farm products unless grown and produced by the seller.
3. Hazardous or toxic waste storage or incineration unless established by the Board of County Commissioners by conditional use permit.
4. Sanitary landfill unless established by the Board of County Commissioners by conditional use permit.
5. Hazardous or toxic waste landfill or disposal facility.
6. A manufactured home shall be limited to use as a single family dwelling unit and shall not be converted or used for other purposes, except as otherwise provided for in these Regulations.
7. A recreational vehicle shall be limited to use as a recreational vehicle and shall not be converted or used for other purposes, except as otherwise provided for in these Regulations.
8. A second residence, guest house, or apartment on the same lot, parcel or tract of land, and upon which a residential dwelling already exists regardless of whether said second residence, guest house or apartment is being used for habitation, except as otherwise provided for in these Regulations.
9. Above ground disposal of construction and demolition waste, which shall include, but not be limited to, concrete, rock, brick, block or asphalt. Concrete, rock, block or asphalt may be buried if first reduced to no more than one (1) square foot in dimension and containing no structural steel.

15-1.06 Semi-Truck trailers (with or without chassis or wheel assemblies) shall not be stored on any premises that are zoned to allow residential uses for more than ten (10) days in any one calendar year, unless all of the following conditions are met:

1. They are expressly permitted as an accessory use to an approved conditional use permit; and
2. They shall be screened by one or more of the following:
 - a. A permanent primary or accessory structure (house, barn, etc.) that meets applicable codes and ordinances, including legal nonconforming structures
 - b. Landscaping or other vegetation that provides year-round screening

- c. Masonry walls or wooden privacy fences that meet applicable codes and ordinances
 - d. Berms or other screening provided by changes in topography; and
3. Yard setbacks are maintained in accordance with the underlying zoning district; and
 4. All trailers maintain current registration and vehicle tags; and
 5. The number of trailers allowed at any one time shall be limited by condition of the required conditional use permit, and will be evaluated based upon factors such as lot size, the proposed location of trailers, and available screening.

Semi-trailers used solely for agricultural purposes and located on property used primarily for agricultural purposes are exempt from these requirements.

15-1.07 Containers: Cargo/Shipping/Storage/ISO/Domestic Intermodal Containers shall not be stored on any premises that are zoned to allow residential uses for more than ten (10) days in any one (1) calendar year unless the yard setbacks of the underlying zoning district are maintained and one or more of the following conditions are met:

1. They shall be screened by one or more of the following:
 - a. A permanent primary or accessory structure (house, barn, etc.) that meets applicable codes and ordinances, including legal nonconforming structures
 - b. Landscaping or other vegetation that provides year-round screening
 - c. Masonry walls or wooden privacy fences that meet applicable codes and ordinances
 - d. Berms or other screening provided by changes in topography;
2. They are expressly permitted as an accessory use to an approved conditional use permit;
3. They are located at a construction site for the duration of the project or one (1) year, whichever occurs first. Units are to be removed within 60 days of the issuance of the Certificate of Occupancy. Time extensions may be requested for extenuating circumstances;
4. They are for short-term, temporary use as part of a natural disaster recovery and clean-up effort, remodeling, fire damage repair, or moving;

The number of containers allowed at any one time shall be limited to three (3), unless limited to fewer or allowed more by specific condition of an approved conditional use permit. Containers used solely for agricultural purposes and located on property used primarily for agricultural purposes are exempt from these requirements.

Article 16

NONCONFORMING USES

Sections:

- 16-1 Application
- 16-2 Nonconforming Lots of Record
- 16-3 Nonconforming Use of Structures
- 16-4 Discontinuance of Nonconforming Uses
- 16-5 Destruction of a Nonconforming Use/Structure
- 16-6 Nonconforming Uses Within Airport Overlay Zoning Districts
- 16-7 Nonconforming Uses Within Floodplain Overlay Zoning District
- 16-8 Nonconforming Uses With a Conditional Use Permit

Section 16-1. Application

16-1.01 The provisions of these Regulations shall not apply to the existing use of any buildings or land and shall not prevent the restoration of a building damaged not more than fifty percent (50%) of its assessed valuation by fire, explosion, act of God, or the public enemy, or prevent the continuance of the use of such building or part thereof as such use existed at the time of such damage, but shall apply to any alteration of a building to provide for a change in such use of any building or land after the effective date of these Regulations.

16-1.02 The premises, or a building or structure located on said premises, occupied by a nonconforming use, or a building or structure nonconforming as to height, area, yard or parking regulations, shall not be added to, enlarged in any manner or moved to another location, where such addition, enlargement or relocation would also be nonconforming. A building or structure may be added to, enlarged or relocated if the addition, enlargement or relocation is being done for the purpose of causing such building or structure to be conforming, or the addition, enlargement or relocation will itself be conforming with all regulations of the zoning district in which it is located. Said improvements may be done following the obtaining of a building permit.

16-1.03 Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use.

16-1.04 A lawful nonconforming use of a building, structure or land that has been voluntarily discontinued for a period of six (6) consecutive months shall not thereafter be resumed.

16-1.05 Regular non-structural maintenance and non-structural remodeling of a lawful nonconforming building or structure shall be allowed as long as such maintenance and/or remodeling does not increase the degree of existing lawful nonconformity. For purposes of this regulation, replacing a roof shall be considered non-structural maintenance.

Section 16-2. Nonconforming Lots of Record

16-2.01 Building Permits for Nonconforming Lots: In any zoning district, notwithstanding the requirements imposed by any other provision of the County development regulations, buildings or structures, which otherwise comply with County regulations, may be constructed on a legally created lot or parcel that:

1. Is less than the prescribed minimum lot size for that zoning district; and/or
2. Has less than the prescribed minimum lot width for that zoning district; and/or
3. Does not contain the prescribed frontage on a County or State maintained road or highway.

16-2.02 Yard Requirements for Nonconforming Lots: Building permits authorized in Section 16-2.01 shall comply with all requirements of that zoning district, except as noted in Section 16-2.01, provided, however, that the following front, rear and side yard setback requirements shall apply in lieu of front, rear and side yard setbacks as set forth in the zoning districts.

1. A dwelling, building or structure shall be placed on the lot so as to provide a yard on each side of the dwelling, building or structure.
2. No side yard shall be less than ten percent (10%) of the width of the lot, and in no case less than three feet (3').
3. Reduction of the required front yard setback is permitted by averaging the established front yard setbacks of existing dwellings, buildings or structures fronting on the same street, except that no front yard shall be less than fifteen feet (15'). If no dwellings, buildings or structures exist in the required front yard on the same street, then the front yard shall be no less than fifteen feet (15').
4. No rear yard shall be less than fifteen feet (15').

16-2.03 Wastewater Treatment Requirements for Nonconforming Lots: Nonconforming lots on which construction is permitted per 16-2.01, above, shall comply with the Miami County Environmental Health Sanitary Code as amended.

Section 16-3. Nonconforming Use of Structures

16-3.01 Nonconforming Use of Structures: Except as otherwise provided herein, the lawful use of a structure existing on the effective date of these Regulations may be continued although such use does not conform to the provisions of these Regulations. Whenever a nonconforming use has been changed to a conforming use, such use shall not thereafter be changed to a nonconforming use. The nonconforming use of a structure may be hereafter extended throughout those parts of the structure which were lawfully and manifestly arranged or designed for such use at the time of the enactment of these Regulations.

Section 16-4. Discontinuance of Nonconforming Uses

16-4.01 Discontinuance of Nonconforming Uses: No land or structure or portion thereof used in whole or in part for a nonconforming use which voluntarily remains idle or unused for a continuous period of six (6) months, whether or not the equipment, fixture, improvements or facilities are removed, shall again be used except in conformity with the regulations of the district in which such land or structure is located.

Section 16-5. Destruction of a Nonconforming Use/Structure

16-5.01 Destruction of a Nonconforming Use/Structure: No structure which has been damaged by any cause whatsoever to the extent of more than 50 percent of the fair market value of the structure, immediately prior to damage, shall be restored except in conformity with the provisions of these Regulations, and all rights as a nonconforming use are terminated. If a structure is damaged by less than 50 percent of the fair market value, it may be repaired or reconstructed and used as before the time of damage, provided that such repairs or reconstruction are substantially completed within twelve (12) months of the date of such damage.

Section 16-6. Nonconforming Uses Within Airport Overlay Zoning Districts

16-6.01 Additional regulations regarding nonconforming uses within the Airport Overlay Zoning Districts are presented in Section 13-9 of these Zoning Regulations.

Section 16-7. Nonconforming Uses Within Floodplain Overlay Zoning District

16-7.01 Additional regulations regarding nonconforming uses within the Floodplain Overlay District (F-P) are presented in Section 12-9 of these Zoning Regulations.

Section 16-8. Nonconforming Uses With a Conditional Use Permit

16-8.01 Any nonconforming use resulting from the adoption of these Regulations, with a use allowed under a valid conditional use permit issued by the County prior to the effective date of these Regulations, shall continue to comply with the conditions set forth in that permit until the permit expires or is otherwise terminated.

16-8.02 In any zoning district churches, parish halls and temples in existence as of the effective date of these regulations (July 1, 2001) shall be allowed to expand up to 100% of their building area in existence at the time of the effective date of these regulations without the approval of a conditional use permit. All other standards of these regulations shall be met in order for said churches, parish halls and temples to expand.

ARTICLE 17

PARKING REGULATIONS

Sections:

- 17-1 Application
- 17-2 Parking Requirements
- 17-3 Parking Area Standards

Section 17-1. Application

17-1.01 These parking regulations, as well as the parking regulations of each zoning district, are intended to ensure that all uses of land within the unincorporated territory have a parking space component requiring adequate off-street parking for such use. Such parking spaces shall be located entirely on private property with no portion except the necessary drives extending into any street or other public way. Residential parking shall be provided in quantities stated in the various zoning district regulations, and non-residential parking quantities are listed below. The parking requirements for some conditional uses are also listed in Article 14 of these Regulations. The issuance of building permits shall require compliance with the following standards and the parking requirements of these Zoning Regulations at a minimum, even though a conceptual plan may have been approved previously which included fewer parking spaces due to the unknown or changing status of occupants.

Section 17-2. Parking Requirements

17-2.01 Except as otherwise provided for in these Regulations, when any building or structure is hereafter erected or structurally altered to the extent of increasing the floor area by fifty percent (50%) or more, or any building or structure hereafter erected is converted for the uses listed below, accessory off-street parking spaces shall be provided as required in this Article.

1. Churches, temples, theaters, athletic fields and other seating facilities: one (1) parking space per three (3) fixed seats, or per thirty-five (35) square feet of main assembly area where there are no fixed seats.
2. Libraries: one (1) parking space per two (2) employees, plus one (1) parking space per two hundred (200) square feet of service floor area.
3. Hotels and motels: one (1) parking space per two (2) employees, plus one (1) parking space per room.
4. Hospitals, sanitariums, convalescent homes or homes for the aged: one (1) parking space per three (3) beds, plus one (1) parking space per staff and visiting doctor.
5. Restaurants and cafeterias: one (1) parking space per each three (3) seats of maximum building capacity.

6. Armories and assembly halls: one (1) parking space per three (3) fixed seats, or per thirty-five (35) square feet of main assembly area where there are no fixed seats.
7. Mortuaries and funeral homes: one (1) parking space per two (2) employees, plus one (1) parking space per three (3) seats.
8. Taverns or clubs serving alcoholic or cereal malt beverages: one (1) parking space per employee, plus one (1) parking space per each two (2) seats of maximum building capacity.
9. Golf courses, miniature golf courses, driving ranges: six (6) parking spaces per hole and one (1) parking space per driving tee.
10. Offices, retail and general commercial businesses: one (1) parking space per two hundred fifty (250) square feet of floor area.
11. Assembly plants, manufacturing and industrial establishments: one (1) parking space per five hundred (500) square feet of floor area.
12. Health spas and recreational facilities: one (1) parking space per two hundred fifty (250) square feet of floor area.
13. Elementary schools: two (2) parking spaces per classroom.
14. Senior high, junior high and middle schools: one (1) parking space per each faculty member and one (1) parking space per each six (6) enrolled students.
15. Colleges, universities, trade or vocational schools: one (1) parking space per each faculty member and one (1) parking space per each three (3) students.

17-2.02 The parking quantities of any use not included in the parking requirements of this Article shall be determined by the Planning Commission.

17-2.03 In zoning districts BP, C-1 and C-2, and the non-residential portions of PD zoning districts, no parking shall be permitted within fifteen (15) feet of a street line. Such setback area shall be graded and planted with grass and shrubs or trees to the extent that it will constitute a finished lawn.

17-2.04 Shared parking facilities may be used jointly with parking facilities for other uses when operations are not normally conducted during the same hours, or when peak hours vary, provided the facilities are no further than two hundred fifty (250) feet from the proposed uses, and a written agreement is executed by all parties concerned assuring the continued availability of the shared facilities.

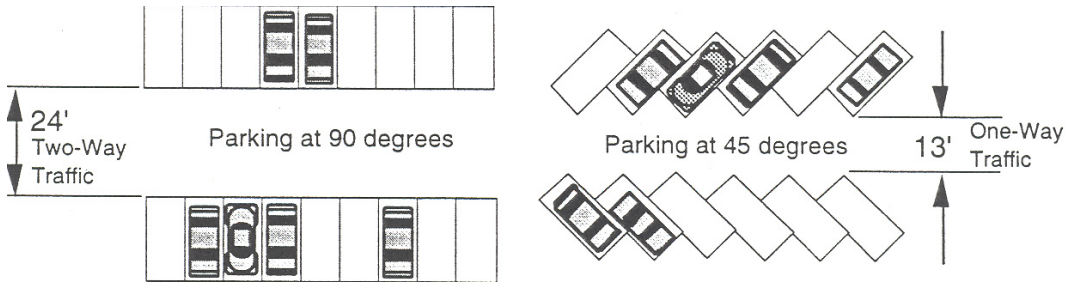
Section 17-3. Parking Area Standards

17-3.01 Each standard parking space stall shall be a minimum of nine (9) feet by eighteen (18) feet plus the necessary space for maneuvering into and out of the space. The minimum widths for driving lanes or aisles shall be as follows:

1. Parking spaces at 90 degrees to the aisle – 24' wide

2. Parking spaces at 60 degrees to the aisle – 18’ wide*
3. Parking spaces at 45 degrees to the aisle – 13’ wide*

*One-way traffic flow only. If two-way traffic flow is desired, the aisle shall be a minimum of 24’ wide.



17-3.02 All off-street parking areas, including equipment and vehicular storage areas associated with commercial and industrial uses, shall be constructed, at a minimum, with an all-weather, gravel-surfaced area. All required parking lots and all driveways and driving lanes or aisles to and within any required parking lot in the C-1, C-2, BP, I-1, I-2 or PD zoning districts, when associated with non-single-family residential development, shall be surfaced with a permanent bituminous or concrete pavement prior to the issuance of a certificate of occupancy by the Miami County Building Department. Pavement shall be designed to accommodate expected vehicle loads (minimum 4 inches of permanent bituminous or concrete pavement). Parking lot design may require the seal of a Kansas licensed Professional Engineer. Such permanent bituminous or concrete pavement shall not include chip-and-seal surfaces.

17-3.03 All parking areas and off-street loading areas shall be screened from adjacent properties zoned or used for single-family residential purposes with a plan approved by the Board of County Commissioners, Planning Commission or the Planning Director depending on the type of site plan being reviewed.

17-3.04 Those parking lots and driveways required to have a permanent bituminous or concrete pavement surface shall provide stormwater detention facilities that comply with the Storm Drainage Standards adopted by the County. Such parking lots and driveways shall also meet the following requirements:

1. The perimeter of all required parking lots and all driveways to and within any required parking lot shall be provided with concrete curb and gutters.
2. Concrete curb and gutters or permanently set wheel-stop blocks shall be provided at the front of any required parking space.

17-3.05 The Planning Commission or Planning Director may require plans to be prepared and approved to assure proper design and construction of any off-street parking spaces and access drives if conditions of the site are such that compliance with these requirements may be difficult or may pose a potential problem with adjacent properties.

17-3.06 Any lights used to illuminate a parking area or driveway shall be arranged, located or screened to direct light away from adjoining or abutting properties, shall be limited to twenty-five (25) feet in height, and shall utilize a fixture that directs light downward and prevents light from traveling out above a horizontal plane relative to the bulb. A lighting plan may be required prior to installing parking area or driveway lights.

17-3.07 Accessible parking spaces for the disabled shall be located on the shortest accessible route of travel from adjacent parking to an accessible building entrance or accessible pedestrian entrance. All accessible parking spaces shall be clearly marked as such. The number of required parking spaces accessible to the disabled shall be as follows:

TOTAL PARKING SPACES PROVIDED	REQUIRED MINIMUM NUMBER OF ACCESSIBLE SPACES
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of total
More than 1,000	20 plus one for each 100 over 1,000

In addition, for every eight (8) or fraction of eight (8) accessible parking spaces, at least one (1) shall be a van-accessible parking space. Each standard accessible parking space, including its loading area, shall be a minimum of fourteen (14) feet by eighteen (18) feet, and each van-accessible parking space, including its loading area, shall be a minimum of seventeen (17) feet by eighteen (18) feet.

17-3.08 Access from streets to parking lots shall be by means of paved driveways not more than 35 feet wide. The number of driveways and the locations of driveways shall be approved by the County Engineer.

17-3.09 Parking spaces shall not have direct access from any public street or highway, but shall be accessed by on-site driveways.

17-3.10 All parking spaces in parking lots surfaced with a permanent bituminous or concrete pavement shall be delineated by striping at least four inches (4") wide, with accessible parking spaces appropriately delineated with striping, symbols and signs.

Article 18

SIGN REGULATIONS

Sections:

- 18-1 Purpose
- 18-2 New or Rebuilt Signs; Permits
- 18-3 Signs Not Requiring Permits
- 18-4 General Sign Requirements
- 18-5 Billboard Signs (Off-Premises Outdoor)
- 18-6 Nonconforming Signs
- 18-7 Planned Development District (PD) Sign Regulations
- 18-7A Rural Residential District (R-1) Sign Regulations
- 18-8 Countryside District (CS) Sign Regulations
- 18-9 Agricultural District (AG) Sign Regulations
- 18-10 Low Intensity Commercial District (C-1) Sign Regulations
- 18-11 Commercial District (C-2) Sign Regulations
- 18-12 Business Park District (BP) Sign Regulations
- 18-13 Light Industrial District (I-1) Sign Regulations
- 18-14 Heavy Industrial District (I-2) Sign Regulations
- 18-15 Conditional Use Permit (CUP) Sign Regulations

Section 18-1. Purpose

18-1.01 The purpose of this Article is to protect, preserve, and promote the beauty, safety, and general welfare of the unincorporated territory by establishing certain minimum standards and procedures for the erection of signs in various zoning districts.

Section 18-2. New or Rebuilt Signs; Permits

18-2.01 Permit Required: Unless otherwise provided for in these Regulations, no new or permanent sign shall hereafter be hung, erected, attached or supported on a building or structural support, and no existing sign shall be altered, rebuilt, extended, replaced or relocated, until a permit has been issued by the Building Inspection Director.

18-2.02 Filing Procedure: Applicants requesting permits for signs shall file an application with the Building Inspection Director, upon forms prescribed. Said application shall include, or have attached, the following information:

1. The name, address, and telephone number of the applicant.
2. The location of the building, structure or lot where each sign is to be located.
3. Position of the sign(s) in relation to nearby buildings and structures.
4. Two (2) sets of prints showing the plans and specifications of the proposed sign(s) and sign structure(s), along with the method of construction and attachment to the building or in the ground.

5. The name of the person, firm, corporation or association erecting the sign(s).
6. Written consent of the owner of the building, structure or land to which or on which each sign is to be erected.
7. Apply with all provisions of Article 19 of these Regulations, governing Site Plan Approval.
8. Additional information as the Planning Director and/or Building Inspection Director shall require to show full compliance with this and all other applicable laws and regulations of Miami County.

18-2.03 Issuance of Permit: If, in the opinion of the Building Inspection Director, the application meets the requirements of this Article, a permit shall be issued. If the work authorized by such permit is not started within one hundred eighty (180) days from the date of its issuance and/or a request for inspection has not been made, such permit shall become null and void.

18-2.04 Permit Revocation: If the Planning Director, Building Inspection Director, or their designees shall find that any sign subject to these Regulations is unsafe or insecure, is a menace to the public, has been constructed or erected or is being maintained in violation of the provisions of these Regulations, written notice shall be given to the person or entity in possession and control of the premises on which the sign is located, specifying the problem. If such person fails to remove or alter the sign so as to comply with the provisions of these Regulations within twenty-four (24) hours of such notice, the Planning Director or Building Inspection Director may cause such sign to be removed or altered to comply with these Regulations at the expense of the permittee or owner of the property on which said sign is located. If, in the opinion of the Planning Director or Building Inspection Director, a sign is an immediate hazard to the public health, safety, or welfare, the Planning Director or Building Inspection Director may cause the sign to be removed immediately and without notice.

Section 18-3. Signs Not Requiring Permits

18-3.01 The following types of signs shall be exempt from the permit requirements of this Article, but shall be in conformance with all other requirements of these Regulations:

1. Public street name signs, traffic control signs, legal notices, rezoning signs, railroad crossing signs, danger signs, temporary warning signs and emergency signs.
2. Memorial signs or tablets not in excess of four (4) square feet in area per face.
3. Official notices by public officers or employees in the performance of their duties.
4. Signs required or specifically authorized by statute or County regulations.
5. Non-illuminated, detached political signs for political candidates for public office or measures on election ballots. Said signs shall not be placed more than ninety (90) days prior to the date of the election and shall be removed by the property owner or occupant within two (2) days after the date of the election. Signs shall not be more than six (6) square feet in area per face and not more than three (3) feet in height when placed within the boundaries of an unincorporated townsite as shown by the existing plats thereof. Elsewhere within the unincorporated area of the County, political signs shall not be more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height.

6. In residential districts, one (1) temporary “For Sale,” “For Lease,” “Open House,” “Estate Sale,” or “Garage Sale” sign per lot that is non-illuminated and not more than six (6) square feet in area per face and not more than six (6) feet in height.
7. In non-residential districts, one (1) temporary “For Sale” or “For Lease” sign per lot that is non-illuminated and no more than thirty-two (32) square feet in area per face and not more than eight (8) feet in height.
8. In commercial districts, temporary indoor window signs.
9. Agricultural signs.
10. In parking lots, ground signs, specifically for the purpose of guiding and directing pedestrians and/or vehicle traffic.
11. Such additional signs as “No Hunting,” “No Fishing,” “No Trespassing” and other like signs, not to exceed six (6) square feet in area per face.
12. Signs for non-profit service clubs, civic organizations, fraternal organizations, youth organizations, and religious organizations as follows:
 - A. Temporary signs advertising upcoming special events sponsored by the organization shall not be installed more than ninety (90) days prior to the event, and provided such signs are non-illuminated and do not exceed thirty-two (32) square feet in area per face nor exceed eight (8) feet in height. Said signs may be located on-premises or off-premises (with written consent of the property owner), shall not be located in any public right-of-way or road easement, and shall be removed within two (2) days after the event.
 - B. Permanent off-premises directional signs (with written consent of the property owner) giving direction to the special event or location of the organization, provided such signs are non-illuminated and do not exceed six (6) square feet in area per face. Said signs shall not be located in any public right-of-way or road easement and shall not be located in such a manner as to constitute a traffic hazard as determined by the County Engineer.
 - C. Permanent off-premises identification signs identifying the various organizations, provided said signs identify two (2) or more related organizations and do not exceed more than six (6) square feet in area per face for each organization being identified.
 - D. Permanent on-premises signs as permitted by the requirements of the zoning district where said organization is located.
13. In any zoning district, one permanent off-premises directional sign per business (with written consent of the property owner) giving direction to the location of a business or for-profit organization shall be allowed, provided such sign is non-illuminated, does not exceed six (6) square feet in area per face and does not exceed six feet in height from grade. Said sign shall be constructed with quality materials and professional craftsmanship. Said sign shall not be located in any public right-of-way or road easement and shall not be located in such a manner as to constitute a traffic hazard as determined by the County Engineer.

Section 18-4. General Sign Requirements

18-4.01 The following general sign requirements shall apply to all signs in all zoning districts:

1. No sign shall be erected at the intersection of any street in such a manner as to obstruct free and clear vision, or at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device.
2. Lighting shall be permitted on signs, provided, however, the reflectors shall be provided with proper lenses, concentrating the illumination on the area of the sign so as to prevent glare upon the street or adjacent property, and the appropriate building permit has been obtained.
3. It shall be unlawful for any person or entity to have any sign which is wholly or partially illuminated so as to interfere with the vision of pedestrian or vehicular traffic.
4. No sign shall be erected, constructed, or maintained within the right-of-way of any street, avenue, highway or alley.
5. Signs shall be maintained so as to be structurally sound and in a safe condition, and shall be kept in a state of undeteriorated appearance by means of painting, sealing or coating and repair or replacement of damaged parts, panels or lights.
6. Each face of a sign, whether back-to-back, V-shaped, or some other configuration, shall be considered a separate sign.
7. No more than two (2) signs may be connected, whether back-to-back, V-shaped, or some other configuration.
8. Unless otherwise provided for in these Regulations, no sign hereafter erected shall be less than three hundred (300) feet from any other existing sign or allowed configuration of signs on the same property. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway. The minimum building setback requirements effective in the underlying zoning district shall be maintained.
9. Unless otherwise provided for in these Regulations, height shall be the distance as measured above average grade to the top edge of any one sign.

Section 18-5. Billboard Signs (Off-Premises Outdoor)

18-5.01 Off-premises outdoor billboard signs greater than 64 square feet and equal to or less than 750 square feet shall be permitted only in the C-2, I-1 and I-2 Districts, and only within 660 feet of the rights-of-way of I-35, K-68 and US-169, with advertising being directed only toward said rights-of-way. Billboard signs visible from US-69 and erected with the purpose of their message being read from US-69 shall be prohibited.

18-5.02 Location:

1. Billboard signs shall not be located within three hundred (300) feet of any property zoned Planned Development, Rural Residential, Countryside, or Agricultural.
2. Billboard signs shall not be located within fifty (50) feet of any state or federal highway, to be measured from the edge of the right-of-way.
3. Billboard signs shall not be attached to the roof or wall of any building.

18-5.03 Maximum Height: The top edge of any one billboard sign shall not exceed fifty (50) feet above average grade.

18-5.04 Maximum Sign Area:

1. The maximum sign area of any billboard sign shall not exceed a total of seven hundred fifty (750) square feet.
2. The maximum height or vertical dimension shall not exceed fifteen (15) feet. The maximum width or horizontal dimension of any one (1) billboard sign shall not exceed fifty (50) feet.
3. For purposes of this subsection, each face of a billboard sign, whether back-to-back, V-shaped, or some other configuration, shall be considered a separate sign.

18-5.05 Lighting: Billboard signs may be indirectly illuminated, but shall not cast glare upon any adjacent highway so as to pose a hazard to vehicular traffic.

18-5.06 Minimum Spacing Requirements: No billboard sign hereafter erected shall be less than one thousand (1000) feet from any other existing billboard sign or allowed configuration of signs on the same side of the street. Such minimum spacing distance shall be measured along the center line of the frontage street, trafficway or interstate highway from a point opposite any edge of a billboard sign and perpendicular to the center line of each street, trafficway or interstate highway.

18-5.07 Distance From Intersection: No sign shall be located adjacent to or within 500 feet of an interchange, intersection at grade or a safety rest area, with such distance measured along the freeway or interstate highway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the freeway or interstate highway.

Section 18-6. Nonconforming Signs

18-6.01 Every sign legally in existence at the time these Regulations become effective may continue in existence subject to the following:

1. It shall not be altered structurally or moved unless it is made to comply with the provisions of these Regulations. However, the changing of the moveable parts of an existing sign that is designed for such changes, or the repainting, refacing, or reposting of display matter shall not be deemed a structural alteration.
2. The lawful use of a sign existing on the effective date of these Regulations, although such sign does not conform to the provisions hereof, may continue, but if such nonconforming use is discontinued for a period of six (6) months, any future use of such sign shall be in conformity with the provisions of these Regulations.
3. No sign which has been damaged by fire, wind, explosion, or other act of God to the extent that fifty percent (50%) or more of the sign is destroyed, shall be restored except in conformity with these Regulations. Any sign which has been damaged to an extent less than fifty percent (50%) may be restored to its condition which existed as a nonconforming use prior to its damage.

Section 18-7. Planned Development District (PD) Sign Regulations

18-7.01 The following signs shall be allowed in the Planned Development District (PD):

1. One (1) non-illuminated sign per residence or building under construction, not more than thirty two (32) square feet in area per face and not more than eight (8) feet in height,

showing the name of the architects, engineers, builders or contractors, provided that said sign shall be removed within ten (10) days of project completion.

2. On churches, schools and other similar types of buildings and uses allowed in this district, one (1) non-illuminated, indirectly illuminated, internally illuminated monument sign, which shall not exceed five (5) feet in height, nor exceed forty (40) square feet in area per face, naming the organization and indicating the activities and/or services therein provided, and/or one (1) non-illuminated wall sign with only the name of the organization, not to exceed fifteen (15) square feet in area.
3. One (1) non-illuminated home occupation sign per lot, provided said sign shall not exceed six (6) square feet in area per face nor exceed five (5) feet in height, and further provided that the home occupation is permitted as provided for in these Regulations.
4. One (1) non-illuminated or indirectly illuminated monument sign shall be permitted at the entrance to each platted subdivision identifying the subdivision by name, provided said sign shall not exceed fifty (50) square feet in area per face nor exceed five (5) feet in height.
5. For commercial developments, any signs allowed in the C-1 or C-2 Districts, provided an overall sign program with a common design theme has been approved for the Planned Development.
6. For industrial developments, any signs allowed in the I-1 District, provided an overall sign program with a common design theme has been approved for the Planned Development.

Section 18-7A. Rural Residential District (R-1) Sign Regulations

18-7A.01 The following signs shall be allowed in the Rural Residential District (R-1):

1. Any signs allowed in the CS District.

Section 18-8. Countryside District (CS) Sign Regulations

18-8.01 The following signs shall be allowed in the Countryside District (CS):

1. One (1) non-illuminated sign per residence or building under construction, not more than thirty two (32) square feet in area per face and not more than eight (8) feet in height, showing the name of the architects, engineers, builders or contractors, provided that said sign shall be removed within ten (10) days of project completion.
2. On churches, schools, and other similar types of buildings and uses allowed in this district, one (1) non-illuminated, indirectly illuminated, internally illuminated monument sign, which shall not exceed five (5) feet in height, nor exceed forty (40) square feet in area per face, naming the organization and indicating the activities and/or services therein provided, and/or one (1) non-illuminated wall sign with only the name of the organization, not to exceed fifteen (15) square feet in area.
3. One (1) non-illuminated home occupation sign per lot, provided said sign shall not exceed six (6) square feet in area per face nor exceed five (5) feet in height, and further provided that the home occupation is permitted as provided for in these Regulations.
4. One (1) non-illuminated or indirectly illuminated monument sign shall be permitted at the entrance to each platted subdivision identifying the subdivision by name, provided said

sign shall not exceed fifty (50) square feet in area per face nor exceed five (5) feet in height.

5. One (1) non-illuminated or indirectly illuminated Agricultural Sign, provided the sign shall not exceed 32 square feet in area per face nor exceed five (5) feet in height.

Section 18-9. Agricultural District (AG) Sign Regulations

18-9.01 The following signs shall be allowed in the Agricultural District (AG):

1. One (1) non-illuminated sign per residence or building under construction, not more than thirty two (32) square feet in area per face and not more than eight (8) feet in height, showing the name of the architects, engineers, builders or contractors, provided that said sign shall be removed within ten (10) days of project completion.
2. On churches, schools, and other similar types of buildings and uses allowed in this district, one (1) non-illuminated, indirectly illuminated, internally illuminated monument sign, which shall not exceed five (5) feet in height, nor exceed forty (40) square feet in area per face, naming the organization and indicating the activities and/or services therein provided, and/or one (1) non-illuminated wall sign with only the name of the organization, not to exceed fifteen (15) square feet in area.
3. One (1) non-illuminated home occupation sign per lot, provided said sign shall not exceed six (6) square feet in area per face nor exceed five (5) feet in height, and further provided that the home occupation is permitted as provided for in these Regulations.
4. One (1) non-illuminated or indirectly illuminated monument sign shall be permitted at the entrance to each platted subdivision identifying the subdivision by name, provided said sign shall not exceed fifty (50) square feet in area per face nor exceed five (5) feet in height.
5. One (1) non-illuminated or indirectly illuminated Agricultural Sign, provided the sign shall not exceed 32 square feet in area per face nor exceed five (5) feet in height.

Section 18-10. Low Intensity Commercial District (C-1) Sign Regulations

18-10.01 The following signs shall be allowed by permit in the Low Intensity Commercial District (C-1):

1. Each business or commercial establishment, not part of a shopping center designed as one (1) unified entity, shall be permitted three (3) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. In lieu of one (1) of the wall signs, one (1) projecting sign of the same type illumination and same sign area shall be permitted for each establishment, provided said projecting sign shall not extend above the average roof level of the building, nor above the roof level of the facade upon which it is placed. The sign area of each wall or projecting sign shall not exceed five percent (5%) of the total surface area of the facade upon which it is placed.
2. In lieu of one (1) of the wall or projecting signs permitted above, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign shall be permitted for each business or commercial establishment not part of a shopping center designed as one (1) unified entity. Such sign shall not exceed five (5) feet in height

above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face.

3. In the case of a shopping center designed as one (1) unified entity and consisting of one (1) or several buildings, either attached or freestanding, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign may be permitted identifying the entire center. Such monument sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face. Each business or commercial establishment in a unified shopping center shall be permitted two (2) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed five percent (5%) of the total surface area of the facade upon which it is placed.
4. Incidental signs are allowed and shall not count against the total allowed number of wall, projecting or freestanding signs. Wall-mounted incidental signs that are greater than twenty (20) square feet in area shall, however, be counted against the maximum allowed coverage of the façade upon which they are placed, but may have their area calculated as non-contiguous (a separate box) from other signage on the same façade. Freestanding incidental signs shall not exceed four (4) feet in height above the average grade and four (4) square feet in area per face.

Section 18-11. Commercial District (C-2) Sign Regulations

18-11.01 The following signs shall be allowed by permit in the Commercial District (C-2):

1. Each business or commercial establishment, not part of a shopping center designed as one (1) unified entity, shall be permitted three (3) non-illuminated, indirectly illuminated, or internally illuminated wall or marquee signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. In lieu of one (1) of the wall or marquee signs, one (1) projecting sign of the same type illumination and same sign area shall be permitted for each establishment, provided said projecting sign shall not extend above the average roof level of the building, nor above the roof level of the facade upon which it is placed. The sign area of each wall, marquee or projecting sign shall not exceed ten percent (10%) of the total surface area of the facade upon which it is placed.
2. In lieu of one (1) of the wall, marquee or projecting signs permitted above, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign shall be permitted for each business or commercial establishment not part of a shopping center designed as one (1) unified entity. Such sign shall not exceed ten (10) feet in height above the average grade, and the sign face shall not exceed one hundred (100) square feet in area per face.
3. In the case of a shopping center designed as one (1) unified entity and consisting of one (1) or several buildings, either attached or freestanding, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign may be permitted identifying the entire center. A freestanding gasoline service station or convenience store, designed as part of the center, may also have one (1) detached monument sign. Such monument signs shall not exceed ten (10) feet in height above the average grade, and the sign face shall not exceed one hundred (100) square feet in area per face. Each business or commercial establishment in a unified shopping center shall be permitted two (2) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. The sign area of

each wall sign shall not exceed ten percent (10%) of the total surface area of the facade upon which it is placed.

4. One off-premises outdoor billboard sign equal to or less than 64 square feet per sign face. Said sign may include two sign faces and may be back-to-back or V-shaped but shall not include more than two sign faces. The height of said sign shall not exceed fifteen (15) feet from grade.
5. Incidental signs are allowed and shall not count against the total allowed number of wall, projecting or freestanding signs. Wall-mounted incidental signs that are greater than twenty (20) square feet in area shall, however, be counted against the maximum allowed coverage of the facade upon which they are placed, but may have their area calculated as non-contiguous (a separate box) from other signage on the same facade. Freestanding incidental signs shall not exceed four (4) feet in height above the average grade and four (4) square feet in area per face.

Section 18-12. Business Park District (BP) Sign Regulations

18-12.01 The following signs shall be allowed by permit in the Business Park District (BP):

1. Any signs allowed in the C-1 or C-2 Districts.

Section 18-13. Light Industrial District (I-1) Sign Regulations

18-13.01 The following signs shall be allowed by permit in the Light Industrial District (I-1):

1. Each industrial, office, or office/warehouse establishment, not part of an industrial or office/warehouse park designed as one (1) unified entity, shall be permitted three (3) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed ten percent (10%) of the total surface area of the facade upon which it is placed.
2. In lieu of one (1) of the wall signs permitted above, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign shall be permitted for each industrial, office, or office/warehouse establishment not part of an industrial park designed as one (1) unified entity. Such sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face.
3. In the case of an industrial or office/warehouse park designed as one (1) unified entity and consisting of one (1) or several buildings, either attached or freestanding, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign may be permitted identifying the entire complex. Such sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face. Each industrial, office, or office/warehouse park shall be permitted two (2) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed ten percent (10%) of the total surface area of the facade upon which it is placed.
4. One off-premises outdoor billboard sign equal to or less than 64 square feet per sign face. Said sign may include two sign faces and may be back-to-back or V-shaped but shall not include more than two sign faces. The height of said sign shall not exceed fifteen (15) feet from grade.

5. Incidental signs are allowed and shall not count against the total allowed number of wall, projecting or freestanding signs. Wall-mounted incidental signs that are greater than twenty (20) square feet in area shall, however, be counted against the maximum allowed coverage of the façade upon which they are placed, but may have their area calculated as non-contiguous (a separate box) from other signage on the same façade. Freestanding incidental signs shall not exceed four (4) feet in height above the average grade and four (4) square feet in area per face.

Section 18-14. Heavy Industrial District (I-2) Sign Regulations

18-14.01 The following signs shall be allowed by permit in the Heavy Industrial District (I-2):

1. Each industrial, office, or office/warehouse establishment, not part of an industrial or office/warehouse park designed as one (1) unified entity, shall be permitted three (3) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed ten percent (10%) of the total surface area of the facade upon which it is placed.
2. In lieu of one (1) of the wall signs permitted above, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign shall be permitted for each industrial, office, or office/warehouse establishment not part of an industrial park designed as one (1) unified entity. Such sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face.
3. In the case of an industrial or office/warehouse park designed as one (1) unified entity and consisting of one (1) or several buildings, either attached or freestanding, one (1) detached non-illuminated, indirectly illuminated, or internally illuminated monument sign may be permitted identifying the entire complex. Such sign shall not exceed five (5) feet in height above the average grade, and the sign face shall not exceed fifty (50) square feet in area per face. Each industrial, office, or office/warehouse park shall be permitted two (2) non-illuminated, indirectly illuminated, or internally illuminated wall signs, not more than one (1) on a facade that faces or fronts onto a public right-of-way. The sign area of each wall sign shall not exceed ten percent (10%) of the total surface area of the facade upon which it is placed.
4. One off-premises outdoor billboard sign equal to or less than 64 square feet per sign face. Said sign may include two sign faces and may be back-to-back or V-shaped but shall not include more than two sign faces. The height of said sign shall not exceed fifteen (15) feet from grade.
5. Incidental signs are allowed and shall not count against the total allowed number of wall, projecting or freestanding signs. Wall-mounted incidental signs that are greater than twenty (20) square feet in area shall, however, be counted against the maximum allowed coverage of the façade upon which they are placed, but may have their area calculated as non-contiguous (a separate box) from other signage on the same façade. Freestanding incidental signs shall not exceed four (4) feet in height above the average grade and four (4) square feet in area per face.

Section 18-15. Conditional Use Permit (CUP) Sign Regulations

18-15.01 In the case of conditional use permits, all wall and detached signs shall be approved by the Planning Commission. The following shall be taken into consideration when reviewing and approving such signs:

1. The use of the facility.
2. The height of the building.
3. The surrounding land uses and zoning districts.

18-15.02 Where appropriate, the sign regulations of the underlying zoning district or the most analogous zoning district shall be followed.

Article 19

SITE PLAN APPROVAL

Sections:

- 19-1 Statement of Purpose
- 19-2 Site Plan Review Authority
- 19-3 Site Plan Validity
- 19-4 Site Plan Submission Requirements
- 19-5 Standards of Review
- 19-6 Site Plan Modifications

Section 19-1. Statement of Purpose

19-1.01 The purpose and intent of requiring site plan approval is to encourage the compatible arrangement of buildings, off-street parking, lighting, landscaping, ingress and egress, sanitation facilities and drainage on the site in a manner that will promote safety and convenience for the public.

Section 19-2. Site Plan Review Authority

19-2.01 Site Plan/Permit Required: No new use of land that differs from the type of use currently or previously established on said land, regardless of whether there are buildings or structures on the land, shall be allowed on any site zoned for commercial, business park, or industrial uses, unless site plan approval has been granted by the Planning Director or by the Miami County Planning Commission in accordance with these Regulations. No building permit and/or certificate of occupancy shall be issued for any use of land or proposed construction on a site zoned for commercial, business park, or industrial uses, unless site plan approval has been granted by the Planning Director or by the Miami County Planning Commission in accordance with these Regulations.

19-2.02 Conditional Uses: A site plan is required for all conditional use permit requests. Said site plan shall comply with the requirements of this article and all other regulations and requirements contained within these regulations.

19-2.03 Airport Overlay Zoning Districts: A site plan review and approval is required for all buildings constructed within the Airport Overlay Zoning Districts per Section 13-10.

19-2.04 Site Plan Review: Generally, site plan review shall be performed by the Planning Director or a designated representative. If the Director determines that the site plan needs to be reviewed by the Planning Commission or the developer requests Planning Commission review, a report shall be submitted, with recommendations, to the Miami County Planning Commission for approval at the first regular Commission meeting for which the application may be scheduled. The Miami County Planning Commission shall approve the site plan, with or without conditions, deny it, or defer it for further study. Appeals of the Planning Commission's decision can be made to the Miami County Board of County Commissioners for final determination.

Section 19-3. Site Plan Validity

19-3.01 Planning Commission approval of a site plan shall automatically expire, without revocation, unless a building permit to effectuate the use is obtained within twelve (12) months

after the Planning Commission's date of approval. If a building permit is not required, the site plan shall automatically expire unless substantial evidence of the use is filed with the Planning Director within the twelve (12) month period.

Section 19-4. Site Plan Submission Requirements

19-4.01 If a site plan is to be reviewed by the Planning Commission, a site plan application and review fee shall be submitted by the property owner, or his certified agent, to the Planning Director thirty (30) days prior to a scheduled Planning Commission meeting. No part of the review fee shall be refunded. Prior consultation with County staff is encouraged so that the possibility of a delay in approval is minimized. The application shall state the required number of copies to be submitted and other submission requirements that may not be included in these regulations.

19-4.02 All site plans shall be prepared by an architect, engineer, landscape architect, or other qualified individual at a scale of one inch (1") equals fifty feet (50') or larger. A site plan shall be arranged so that the top or right of the plan represents north.

19-4.03 Items required on a site plan for submission:

1. Name of the project, address (if assigned), current zoning, date, north arrow and scale of the plan.
2. Name and address of the owner of record, developer, and name, address and phone numbers of the plan author.
3. Show property boundaries and dimensions graphically, and provide a written legal description of the property.
4. Show all established and proposed easements on the property.
5. Indicate the current uses and the names of all owner(s) of record of abutting parcels.
6. Show the present and proposed topography of the area by contour lines at an interval of not more than five feet (5').
7. Show the locations and uses of all existing and proposed buildings and structures. Indicate the number of stories, gross floor area, and entrances to all existing and proposed buildings and structures.
8. Describe the proposed use(s) of the site and list the number of required and proposed off-street parking spaces. If the exact use is not known at the time a site plan is submitted for review, off-street parking requirements shall be calculated by the zoning of the site.
9. Show the locations and dimensions of existing and proposed curb cuts, access aisles, off-street parking spaces, loading zones and walkway areas.
10. Indicate traffic flow patterns on the site and show curb cuts within 100 feet of the site.
11. The Planning Commission may also require a detailed traffic study for large uses, mixed uses and multi-tenant developments, or for developments in heavy traffic areas. The study will include:
 - A. The projected number of motor vehicle trips to enter or leave the site estimated for daily and peak hour traffic levels;

- B. The projected traffic flow pattern, including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - C. The impact of this traffic on the existing public roads in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall be given.
12. Show the location and size, and provide a landscape schedule of all landscaping, including grass, ground cover, trees and shrubs.
 13. Show the proposed location, height, indicate direction, and list amount of illumination and type (e.g., fluorescent, metal halite, mercury vapor, sodium incandescent) of all proposed external lighting fixtures. Provide information on screening proposed for the lighting and steps to be taken to prevent off-site glare.
 14. Show location of each outdoor storage area, and list the type and height of screening to be provided, if required.
 15. Show the location, height, size, materials, and design of all proposed signage.
 16. Show the location of all present and proposed utility systems, including sewer or septic system, water supply system, proposed and existing fire hydrants, telephone service, cable service, electrical and gas systems.
 17. Indicate by use of directional arrow(s), the proposed flow of storm drainage from the site. Show the storm drainage system, including existing and proposed drainage lines, culverts, catch basins, and drainage swells. Indicate if the property is within the Floodplain Overlay District and show the area within the designated floodplain.
 18. Provide a note on the face of the site plan indicating that all public buildings and facilities have been designed to comply with the provisions of the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities.

Section 19-5. Standards of Review

19-5.01 The approval or recommendation of the Planning Director or a designated representative shall be based on the following standards:

1. That the proposed use is permitted based on the zoning district in which the property is located.
2. That the proposed arrangement of buildings, off-street parking, access, lighting, landscaping, and drainage is compatible with adjacent land uses.
3. That the vehicular ingress and egress to and from the site, and that vehicular and pedestrian circulation within the site, provide for safe, efficient, and convenient movement.
4. That the proposed location of buildings, structures, driveways, open space (if any), and parking lots will minimize any adverse off-site impact, will be located on suitable soils, and will minimize any present or future cost to the County and providers of utility services to the site.

5. That the public streets and storm drainage adjacent to and within the site will be designed and improved in accordance with the Miami County Street and Storm Drainage Standards for New Subdivisions and the ultimate rights-of-way identified in the Miami County Comprehensive Transportation Plan.

Section 19-6. Site Plan Modifications

19-6.01 Minor modifications and/or changes in use on a site may be made to an approved site plan by an applicant with approval of the Planning Director. If in the opinion of the Planning Director a site plan is substantially changed from the approved plan, the applicant shall resubmit the site plan to the Director for review and approval if the Director granted the original approval. Otherwise, the site plan will be recommended to the Planning Commission for their review and approval.

Article 20

HOME OCCUPATION STANDARDS

Sections:

- 20-1 Purpose
- 20-2 Standards

Section 20-1. Purpose

20-1.01 The purpose of this Article is to promote the safety, morals, order, prosperity and general welfare of the citizens of Miami County, and to provide for certain home occupations and use regulations in the Planned Development District (PD), Rural Residential District (R-1), Countryside District (CS), and Agricultural District (AG).

Section 20-2. Standards

20-2.01 A business, profession, or trade conducted as a home occupation shall be allowed in the Planned Development District (PD), Rural Residential District (R-1), Countryside District (CS), and Agricultural District (AG), under the following conditions:

1. Home Occupation Standards: A residence may be used for a home occupation under the following conditions:
 - A. No commodities shall be displayed or sold on the premises except that which is produced on the premises.
 - B. No mechanical or electrical equipment shall be used other than that which is normally used for purely domestic or household purposes.
 - C. No outdoor storage of materials used in the home occupation shall be permitted. Outdoor storage of equipment (but not outdoor use of equipment) may be allowed if completely screened from public view by landscaping, fencing, berming and/or buildings.
 - D. No alteration of the principal residential building shall be made which changes the character thereof as a residence.
 - E. The home occupation shall be conducted entirely on the premises.
 - F. Signs shall be allowed by permit granted by the Planning Director and shall not exceed six (6) square feet in area. Said permit shall specify location, placement, and appearance of the home occupation sign.
 - G. No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his or her residence.

- H. No manufacturing or processing of any sort shall be done, and no stock-in-trade shall be displayed or sold on the premises, except for those items identified in paragraph 2.L herein.
2. Particular Home Occupations Permitted: Customary home occupations include, but are not limited to, the following list of occupations, provided, however, that each listed occupation is subject to the requirements of subsection 1 of this section:
- A. Dressmakers, seamstresses, and tailors.
 - B. Music and art teachers, provided that instruction shall be limited to five (5) pupils at a time.
 - C. Dance and drama instructors, provided that instruction shall be limited to not more than ten (10) pupils at one time.
 - D. Artists, sculptors, and authors or composers.
 - E. Offices for architects, engineers, lawyers, real estate agents, insurance agents, brokers and members of similar professions.
 - F. Ministers, rabbis, and priests.
 - G. Offices for salespersons, sales representatives, manufacturers' representatives, when no exchange of tangible goods is made on the premises.
 - H. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, etc., provided that no machinery or equipment shall be used other than that which would customarily be used in connection with the above home crafts when pursued as a hobby or a vocation.
 - I. Day-care homes or babysitters caring for no more than four (4) unrelated children, provided all State and County licensing requirements are met.
 - J. Barber shops and beauty parlors.
 - K. Services such as small appliance, radio, and television repair.
 - L. Sale of seeds, farm chemicals, and fertilizer, including liquid fertilizer.
 - M. Equestrian instructors and/or horse boarding, provided that the zoning district allows equestrian use, that the operation of the riding lessons and/or boarding does not constitute a commercial stable as defined in these Regulations, that instruction shall be limited to five (5) pupils at a time, and that the boarding of horses shall be limited to five (5) horses, two (2) years of age or older, that are not owned by the individuals residing on or owning the property.
 - N. Accessory uses customarily incidental to the normal operation of the above uses, including garage sales or any similar casual sale of tangible personal property, so long as

such sales are not conducted on the same lot or parcel of land for more than four (4) consecutive days and occurring not more than twice within a twelve (12) consecutive month period.

3. Particular Home Occupations Prohibited: Permitted home occupations shall not in any event include the following:
 - A. Funeral homes.
 - B. Restaurants.
 - C. Grocery stores.
 - D. Bed and breakfast facilities.
 - E. Renting or leasing of trailers or equipment.
 - F. Animal hospitals.
 - G. Auto and other vehicular repair for retail purposes.

Article 21

PERMITS

Sections:

- 21-1 Building Permits
- 21-2 Sign Permits
- 21-3 Airport Overlay Zoning District Permits
- 21-4 Floodplain Overlay Zoning District Development Permits

Section 21-1. Building Permits

21-1.01 Authority: No building or structure shall be constructed, erected, altered, or remodeled, nor shall any such work be commenced upon any lands zoned under these Regulations within the unincorporated territory, unless the owner, contractor or the duly authorized agent of either shall have first applied for and received from the Building Inspection Director a building permit therefore, as provided for in this Article.

21-1.02 Conformance With County Regulations And Plans: No building permit shall be issued for any building or structure unless the same is in conformity in every respect with all the provisions of these Regulations and the Subdivision Regulations of the County, unless otherwise set out. All building or structure setbacks along roads shall be measured from the ultimate right-of-way identified in the Miami County Comprehensive Transportation Plan. No building permit shall be issued unless a site plan has been submitted per standards prescribed by the Planning Director.

21-1.03 Permits on Minimum Maintenance Roads: A permit for a residence or dwelling shall not be granted if the residence or dwelling is located on a parcel that is accessed by a road classified by the Miami County road classification map as a class 4 road or a minimum maintenance road, unless and until the owner of the property improves said minimum maintenance road, at the property owner's expense, to the following standards.

1. For minimum maintenance roads that terminate in a dead end condition the road shall be improved to a standard that includes constructing a 24-foot wide roadbed with proper ditches and a gravel top surface width of 20 feet.
2. For minimum maintenance roads that are determined by the county engineer to be "through" roads the road shall be improved to a standard that includes constructing a 28-foot wide roadbed with proper ditches and a gravel top surface width of 24 feet.
3. Full width right-of-way in the amount of 80 feet shall be dedicated to the county for the length of the improvement project. Any rights-of-way needed to complete the improvement project shall be obtained from the affected property owners by the applicant.
4. For dead-end roads the improvements shall commence at the intersection of the nearest section line road and terminate at least 20 feet past the entrance to the property in

question. For through roads, the improvements shall include the entire length of the minimum maintenance road.

The process for improving a minimum maintenance road shall be the same as that outlined in Article 6 of the Miami County, Kansas Subdivision Regulations.

21-1.04 Filing Procedure: Applications for building permits shall be filed with the Building Inspection Department, upon forms prescribed, setting forth the legal description of the lot, tract or parcel of land, together with a general description of the building or structure to be constructed, erected or altered thereon, including the size and shape, square foot area, principal material of construction, location of the building or structure upon the lot, tract or parcel of land, and the intended use. In addition, the applicant shall pay the fees required under the Miami County Environmental Health Sanitary Code, and the building permit fee as determined according to this Article.

21-1.05 Staff Administrative Evaluations: Prior to receiving a permit to construct a building or structure, the applicant shall have obtained an installation permit for a sewage disposal system from the County Environmental Health Director as required in the Miami County Environmental Health Sanitary Code. In addition, the applicant shall obtain written approval from the Highway Division of the Road and Bridge Department that the proposed development conforms to Miami County's Entrance Policy. Such written approval shall be delivered to the Building Inspection Director, whereupon a building permit may then be issued, provided all other requirements of these Regulations and the Miami County Building Codes and associated codes are met.

21-1.06 Vested Rights: No building permit lawfully issued prior to the effective date of these Regulations, or prior to any change or amendment hereto, and which permit, by its own terms and provisions is in full force and effect at said date, shall be invalidated by the passage of these Regulations, or any such change or amendment, but shall remain a valid and subsisting permit, subject only to its own terms and provisions in effect at the time of the issuance of said permit. All such permits shall expire after one hundred eighty (180) days from the effective date of these Regulations if actual construction has not begun and continued pursuant to the terms of said permit.

21-1.07 One Dwelling Unit Per Lot or Tract: Unless otherwise provided for in these Regulations, the Building Inspection Director shall not issue more than one (1) building permit for a single-family dwelling on each unplatted lot or tract of record, each platted lot created as part of a subdivision, or each tract or lot created by a lot split, except that a building permit may be issued for a new single-family dwelling where a single-family dwelling unit currently exists, provided the new unit:

1. Is intended solely for the purpose of upgrading housing; and
2. The owner/builder has provided a notarized affidavit to the Building Inspection Director agreeing to remove the original dwelling unit within thirty (30) days of completing the new dwelling unit. The affidavit shall state that the owner/builder understands and agrees that failure to remove the original dwelling unit as provided in the affidavit constitutes a

violation of the Zoning Regulations and is subject to the provisions set forth in Section 24-4 of these Regulations.

21-1.08 Number of Building Permits: There shall be a separate building permit for each building or structure to be constructed, erected or altered, except accessory buildings and appurtenances may be included in the building permit for the principal building when construction is simultaneous.

21-1.09 Building Inspection Director's Authority: The Building Inspection Director is empowered to act within the provisions of these Regulations upon all applications for building permits.

21-1.10 Appeals: In the event of refusal to issue a building permit upon application, as herein provided, the applicant shall have the right to a hearing by the Board of Zoning Appeals, as provided by law. Appeals shall only be permitted after payment of filing fees as outlined in Section 21-1.10 below.

21-1.11 Filing Fees: Fees for building permits shall be set by resolution of the Board of County Commissioners.

21-1.12 Enforcement: In addition to any other method of enforcement of these Regulations, the following enforcement procedures may be invoked:

1. A permit may be revoked and/or a “stop construction” order posted on the building or structure by the Building Inspection Director or Planning Director at any time prior to the completion of a building or structure for which the same was issued, when it shall appear to the Building Inspection Director or Planning Director that the same was procured by false representation, or that any of the provisions of these Regulations are being violated. Provided, however, twenty-four (24) hours’ written notice of such revocation shall be served upon the owner, his or her agent or contractor, or upon any person employed upon the building or structure for which such permit was issued, and thereafter no such construction shall proceed.
2. Upon the failure, refusal or neglect of any owner, his or her agent, contractor or duly authorized representative to secure such permit as required by these Regulations, and pay the prescribed fee therefor, as herein provided, the Building Inspection Director or Planning Director shall post a “stop construction” order on any and all buildings or structures involved. Further, no construction shall proceed until and unless said owner, his or her agent, contractor or duly authorized representative secures such permit as required by these Regulations and pays the prescribed fee therefor.

21-1.13 Building Permit Validity: For a building permit to remain valid, substantial construction shall be started within one hundred eighty (180) days of issuance of said permit. If within that period of time substantial construction has not been started, then the building permit issued for that construction shall be null and void.

Section 21-2. Sign Permits

21-2.01 Sign permit procedures are outlined in Section 18-2 of these Zoning Regulations.

Section 21-3. Airport Overlay Zoning District Permits

21-3.01 Permit procedures for developments within the Airport Overlay Zoning District are set forth in Section 13-10.

Section 21-4. Floodplain Overlay Zoning District Development Permits

21-4.01 Development permit procedures for developments within the Floodplain Overlay District (F-P) are set forth in Section 12-5.

Article 22

AMENDMENT PROCEDURES

Sections:

- 22-1 General Authority and Procedure
- 22-2 Fees for Rezoning
- 22-3 Conceptual Plans
- 22-4 Receipt of Rezoning Applications
- 22-5 Posting of Sign
- 22-6 Public Hearing Before Planning Commission
- 22-7 Action by Planning Commission and Board of County Commissioners
- 22-8 Conditional Use Permits
- 22-9 Limitations on Reapplication for Amendments
- 22-10 Limitation on Land Use
- 22-11 Procedure for Amendment of Floodplain Zoning Regulations
- 22-12 Procedure for Amendment of Airport Zoning Regulations

Section 22-1. General Authority and Procedure

22-1.01 The Board of County Commissioners may, from time to time, amend, supplement, or change, by resolution, the boundaries of the districts or the regulations herein established. The resolution shall become effective upon publication thereof in the official County newspaper.

22-1.02 A proposal for an amendment or change in zoning may be initiated by the Board of County Commissioners, the Planning Commission, and if the proposed amendment is not a general revision of the existing Regulations and affects specific property, upon application of the owner of the property affected or the owner's duly authorized agent.

22-1.03 An application for an amendment or change in zoning initiated by a property owner shall be made to the Planning Commission upon appropriate forms available from the Planning Director. Such application shall be made at least forty-five (45) days prior to a regularly scheduled Planning Commission meeting.

22-1.04 All proposed amendments to the Zoning Regulations or zoning changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a public hearing before the Planning Commission.

Section 22-2. Fees for Rezoning

22-2.01 A fee, in the amount adopted by resolution of the Board of County Commissioners, shall accompany an application for rezoning, and in addition thereto, the applicant shall pay the cost of publication notice.

22-2.02 No fee shall be required if the zoning change is requested by the Planning Commission or the Board of County Commissioners. No fee shall be required if the Planning Commission or Board of County Commissioners initiate an amendment to the Zoning Regulations that will not affect specific property.

Section 22-3. Conceptual Plans

22-3.01 A conceptual plan must be submitted with any application for rezoning to Planned Development (PD) when it is filed by any property owner. A conceptual plan is optional if a rezoning request is for any other zoning district. The scale of the conceptual plan is optional, but shall not be smaller than two-hundred (200) feet to one (1) inch. The application must include twenty (20) copies of a conceptual plan, which includes:

1. A composite site development plan showing the major details of the proposed development, consisting of the following: conceptual drainage plans; approximate locations of buildings, structures, and off-street parking areas; off-street loading areas; means of ingress and egress; conceptual landscaping or screening proposals; locations and the conceptual design of signs and lighting; open space areas and pedestrian areas; and the sensitive lands that will be protected through conservation design.
2. The proposed name of the development and the names of abutting developments and landowners.
3. The names and addresses of the owner and/or registered engineer, architect, surveyor, or landscape architect responsible for the engineering, surveying, and design.
4. The location of boundary lines and their relation to established section lines or fractional section lines, township lines, and range lines.
5. The approximate locations and widths of existing and proposed streets, roads, lots (approximate dimensions), building lines, utility easements, drainage easements, parks and other open spaces, other similar features, and proposed improvements of perimeter streets.
6. The Planning Commission, in its discretion, may require a survey showing the physical features of the property, including contours at vertical intervals of not more than five (5) feet where the slope is greater than ten percent (10%), and not more than two (2) feet where the slope is less than ten percent (10%) (ten-foot intervals for non-residential uses). Elevations shall be marked on such contours based on the existing datum plane established by the U.S. Coast and Geodetic Survey. Bench mark elevations used shall be described on the plan.
7. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, if any.
8. Date, north point, and scale.
9. Designation of proposed uses of land within the development, whether for residential, commercial, industrial, or public use, such as parks, churches, etc., including the density of proposed residential use and the character of proposed commercial, industrial, and other uses.

10. An attached statement from the County Environmental Health Director and/or the Kansas Department of Health and Environment that the proposed development is to be adequately served by sanitary sewer facilities.
11. An attached statement from any affected water districts and/or the Kansas Department of Health and Environment that the proposed development is to be served by an adequate water supply and an adequate water distribution system.
12. This plan, when approved by the Planning Commission and the Board of County Commissioners as part of a rezoning to Planned Development (PD), shall be binding upon the land. Prior to issuing a building permit for each phase or all of the development, the Planning Director shall review the approved conceptual plan. If the property is not to be developed as indicated by the plan, or any approved amendments thereto, the Planning Director shall refuse to allow the issuance of any building permits. The applicant, in case of denial of a building permit, may appeal the Planning Director's action to the Planning Commission for a finding of substantial compliance.

Section 22-4. Receipt of Rezoning Applications

22-4.01 Upon receipt of a rezoning application, the Planning Director shall note the date of filing and review the application for completeness.

22-4.02 The Planning Director shall have the authority to certify a rezoning application as complete or incomplete. For an application to be complete, it must include a property owner notification list per Article 22-6.03, certified by a title company. If a rezoning application is certified as complete, then the Planning Director shall place said application on the Planning Commission's agenda for consideration. If a rezoning application is certified as incomplete, then the Planning Director shall return the application to the applicant with a written explanation of the determination. The applicant may reapply and pay another filing fee, or appeal the Planning Director's determination to the Board of Zoning Appeals as provided for in Article 23 of these Zoning Regulations.

Section 22-5. Posting of Sign

22-5.01 At least twenty (20) days prior to the scheduled Planning Commission meeting that a complete application for a rezoning or a conditional use permit will be heard, the Planning Director shall cause a sign to be placed upon the property for which said application was filed.

22-5.02 Said sign shall be maintained and kept in place until final disposition of this application. Such required signs shall be placed as near as possible to the property boundary closest to a County road and shall have no visual obstructions thereto. Where the property has more than one (1) street frontage, signs shall be placed facing each street. The removal, defacing or destroying of a sign by any cause whatsoever shall not invalidate any subsequent action taken by the Planning Commission or Board of County Commissioners.

22-5.03 It is a public offense for any person to remove, deface or destroy any sign provided for by this Article. Any person, upon conviction thereof, shall be punished as provided for in Article 24 of these Regulations.

Section 22-6. Public Hearing Before Planning Commission

22-6.01 All proposed changes shall first be submitted to the Planning Commission for recommendation and report, and no amendment or change shall be made without a hearing before the Planning Commission. The Planning Commission shall cause an accurate written summary to be made of the proceedings.

22-6.02 Public notice of such hearing shall be published by the Planning Director not less than twenty (20) days prior to the date of said hearing in the official County newspaper. Said notice shall notify the public that such a hearing will take place; fix the time and place for the hearing; describe the nature of the application which will be presented; and state that the public may attend and be heard. When the proposed change is not a general revision of an existing zoning regulation and will affect specific property, such property shall also be designated by legal description. Proof of publication of such notice shall be filed with the Planning Commission in advance of said hearing.

22-6.03 If the proposed amendment is not a general revision to the Zoning Regulations and would affect surrounding properties, a separate notice shall be mailed at least twenty (20) days prior to the scheduled Planning Commission meeting to all property owners within one thousand (1000) feet of the boundaries of the land being considered for a conditional use permit or rezoning where the surrounding properties are unincorporated, or two hundred (200) feet where the surrounding properties are within the corporate limits of a city. Failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or Board of County Commissioners. Said written notice shall include the required information outlined in Section 22-6.02 above. Within fourteen (14) days after the date of the conclusion of the Planning Commission's public hearing, property owners previously notified of the public hearing shall have the opportunity to submit a protest petition, as provided in K.S.A. 12-757 (f), to be filed in the office of the County Clerk and to be considered by the Board of County Commissioners in considering the proposed rezoning or conditional use permit.

22-6.04 All such rezoning applications shall be set down for hearing no later than sixty (60) days from the date of filing the same. Any such hearing may, for good cause, at the request of the applicant or in the discretion of the Planning Commission, be continued. At such hearing, the Planning Commission shall consider the appropriate issues contained in a staff report, including, but not limited to, the following factors:

1. Character of the neighborhood;
2. The zoning and uses of properties nearby;
3. The suitability of the subject property to its present use;
4. The extent to which removal of the present zoning will detrimentally affect nearby property;
5. The length of time the subject property has remained vacant;

6. The relative gain to the public health, safety, and welfare by the destruction of the value of the nearby property as compared to the hardship imposed upon the individual landowner;
7. Whether the proposed rezoning would be consistent with the intent and purpose of these Regulations;
8. The recommendations of the County's permanent or professional staff;
9. The conformance of the requested zoning change to the adopted Miami County Comprehensive Plan; and
10. Such additional matters as may apply in individual circumstances.

22-6.05 At the public hearing, an opportunity shall be provided to interested parties to be heard.

22-6.06 Table of Lesser Change: The following Table of Lesser Change is for the use of the Planning Commission in determining when republication of an application for rezoning is required. This Table of Lesser Change designates what zoning classifications are lesser changes authorized within the published zoning classifications. The Table of Lesser Change lists zoning classifications in descending order from the least intense zoning district to the most intense zoning district. The Planning Commission may modify, at its discretion, an application for rezoning to a particular district by recommending a rezoning to a district of lesser intensity, as determined by the Table of Lesser Change.

AG.....	Agricultural District
CS.....	Countryside District
R-1	Rural Residential District
PD	Planned Development District
BP.....	Business Park District
C-1	Low Intensity Commercial District
C-2	Commercial District
I-1	Light Industrial District
I-2.....	Heavy Industrial District

Section 22-7. Action by Planning Commission and Board of County Commissioners

22-7.01 Planning Commission Actions: For action on zoning amendments, a quorum of the Planning Commission shall be more than one half (1/2) of all voting members. A vote for an amendment by a majority of the Planning Commission members present and voting at the hearing shall constitute a "Recommendation for approval", and a vote against an amendment by a majority of the Planning Commission present and voting shall constitute a "Recommendation of denial". If the Planning Commission fails to make recommendation on a rezoning request, the Planning Commission shall be deemed to have made a "Recommendation of denial".

22-7.02 County Commission: Before acting upon any recommendation of the Planning Commission concerning a revision, modification, or amendment of these Zoning Regulations, the

Board of County Commissioners shall set a time and place for a hearing thereon and notify the applicant, the Planning Commission and such other parties as the Board of County Commissioners shall deem appropriate.

22-7.03 Recommendation of Approval or Denial: When the Planning Commission submits a Recommendation of approval or a Recommendation of denial of such amendment and the reasons therefore, the Board of County Commissioners may adopt such recommendation by resolution, override the Planning Commission's recommendation by a 2/3 majority vote of the membership of the Board of County Commissioners, or return such recommendation to the Planning Commission with a statement specifying the basis for the Board of County Commissioners' failure to approve or deny.

22-7.04 If the Board of County Commissioners returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation, giving the reasons therefore, or submit a new and amended recommendation. Upon the receipt of such recommendation, the Board of County Commissioners, by a simple majority, may adopt or may revise or amend and adopt such recommendation by resolution, or it may take no further action thereon.

22-7.05 If the Planning Commission fails to deliver a recommendation to the Board of County Commissioners following the Planning Commission's next regular meeting after receipt of the Board of County Commissioners' report, the Board of County Commissioners shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly.

22-7.06 Zoning Amendment to be Reflected on Zoning District Map: If the zoning amendment shall affect the boundaries of any zoning district, the amending resolution of the Board of County Commissioners shall define the change or boundary as amended, shall order the zoning district to be changed to reflect the amendment, and shall amend the section of the resolution incorporating said map and shall reincorporate the map as amended.

22-7.07 Protest Petition: Regardless of whether the Planning Commission recommends approval or denial of a proposed zoning amendment, if within fourteen (14) days after the date of the conclusion of the Planning Commission's hearing, a petition signed by the owners of twenty percent (20%) or more of any property proposed to be rezoned, or by owners 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, is filed in the office of the County Clerk, the amendment shall not be passed except by 3/4 majority vote of the Board of County Commissioners.

22-7.08 Conditions Attached to Rezoning: If the applicant of a rezoning request volunteers that specific conditions be attached to the rezoning request, the Planning Commission may recommend and the Board of County Commissioners may adopt a zoning amendment with such conditions attached.

22-7.09 Time Limitation for a Planned Development District (PD): A building permit for construction within the development shall be issued within two (2) years from the date of rezoning approval to Planned Development. Unless an extension of time has been granted by the County Commission, if a building permit has not been issued within the two (2) year time period, the property shall automatically revert back to its previous zoning without notification to the applicant by the County. To request an extension of time, a written petition shall be filed with the Planning Director at least thirty (30) days prior to the expiration date, requesting an extension of time in obtaining a building permit. The application shall state specific reasons for such an extension and shall include all reports from appropriate County agencies and shall be sent to the County Commission for consideration within thirty (30) days of filing of the application. The County Commission may grant an extension if it finds that circumstances beyond the normal control of the applicant resulted in a delay in obtaining a building permit.

Section 22-8. Conditional Use Permits

22-8.01 The application, notice, public hearing, and action procedures set forth in this Article shall be applicable to applications for conditional use permits, unless otherwise specified in Article 14 of these Zoning Regulations.

Section 22-9. Limitations on Reapplication for Amendments

22-9.01 Whenever an application has been made under this Article and the application has been denied by the Board of County Commissioners, such application, or one substantially similar, shall not be considered sooner than one (1) year after the previous denial.

Section 22-10. Limitation on Land Use

22-10.01 In rezoning to a Planned Development District (PD), the Planning Commission and the Board of County Commissioners may limit the use of the land to one or more specific uses that will be an integral part of the Planned Development (PD) to which the land is rezoned.

Section 22-11. Procedure for Amendment of Floodplain Zoning Regulations

22-11.01 In addition to the requirements of this Article, the procedure for amending Article 12 of these Regulations (Floodplain Overlay District F-P) is presented in Section 12-10.

Section 22-12. Procedure for Amendment of Airport Zoning Regulations

22-12.01 In addition to the requirements of this Article, the procedure for amending Article 13 of these Zoning Regulations (Airport Zoning Regulations) is presented in Section 13-5.

Article 23

BOARD OF ZONING APPEALS

Sections:

- 23-1 Organization
- 23-2 Powers
- 23-3 Hearings
- 23-4 Appeals
- 23-5 Exceptions
- 23-6 Variances
- 23-7 Determination of Board of Zoning Appeals

Section 23-1. Organization

23-1.01 Authorization: The Board of Zoning Appeals is created and established by resolution of the Board of County Commissioners in accordance with the provisions of K.S.A. 12-759(a) and amendments thereto.

23-1.02 Membership: The Board of Zoning Appeals shall consist of seven (7) members to be appointed by the Board of County Commissioners; one (1) of those members may be a member of the Miami County Planning Commission. All members of the Board of Zoning Appeals shall be residents of the unincorporated territory of Miami County, Kansas. Except as provided for herein, none of the members shall hold any other public office in Miami County.

23-1.03 Term: Of the members first appointed, two (2) shall serve for one (1) year, two (2) shall serve for two (2) years, and three (3) shall serve for three (3) years. Thereafter, members shall serve for terms of three (3) years each. Vacancies shall be filled by appointment for the unexpired term. The members of the Board of Zoning Appeals shall serve at the pleasure of the Board of the County Commissioners, and may be removed at any time for any reason by a majority vote of the Board of County Commissioners.

23-1.04 Compensation: All members of the Board of Zoning Appeals shall serve without compensation.

23-1.05 Officers: The Board of Zoning Appeals shall annually elect one of its members as chairperson, and appoint a secretary who may be an officer or employee of Miami County. The Board may also select from among its members a vice-chairperson and such other officers as the Board shall consider necessary.

23-1.06 Rules of Procedure: The Board of Zoning Appeals shall adopt rules in accordance with the provisions of the resolution creating and establishing the Board.

23-1.07 Meetings: Meetings of the Board of Zoning Appeals shall be held at the call of the chairperson and at such other times as the Board may determine. The Board shall keep minutes

of its proceedings, showing evidence presented, findings of fact, decisions of the Board, and the vote upon each question.

23-1.08 Records: Records of all official actions of the Board of Zoning Appeals shall be kept in the office of the County Clerk and shall be open to public inspection during reasonable office hours.

Section 23-2. Powers

23-2.01 The Board of Zoning Appeals shall have the following powers:

1. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the application or enforcement of these Zoning Regulations.
2. To grant exceptions to these Zoning Regulations on the basis and in the manner hereinafter provided.
3. To grant variances from these Zoning Regulations on the basis and in the manner hereinafter provided.
4. 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.

Section 23-3. Hearings

23-3.01 The Board of Zoning Appeals shall hear an appeal or any other matter referred to it within the time period as provided by the rules of the Board.

23-3.02 Notice of the time, place and subject of such hearing shall be published once in the official County newspaper at least twenty (20) days prior to the date fixed for the hearing.

23-3.03 A copy of said notice shall be mailed by the Secretary of the Board of Zoning Appeals to each party in interest and to the Planning Commission.

Section 23-4. Appeals

23-4.01 Appeals to the Board of Zoning Appeals may be taken by any person aggrieved, or by any officer of the County or any governmental agency or body affected by any decision of the officer administering the provisions of these Zoning Regulations.

23-4.02 Such appeal shall be taken within the time as provided by the rules of the Board of Zoning Appeals, by filing a notice of appeal specifying the grounds thereof and the payment of the fee required therefor.

23-4.03 The officer from whom the appeal is taken, when notified by the Board of Zoning Appeals or its agent, shall forthwith transmit to said Board all the papers constituting a record upon which the action appealed from was taken.

23-4.04 Stay of Proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Planning Director 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 opinion of the Planning Director, cause peril to life or property.

23-4.05 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 Planning Director, may attach appropriate conditions and may issue or direct the issuance of a permit. The concurring vote of a majority of the members present shall be necessary to reverse, wholly or partly, modify or attach any additional conditions to any decision or determination appealed from the Planning Director under these Regulations. The Board shall render a written decision on the appeal without unreasonable delay after the close of the hearing, and in all cases, within sixty (60) days after the close of the hearing.

23-4.06 Records of Appeals. The Planning Director shall maintain complete records of all actions of the Board of Zoning Appeals with respect to appeals.

Section 23-5. Exceptions

23-5.01 The Board of Zoning Appeals may grant exceptions to the provisions of these Zoning Regulations in those instances where it is specifically authorized to grant such exceptions and only under the terms of such regulations.

23-5.02 In no event shall exceptions to the provisions of these Zoning Regulations be granted where the use or exception contemplated is not specifically listed as an exception in such regulations. Further, under no conditions shall the Board of Zoning Appeals have the power to grant an exception where conditions of this exception, as established in these Zoning Regulations by the Board of County Commissioners, are found to be present.

23-5.03 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 Secretary of the Board of Zoning Appeals. Application shall be made using the forms provided by the Secretary of the Board of Zoning Appeals and shall contain in complete form all information requested on the forms, as well as such additional information as may be requested by the Secretary, or the Board.

23-5.04 Standards for Exceptions. The Board of Zoning Appeals shall not grant an exception 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 property complies with all applicable requirements of these Regulations, other than the one for which an exception is being requested;

2. The proposed exception will not cause a substantial adverse affect on nearby properties;
3. The exception desired will not adversely affect the public health, safety, morals, order, convenience, propriety, or general welfare; and
4. 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. Examples of such facts and circumstances to be considered are as follows:
 - A. Whether or not conditions of the property requiring the exception were created by the applicant with prior knowledge and disregard of applicable regulations;
 - B. Whether or not the applicant acquired the property with knowledge of the conditions which require the exception, and whether or not the consideration of the acquisition took into account such conditions;
 - C. Whether or not there are reasonable alternatives which would allow the property to meet the strict application of these Regulations; and
 - D. Whether or not a granting of the exception will result in a relative gain to the health, safety and general welfare of the community.

23-5.05 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 23-5.04, and to carry out the general purposes and intent of these Regulations. Failure to comply with all of the conditions, safeguards and restrictions placed on any exception shall constitute a violation of these Regulations.

Section 23-6. Variances

23-6.01 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 any such district where the variance is being requested.

23-6.02 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 Secretary of the Board of Zoning Appeals. Application shall be made using the forms provided by the Secretary of the

Board of Zoning Appeals and shall contain in complete form all information requested on the forms, as well as such additional information as may be requested by the Secretary, or the Board.

23-6.03 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 outlined in Section 23-3, except that no notice need be given to the Planning Commission. 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 appeal and be heard at the hearing in person, by agent or by attorney.

23-6.04 Standards for Variances.

1. The Board of Zoning Appeals shall not grant a variance 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 variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant;
 - B. The granting of the variance will not adversely affect the rights of adjacent property owners or residents;
 - C. The strict application of the provisions of these Regulations from which a variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - D. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
 - E. Granting the variance desired will not be opposed to the general spirit and intent of these Regulations.

23-6.05 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 23-6.04, and to carry out the general purposes 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.

23-6.06 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 Planning Director shall maintain complete records of all actions of the Board of Zoning Appeals with respect to applications for variances.

23-6.07 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.

23-6.08 Variance from the Floodplain Regulations: As specified in Article 12 of these Regulations, Floodplain Overlay District (F-P), the Board of Zoning Appeals shall have the authority to grant variances from said floodplain regulations, provided, however, that in addition to the standards and conditions established in this Article, the Board of Zoning Appeals, in reviewing variance applications in the Floodplain Overlay District (F-P), shall consider those evaluations, factors, standards, and criteria specified at Section 12-11.

23-6.09 Variance from the Airport Zoning Regulations: As specified in Article 13 of these Zoning Regulations (Airport Zoning Regulations) and as authorized by K.S.A. 3-707(2), the authority to grant variances from the Airport Zoning Regulations herein lies with the Board of County Commissioners (see Section 13-11).

Section 23-7. Determination of Board of Zoning Appeals

23-7.01 In exercising the foregoing powers, the Board of Zoning Appeals, in conformity with the provisions of this Article and K.S.A. 19-2926b and K.S.A. 12-741 et seq., may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a permit.

23-7.02 Any person, official or governmental agency dissatisfied with any order or determination of the Board of Zoning Appeals, may bring an action in the District Court of Miami County, Kansas, to determine the reasonableness of any such order or determination. Such appeal shall be filed within thirty (30) days of the final decision of the Board, as provided by State law.

Article 24

MISCELLANEOUS

Sections:

- 24-1 Interpretation and Conflict
- 24-2 Validity
- 24-3 Repeal of Existing Regulations and Accrued Rights and Liabilities
- 24-4 Penalties for Violations; Actions for Enforcement
- 24-5 Effective Date

Section 24-1. Interpretation and Conflict

24-1.01 In interpreting and applying the provisions of these Zoning Regulations, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare. It is not intended by these Zoning Regulations to interfere with, abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where these Zoning Regulations impose a greater restriction upon the use of buildings or premises, or upon the height of buildings, or require larger open spaces than are imposed or required by other rules, regulations, easements, covenants, or agreements, the provisions of these Zoning Regulations shall govern.

Section 24-2. Validity

24-2.01 Should any section, clause or provision of these Regulations be declared invalid or unconstitutional by any court of record, the same shall not affect the validity of these Regulations as a whole, or any part thereof, other than the part so declared to be invalid or unconstitutional.

Section 24-3. Repeal of Existing Regulations and Accrued Rights and Liabilities

24-3.01 The adoption of these Regulations repeals all previous township zoning regulations and any Miami County Zoning Regulations amended by the adoption of these current Regulations, except that obsolete zoning districts still shown on the Zoning District Map will be governed by the latest Miami County Zoning Regulations in which they are identified.

24-3.02 Despite the repeal of regulations existing at the time of adoption of these Regulations and provided in Section 24-3.01 herein, nothing contained in these Regulations shall affect any rights accrued or liabilities incurred under said previously existing regulations.

Section 24-4. Penalties for Violations; Actions for Enforcement

24-4.01 Any person, company, corporation, institution, municipality or agency of the State of Kansas who violates any provision of the Miami County, Kansas Zoning Regulations shall be subject to the penalties and remedies provided for in this Article.

24-4.02 Any violation of any provision of these Zoning Regulations shall be deemed to be a misdemeanor and punishable by a fine of not to exceed five hundred dollars (\$500.00) for each offense, and each day's violation shall constitute a separate offense.

24-4.03 The Board of County Commissioners or any person, the value or use of whose property is or may be affected by such violation, shall have the authority to maintain suits or actions in any court of competent jurisdiction to enforce these Zoning Regulations, and to abate nuisances maintained in violation thereof.

24-4.04 Whenever any building or structure is or is proposed to be erected, constructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any zoning regulations, the Board of County Commissioners, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such building or land.

24-4.05 Any person, company, corporation, institution, municipality or agency of the State who violates any provision of any regulation relating to floodplain regulations effective under Article 12 of these Regulations, shall be subject to the penalties and remedies provided for in this Article.

Section 24-5. Effective Date

24-5.01 These Zoning Regulations take full force and effect as of July 1, 2001.