

# BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

**WEDNESDAY, SEPTEMBER 19, 2012**

4:00 p.m.

-Consider approval of the minutes August 15 and August 22, 2012.

## **CONSENT AGENDA**

- (1) (a) Consider approval of Commission Orders;
- (b) Consider authorizing purchase of precast concrete box culvert Structure No. 07.51N-18.00E (Keith Browning);
- (c) Consider approval of a Road Maintenance Agreement with City of Eudora (Keith Browning)
- (d) Confirmation of chairman's action lifting the Burn Ban in the unincorporated area of Douglas County (Craig Weinaug);
- (e) Consider office supply contract (Jackie Waggoner); and
- (f) Consider approval of agreement with Johnson County for replacement of Structure No. 10.80N-24.00E (Keith Browning).

## **REGULAR AGENDA**

- (2) Update on status of Postal Service in Lecompton (Paul Bahnmaier)-No backup
- (3) Consider the following Resolutions: (i) A Home Rule Resolution establishing a Douglas County contract tow rotation list and governing towing and towing services and (ii) a Resolution establishing maximum charges for authorized tow service providers and for tow providers towing a vehicle without the prior consent of the owner or operator of the vehicle. Approve if appropriate. (Jim Flory)
- (4) Consider granting approval of a Westar Easement on Douglas County Fairgrounds (Chad Luce)
- (5) Consider a request from Tim Hoyt at 32 N 1000 Rd, to change the use of the northern part of his existing non-conforming accessory building from a horse arena to a lesser use of a boat storage facility. Section 12-320-2.02 of the Zoning Regulations grants authority to the Board of County Commissioners to permit use of a non-conforming building to be changed when a similar or more restrictive use is requested. (Linda Finger)
- (6) **CUP-12-00030**: Consider a Conditional Use Permit for a truck storage facility for Creekwood Lawn, located at 1753 N 700 Road. Submitted by Shelby Franklin, property owner of record. (PC Item 1; approved 8-0 on 8/20/12) Sandra Day will present the item
- (7) Consider adoption of I-Codes.(Kay Pettit)
- (8) Consider approval to purchase a telephone system replacement for Douglas County office (Jim Lawson)
- (9) Consider refurbishing rental modular home at Lone Star Lake (Keith Browning)
- (10) Consider Authorizing Public Works to issue request for proposals for Lone Star lake concession building improvements (Keith Browning)
- (11) Consider recommendation to purchase a chiller compressor for the Correctional Facility (Ken McGovern)

(12) Consider granting change order authority on Emergency Communication radio upgrades  
(Craig Weinaug)

(13) Other Business

- (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
- (c) Public Comment
- (d) Miscellaneous

## **RECESS**

## **RECONVENE**

6:35 p.m.

(14) Consider a Text Amendment, **TA-8-11-11**, to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish *Agritourism* as a use in the County A (Agriculture). (Mary Miller is the Planner)

(15) Adjourn

## **FRIDAY, SEPTEMBER 21, 2012**

7:30-9:00 a.m. – Lawrence School Foundation Breakfast at the Lawrence Holidome (Two or more Commissioners may attend. No County business will be conducted)

## **WEDNESDAY, SEPTEMBER 26, 2012**

4:00 p.m. **Only**

-Community Corrections Comprehensive Plan Fiscal Year 2012 Quarterly and Year End Outcome Report Format (Deborah Ferguson)

## **THURSDAY, OCTOBER 11, 2012**

3-6 p.m. – Douglas County Senior Services 40<sup>th</sup> Anniversary Event

## **SATURDAY, OCTOBER 20, 2012**

4-7 p.m.-Douglas County Senior Services Chili Cook off

**WEDNESDAY, NOVEMBER 14, 2012**- Tentatively Cancelled

## **THURSDAY, NOVEMBER 15, 2012**

9:00 a.m. – Election Canvass (Two or more Commission will be in attendance.)

**Note:** *The Douglas County Commission meets regularly on Wednesdays at 4:00 P.M. for administrative items and 6:35 P.M. for public items at the Douglas County Courthouse. Specific regular meeting dates that are not listed above have not been cancelled unless specifically noted on this schedule.*

## MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : September 5, 2012

Re : Consent Agenda authorization to purchase precast concrete box culvert  
Structure No. 07.51N-18.00E

The referenced culvert is on E 1800 Road approximately ½ -mile north of Route 460 (N 700 Road). The existing culvert is a 16'-span, concrete structure with a 15-foot roadway width. The culvert needs replacing due to structural concerns and narrow roadway width with significant drop-offs along each edge of road.

This portion of E 1800 Road is currently a declared Minimum Maintenance road. However, the Baldwin school district has expressed the need to utilize the road for its buses and Palmyra Township has agreed to maintain the road following the replacement of this culvert.

At this location, we are able to downsize the culvert due to spillway alignment, configuration, and flow rates below the engineered dam immediately upstream. We will install an 8' span x 8' high x 43' long reinforced concrete box culvert. This department's bridge crew will construct the culvert. Construction is planned for later this year.

We received quotes from two suppliers for the pre-cast, reinforced concrete box culvert:

- |                            |             |
|----------------------------|-------------|
| • Cretex Concrete Products | \$32,890.00 |
| • Oldcastle Precast        | \$45,775.00 |

We recommend accepting the low quote from Cretex Concrete Products. The CIP includes \$130,000 for replacement of this culvert.

Action Required: Consent Agenda authorization for the Public Works Director to approve purchase of a 8' span x 8' high x 43' long precast concrete box culvert from Cretex Concrete Products at a cost of \$32,890.00 for installation at 07.51N-18.00E.

Douglas County, Kansas

ROAD MAINTENANCE AGREEMENT

This Agreement is made between the Douglas County Board of Commissioners, hereinafter referred to as COUNTY, and the City of Eudora, Kansas, hereinafter referred to as CITY.

1. In accordance with the provisions of K.S.A. 12-2908 and amendments thereto, the COUNTY and CITY are entering into agreement for the maintenance of the following described roadways:

Former Douglas County Route Number	Eudora Street Name	DESCRIPTION	Length of Route Segment (miles)
442	10 <sup>th</sup> Street	10 <sup>th</sup> Street within the limits of Eudora, also known as Douglas County Route No. 442 or N 1400 Road outside the limits of Eudora, beginning at the intersection with Winchester Road (E 2100 Road), thence easterly a distance of approximately 11,000 feet to the intersection with the terminus of the westbound K-10 exit ramp; also	1.80
1061	Main Street	Main Street beginning at the intersection with 10 <sup>th</sup> Street, thence northerly a distance of approximately 3,000 feet to south edge of wearing surface of the Wakarusa River bridge; also	0.57
1061	Church Street Segment 1	Church Street beginning at the terminus of the westbound K-10 exit ramp, thence northerly a distance of approximately 4,260 feet to the intersection with 10 <sup>th</sup> Street; also	0.81
1061	Church Street Segment 2	Church Street within the limits of Eudora, also known as Douglas County Route No. 1061 or E 2200 Road outside the limits of Eudora, beginning at the intersection with N 1200 Road, also known as West 28 <sup>th</sup> Street within the limits of Eudora, thence northerly a distance of approximately 5,747 feet to the intersection with the eastbound K-10 exit ramp.	1.09

2. For the above described portions of 10<sup>th</sup> Street, Main Street, and Segments 1 and 2 of Church Street, a.k.a. Douglas County Route No. 1061 outside the limits of Eudora, maintenance responsibilities shall be as follows:

- 2.1 City Maintenance: The CITY shall be responsible for maintenance of the following:

- 2.1.1 Roadway surface
  - a. Patching
  - b. Crack filling
  - c. Surface sealing
- 2.1.2 Shoulders
- 2.1.3 Stormwater conveyance systems
  - a. Ditches
  - b. Entrance pipes
  - c. Curb & gutters

Tennessee's municipal risk management partnership  
 gave to DoCo  
 on 4/24/12  
 Craig W Office

Road Maintenance Agreement

- d. Storm sewers
- e. Sewer inlets
- 2.1.4 Entrances and sidewalks
- 2.1.5 Cross road structures
  - a. Cleaning
  - b. Patching
  - c. Concrete repair
  - d. Erosion repair and protection
- 2.1.6 Guardfence
- 2.1.7 Traffic control signs
  - a. Regulatory signs
  - b. Warning signs
  - c. Guide signs (excluding Douglas County route markers and E911 road name signs)
  - d. Recreational and cultural interest area signs
- 2.1.8 Snow and ice control
  - a. Plowing
  - b. Chemical and abrasive applications
- 2.1.9 Pavement markings associated with schools or pedestrian crossings and any non-painted pavement markings
- 2.1.10 Mowing and landscaping
- 2.1.11 Encroachment control
- 2.1.12 Trash and litter pickup
- 2.1.13 Roadway lighting systems
- 2.1.14 Traffic lights and signals

2.2 County Maintenance: The COUNTY shall be responsible for maintenance of the following:

- 2.2.1 Painted pavement markings other than those associated with school or pedestrian crossings
  - a. Center lines
  - b. Lane lines
  - c. Edge lines
  - d. Stop lines
  - e. Traffic movement symbols
- 2.2.2 Traffic control signs
  - a. Douglas County route markers
  - b. E911 road name signs

- 3. Notwithstanding Section 2 above, the CITY will not be responsible for maintenance of the traveled portions of 10<sup>th</sup> Street, nor will CITY be responsible for maintenance of the traveled portions of Segment 2 of Church Street, prior to one-time maintenance improvements to both roadways by the COUNTY. Improvements shall include, at a minimum, pavement patching and asphalt overlay. Following these one-time improvements, and upon written notification from the COUNTY, the CITY will assume maintenance for these road segments as stipulated in Section 2 above.
- 4. The CITY shall be responsible for snow & ice control on Church Street between the eastbound K-10 exit ramp and the westbound K-10 exit ramp.
- 5. The CITY agrees to annex the full road easement or right-of-way of road segments for which the CITY is responsible under terms of this Agreement.
- 6. The CITY will be responsible for maintenance of any non-painted pavement markings, e.g. plastic pavement markings.

Road Maintenance Agreement

7. This agreement shall supersede and terminate any previously existing agreement between the COUNTY and CITY for the maintenance of the above-described city connecting links.
8. This agreement may be terminated by either party ninety days after written notice of the intention to terminate is given to the other party, or by execution of a subsequent maintenance agreement.
9. This agreement may be supplemented, amended or modified only by written agreement of the parties.
10. For purpose of this agreement, the term "cross road structure" means culverts and bridges that convey storm water runoff beneath the roadway from one side of the road to the other, and that have open inlets and outlets that are not connected to a storm sewer system.

This Agreement shall become effective the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

APPROVED BY THE COUNTY this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

**BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, KANSAS**

\_\_\_\_\_  
Mike Gaughan, Chairman

\_\_\_\_\_  
Nancy Thellman, Member

\_\_\_\_\_  
Jim Flory, Member

ATTEST:

\_\_\_\_\_  
Jaime Shew, County Clerk

Road Maintenance Agreement

APPROVED BY THE CITY this 23 day of April, 2012

CITY OF EUDORA, KANSAS

Scott Hays  
Mayor

ATTEST:

Pam Schmeck  
City Clerk

**RESOLUTION 12-37**

**DISASTER TERMINATION RESOLUTION**

**WHEREAS**, on the 5<sup>th</sup> day of September, 2012, the Board of County Commissioners of Douglas County, Kansas found that dry conditions and the lack of moisture have caused, or imminently threatened to cause widespread or severe damage, injury or loss of life or property in disastrous proportion in Douglas County, Kansas; and

**WHEREAS**, it is now deemed that the situation resulting from said conditions of extreme peril are not beyond the control of the ordinary and normal services, personnel, equipment, and facilities of Douglas County government.

**NOW, THEREFORE BE IT RESOLVED**, by the Chairman of the Board of County Commissioners of Douglas County, Kansas:

That the state of local disaster emergency in Douglas County, Kansas declared on the 14<sup>th</sup> day of September, 2012, be hereby terminated

That this Resolution terminating the state of local disaster emergency in Douglas County, Kansas shall be given prompt and general publicity and shall be filed promptly with the County Clerk.

**RESOLVED BY THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSISONERS OF DOUGLAS COUNTY, KANSAS THIS 14<sup>th</sup> DAY OF SEPTEMBER, 2012.**

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**Mike Gaughan, Chairman**

**ATTEST:**





## DOUGLAS COUNTY ADMINISTRATIVE SERVICES

### Division of Purchasing

1100 Massachusetts Street  
Lawrence, KS 66044-3064  
(785) 832-5286 Fax (785) 838-2480  
www.douglas-county.com

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**MEMO TO:** The Board of County Commissioners  
Craig Weinaug, County Administrator

**FROM:** Jackie Waggoner, Purchasing Director  
Division of Purchasing

**SUBJECT:** Approve Accessing Cooperative Contract for Office Supplies

**DATE:** September 13, 2012

Approximately ten years ago when the County went to an online ordering process for office supplies we explored cooperative contracts (state, regional, and national) and determined there were substantial cost savings by accessing these contracts instead of soliciting bids. Our current contract with Staples under the NIPA (National Intergovernmental Purchasing Alliance) is expiring.

In looking at options for the next five years, I solicited an RFI (Request for Information) of the different cooperative contracts that were established through a competitive bidding process. The following suppliers responded: Office Depot who is the awarded contractor under the National Intergovernmental Purchasing Alliance (NIPA), Staples was awarded the National Joint Purchasing Alliance (NJPA), Independent Stationers was awarded the U.S. Communities contract and uses a local office supplier, and OfficeMax has an America Saves Program.

Each supplier was asked to provide their cost based on the County's 2011 usage. They were also asked to provide terms of their contract, online ordering capabilities, delivery and ordering requirements, description of training for end users, minimum order requirements and/or fuel surcharges, frequency of price adjustments under the contract, and provide their initiatives to source green and sustainable products. Attached is a partial summary of their responses.

Eileen Horn and Julie Clouse were invited to participate in the evaluation process. OfficeMax provided the lowest cost, and also offers an approach called Integrated Solutions. This solution demonstrates lower cost, increased efficiencies, streamlined billing, and helps improve our sustainability initiatives. OfficeMax dedicates 20% of their catalog offering to recycled products, and 30% of stocked inventory (over 4000 products) is environmentally preferable. In our discussions, they offered programs for expanded recycling of materials (including batteries) and sustainability education for staff.

**SUGGESTED MOTION:** The Board of County Commissioners authorizes the County to access the America Saves program for office supplies through OfficeMax.

	OfficeMax	Staples	Office Depot	Independent Stationers
Cooperative Contract	American Saves	NJPA (National Joint Purchasing Alliance)	NIPA (National Intergovernmental Purchasing Alliance)	U.S. Communities
Cost Based on 2011 Usage (1,793 items)	\$112,102.52	\$125,766.57	\$115,852.67	\$175,436.09
Terms of Cooperative Agreement	6/1/11-5/31/14 (2 yrs. Extension options)	Current- 7/31/2014 renewed annually	Current - 10/17/2013 renewable up to 3 addl. Yrs.	9/1/2012-8/31/2013 2 yrs. extension option
Additional allowances, manufacture's rebates, or "time" discounts	Net volume rebate of 1% on all office supplies. Average order rebate of 1% on orders greater than \$299.	0-150,000 = 1% 150,000-300,000 is 2% net 10%	None	eCommerce Rebate = .5% or 1%, and volume rebate paid on incremental growth greater than 10%
Frequency of price adjustments	Core items: 6 months, Non- Core: 1 Year	Hot list. Net priced: 1000+ items - may change once a year	Quarterly	Price adjustments are made in April and October; paper related products quarterly, toner and ink supplies semi- annually.

## MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : September 14, 2012

Re : Consent Agenda approval of agreement with Johnson County  
Replacement of Structure No. 10.80N-24.00E

A culvert on E 2400 Road (Johnson County line) is in need of replacement. The culvert is 0.2 miles south of N 1100 Road on E 2400 Road. Johnson County Public Works department has agreed to design and construct the replacement culvert, but requests participation from Douglas County. They propose to share project costs in accordance with the approximate ratio of Johnson County valuation to Douglas County valuation.

Attached is the proposed agreement. Under terms of the agreement, Johnson County pays 88% of project costs and Douglas County pays the remaining 12%. In addition to paying 12% of project costs, Douglas County is responsible for acquiring additional road right-of-way on the west side of the road. Johnson County estimates project costs at approximately \$100,000, so Douglas County's portion of these costs would be approximately \$12,000.

This project is not currently included in the CIP. There is room in the CIP to absorb Douglas County's cost for this project. Construction by Johnson County forces is planned for 2013.

Action Required: Consent Agenda approval of agreement with Johnson County for replacement of Structure No. 10.80N-24.00E. The BOCC Chair should sign two (2) original copies of the agreement.

AGREEMENT

This Agreement is made and entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2012 by and between the Board of County Commissioners of Douglas County, Kansas (“Douglas County Board”), and the Board of County Commissioners of Johnson County, Kansas (“Johnson County Board”). The Douglas County Board and the Johnson County Board are collectively referred to as the “Boards”.

WITNESSETH:

WHEREAS, Douglas County and Johnson County share a common border as well as a road and bridge system on that border; and

WHEREAS, a certain culvert is located on the western boundary of Johnson County and the eastern boundary of Douglas County, between Sections 26 & 27, Township 13 South, Range 21 East, said culvert being 0.8 miles north of 135th Street or N 1000 Road; and

WHEREAS, the County Engineers of Douglas and Johnson counties have inspected such culvert and have advised the Boards that replacement of the culvert is necessary; and

WHEREAS, the Boards agree that it is desirable to proceed with work necessary to complete such culvert replacement (the “Project”); and

WHEREAS, Johnson County has completed engineering design of the Project, and prepared construction plans calling for the existing culvert to be replaced with a 14’ span x 6’ high x 42’ long reinforced concrete box culvert.

NOW, THEREFORE, the Douglas County Board and the Johnson County Board mutually agree as follows:

1. Johnson County agrees to provide labor and equipment to complete construction as depicted on construction plans provided by Johnson County Public Works for Culvert No. A.0-10.8
2. All Project costs shall be borne by Douglas and Johnson counties. In accordance with K.S.A. 68-1122, it is agreed that such costs shall be apportioned based on the estimated proportion of assessed value of each county. It is agreed that such apportionment shall be as follows:

	Percent of Project Cost Sharing Responsibility
Johnson County	88%
Douglas County	12%

The estimated Project cost is ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

3. Necessary right-of-way shall be acquired by the counties within their own jurisdiction. Right-of-way costs in connection with real property located in Johnson County shall be paid by the Johnson County Board. Right- of-way costs in connection with real property located in Douglas County shall be paid by the Douglas County Board. Right-of-way costs shall not be included in as Project costs for Project cost apportionment purposes.
4. This mile of common section line road, Johnson/Douglas County line between 135<sup>th</sup> Street (N 1000 Road) and 127<sup>th</sup> Street (N 1100 Road), is under the maintenance responsibility of Johnson County by previous agreement. Nothing in this Agreement is intended to modify Johnson County’s existing and continuing obligations for this roadway.

5. This Agreement and all contracts entered into under the provisions of this Agreement shall be binding upon Johnson County and Douglas County and their successors in office.
6. No third party beneficiaries are intended to be created by this Agreement.
7. Johnson County and Douglas County points of contact are, respectively:

Don Hovey, P.E.  
 Johnson County Public Works  
 1800 West 56 Highway  
 Olathe, Kansas 66061  
 (913) 715-8365

Keith Browning, P.E.  
 Douglas County Public Works  
 1242 Massachusetts  
 Lawrence, Kansas 66044  
 (785) 832-5293

IN WITNESS WHEREOF, the Boards of County Commissioners of Johnson and Douglas Counties have executed this Agreement on the dates set forth below.

BOARD OF COUNTY COMMISSIONERS  
 OF DOUGLAS COUNTY, KANSAS

BOARD OF COUNTY COMMISSIONERS  
 OF JOHNSON COUNTY, KANSAS

\_\_\_\_\_  
 Mike Gaughan, Chairman

\_\_\_\_\_  
 Ed Eilert, Chairman

Date \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
 Douglas County Clerk

\_\_\_\_\_  
 Johnson County Clerk

RESOLUTION NO. \_\_\_\_\_

**A Resolution of the Board of County Commissioners of Douglas County, Kansas, Establishing Maximum Charges For Authorized Tow Service Providers and For Tow Providers Towing a Vehicle Without the Prior Consent of the Owner or Operator of the Vehicle**

**WHEREAS**, K.S.A. 19-101, *et seq.* provides the Board of County commissioners of Douglas County, Kansas (the "Board") with home rule authority to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

**WHEREAS**, pursuant to its home rule authority, the Board has previously adopted Article 15 of Chapter 1 of the Douglas County Code, relating to towing and storing of vehicles at the request of the Sheriff and/or without the prior consent of the owner or operator of the vehicle; and

**WHEREAS**, Article 15 of Chapter 1 of the Douglas County Code, specifically Section 1-1513, provides that the Board may adopt and amend a resolution from time to time to establish maximum fees and charges for certain towing and vehicle storage services and the Board desires to establish those fees and charges by this Resolution.

**NOW THEREFORE**, be it resolved by the Board as follows:

SECTION I. Maximum Charges. Pursuant to Section 1-1513 of the Douglas County Code, as amended, the maximum authorized charges for towing, storage and other related services with respect to a vehicle having a licensed gross weight of 18,000 pounds or less towed by an authorized tow service provider pursuant to the County contract tow rotation list or towed by any tow provider without the prior consent of the owner or operator of the vehicle, are as follows:

1. For towing, including use of wheel lifts, rollback and flatbed, a maximum charge of:

- i. \$150 for vehicles having a licensed gross weight of 12,000 pounds or less, plus \$3.00 per mile.
- ii. \$250 for trucks and other vehicles having a licensed gross weight of more than 12,000 pounds or having more than 4 wheels on the ground, plus \$3.00 per mile, but see Section 13 below for trucks and other vehicles having a licensed gross weight of more than 18,000 pounds.

Subject to Section 12 below, this charge includes clean-up of all accident debris and spills, including but not limited to the use and removal of oil dry or a similar product to clean up any fluid spills.

2. For storage of a vehicle, a maximum charge of: \$30 per day. Daily

charges shall be determined for any portion of a calendar day the vehicle is stored, beginning at the time the vehicle is first placed in the storage lot; provided, however, that storage charge shall be waived if the owner or authorized representative retrieves the vehicle within the first 24 hours; provided further that the tow company may only assess a storage charge for days that there is reasonable access to personnel who may respond to release the vehicle.

3. Exclusive of state recognized holidays, no additional charge shall be assessed for releasing a vehicle between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. For releasing a vehicle during all other times, a maximum charge of: \$35.

4. For tarping a vehicle with broken windows otherwise open to the weather, a maximum single charge of: \$15.

5. For dolly use in towing a vehicle, a maximum charge of: \$50. This charge is addition to the basic tow service charge. A dolly charge cannot be assessed unless a dolly is necessary and actually used to tow the vehicle.

6. For winching, a maximum charge of: \$100 per hour, prorated by each one-quarter hour. This charge includes labor necessary to operate the winch but is in addition to the basic tow service charge.

7. For extraordinary labor for winching and securing the vehicle in excess of 30 minutes, a maximum charge of: \$72 per hour, prorated by each one-quarter hour. Extraordinary labor may only be charged for non-customary labor necessarily and actually incurred for removal of a vehicle or mechanically necessary to prepare the vehicle for towing, and any such charge shall be described in detail on the report. No additional charge may be assessed for the first 30 minutes of extraordinary labor.

8. A tow company may assess reasonable additional charges for extraordinary situations that necessarily and actually require more than one wrecker. The charge for an additional wrecker shall not exceed the maximum charges provided for in this Resolution for the first wrecker.

9. For the waiting or standby time after the wrecker has been at the scene for 30 minutes, a maximum charge of: \$72 per hour, prorated by each one-quarter hour. No additional charge may be assessed for the first 30 minutes of wait or standby time.

10. For a motorist assist involving delivery of fuel, tire changes, unlocks, jumpstarts, and other services commonly associated with a motorist assist, a maximum charge of: \$60, plus mileage provided above; provided, however, that if the tow company shall accept personal check or debit or credit card in lieu of cash payment.



11. If the owner or other authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, and such person is capable of safely operating the vehicle and such vehicle is functional, the vehicle shall, upon request of such person, be disconnected from the towing or removal apparatus. That person shall be permitted to remove the vehicle without interference upon the payment of a reasonable charge of not more than \$60, plus mileage provided above, and no other charge shall be assessed; provided, however, that if the tow company demands cash payment before releasing the vehicle to the owner or operator and, as a result, tows the vehicle because the owner or operator does not have sufficient cash at the time, the owner or operator shall be permitted to retrieve the motor vehicle within 24 hours and pay the foregoing charge and the tow company shall release the vehicle to the owner or other authorized person with no additional charges whatsoever.

12. For extraordinary labor in the clean-up of accident debris and spills in excess of 30 minutes, a maximum charge of: \$72 per hour, prorated by each one-quarter hour. Extraordinary labor may only be charged for non-customary labor necessarily and actually incurred for removal of accident debris and fluids, and any such charge shall be described in detail on the report. No additional charge may be assessed for the first 30 minutes of extraordinary labor.

13. The maximum charges contained in this Resolution shall not apply to trucks and other vehicles having a licensed gross weight of more than 18,000 pounds.

14. Each tow company shall provide to each owner or authorized representative an itemized bill indicating the amount for each service provided.

SECTION II. Effective Date. This Resolution shall take effect and be in force from and after the later of the following to occur: (i) its publication once in the official County newspaper, and (ii) November 1, 2012.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this \_\_\_\_\_ day of September 2012.

**BOARD OF COUNTY COMMISSIONERS OF  
DOUGLAS COUNTY, KANSAS:**

\_\_\_\_\_  
Mike Gaughan, Chair

\_\_\_\_\_  
Nancy Thellman, Member

ATTEST:

\_\_\_\_\_  
Jim Flory, Member

\_\_\_\_\_  
Jameson D. Shew, County Clerk

**RESOLUTION NO. HR \_\_\_\_\_**

**A Home Rule Resolution of the Board of County Commissioners of Douglas County, Kansas Establishing a County Contract Tow Rotation List and Governing Towing and Towing Services**

WHEREAS, K.S.A. 19-101, *et seq.* provides the Board of County commissioners of Douglas County, Kansas (the "Board") with home rule authority to transact all County business and perform all powers of local legislation and administration it deems appropriate; and

WHEREAS, the Board recognizes the need for the protection of the health, safety and welfare of citizens through contracts for County initiated tows and regulations controlling certain non-preference tows.

NOW THEREFORE, the Board, exercising its home rule authority, resolves that:

SECTION I. Adoption of Tow Service Provisions. The following is enacted and added as Article 15 (Towing) of Chapter I (Administration) of the Douglas County Code:

**CHAPTER 1: ADMINISTRATION**

\* \* \*

**ARTICLE 15: TOWING**

1-1501. TOWING/IMPOUNDING VEHICLES.

A. Authority to Tow. The Sheriff's Office and its members may cause any vehicle to be immediately towed under any of the following circumstances, without the prior consent or authorization of the owner or operator of the vehicle:

1. When a vehicle is unattended or abandoned upon a public road or public property and either is parked in a tow zone, interferes with the normal movement of traffic or public business, or otherwise poses a danger to the public health, safety or welfare; or
2. When a vehicle is unattended or abandoned upon a public road or public property for a period of 48 hours; or
3. When a vehicle has been reported stolen or taken without the consent of its owner; or
4. When the owner or operator of a vehicle is unable to provide for its custody or removal; or

5. When a vehicle upon a public road or public property (or adjacent to a public road as a result of an accident) is so disabled or unsafe as a result of an accident or otherwise as to constitute an obstruction to traffic or otherwise poses a danger to the public health, safety or welfare, and the owner or operator of the vehicle is unable or refuses to provide for its custody or removal (the failure of the owner or operator to request a specific tow service provider that is willing and able to respond within the timeframe that the Sheriff's Office or its members determines necessary under the exigencies of the situation shall be deemed the refusal to provide for its removal); or
6. When the person in charge of a vehicle has been arrested or otherwise taken into custody or detained for an alleged offense; or
7. When a vehicle has been used in the commission of a crime or is otherwise subject to seizure as evidence in a criminal prosecution; or
8. When a vehicle is subject to seizure or forfeiture under the laws of Kansas or the United States; or
9. Any other reason authorized by applicable law.

B. Authority to Impound. The Sheriff's Office and its members may cause any vehicle to be immediately impounded as they deem necessary within the normal course of business. Any vehicle so impounded for evidence shall be disposed of in accordance with any orders of a court having jurisdiction over the matter, or as otherwise allowed by law once the vehicle is no longer needed for evidentiary purposes.

1-1502. NOTICE TO OWNER OF TOWED VEHICLE. Whenever any vehicle is towed pursuant to the provisions of Section 1-1501 of this Article, as amended, the tow service provider shall comply with all notice provisions as outlined in K.S.A. 8-1102 through 8-1104, and amendments thereto.

1-1503. RELEASE OF TOWED VEHICLE. Unless the vehicle is being held or seized as evidence, all vehicles towed pursuant to the provisions of this Article shall be released to the owner or authorized representative by the tow service provider upon satisfaction of the provisions as outlined in K.S.A. 8-1102 through 8-1108, and amendments thereto, except fees and charges shall not exceed those provided for in Section 1-1513 of this Article, as amended.

1-1504. SALE OF VEHICLE. An authorized tow service provider may proceed to dispose of towed vehicles, or to foreclose any possessory lien created by operation of law, in the manner provided in K.S.A. 8-1102 through 8-1108,

and amendments thereto, unless a hold has been requested for a particular vehicle by the Sheriff's Office or other law enforcement agency.

- 1-1505. **CONTRACT TOWING.** It is hereby declared and found by the Board of County Commissioners to be of vital importance to the safety of the traveling public for disabled or abandoned vehicles and vehicles found on public streets to be removed as promptly as possible; that delay in removal can impede the movement of traffic unnecessarily and can cause further accidents; that the solicitation of tows at accident scenes can lead to unnecessary traffic congestion and unsafe and chaotic conditions; and, as a result, that the towing of vehicles from public roads and public property is a matter affecting public safety. Consequently, vehicle tows should be subject to contracts with the County for the purpose of safeguarding the public.

It is further declared and found by the Board of County Commissioners that the practice of towing, removing and storing of vehicles are matters affecting public safety and require uniformity, efficiency, dependability, and consistency, and any person desiring to perform towing operations for the Sheriff's Office and other County officials shall enter into a Tow Service Provider Contract and comply with the provisions of this Article. The purpose of these Tow Service Provider Contracts and the provisions of this Article are to provide a uniform, efficient, dependable, and consistent system for obtaining services from tow companies which are engaged in or which intend to engage in the practice of towing, removing and storing of vehicles at the request of the Sheriff's Office and other County officials.

Any person desiring to perform tow services at the request of the Sheriff's Office or other County official and who meets the requirements of all other provisions of this Article and enters into a Tow Service Provider Contract shall be eligible to be placed on the County contract tow rotation list and be called on a rotation basis.

- 1-1506. **TOWING SERVICE PROVIDER CONTRACT REQUIRED.** Each tow service provider seeking placement on the County contract tow rotation list and designation as an authorized tow service provider to perform tow services at the request of the Sheriff's Office, the Emergency Communications Department, or other County official shall make written application to the County Administrator or his designee at least 30 days prior to the desired effective date and shall enter into a Tow Service Provider Contract with the County, in form and substance that the County Administrator approves. Each Tow Service Provider Contract shall generally be for a calendar year and renewal applications should be submitted at least 30 days prior to the expiration date of the then-current contract term. A tow service provider may terminate its designation as an authorized tow service provider, and therefore be removed from the

County contract tow rotation list, by providing 5 calendar days advance written notice to the County Administrator.

1-1507. CONTRACT TOW REQUIREMENTS. The following requirements and criteria shall be met by any tow service provider desiring placement on the County contract tow rotation list and designation as an authorized tow service provider pursuant to a Tow Service Provider Contract:

- A. Exclusive of state recognized holidays, each authorized tow service provider shall have a representative available (by phone or at the premises where a towed vehicle is stored) from 8:00 a.m. to 5:30 p.m., Monday through Friday to release any towed vehicle within one hour of the owner's or authorized representative's request. No additional charge shall be assessed for releasing a vehicle during these days and hours. During all other times, the authorized tow service provider shall have a representative available by phone and able to meet the owner or authorized representative at the premises where the towed vehicle is stored or kept for releasing a vehicle. For a vehicle released during these other times, the authorized tow service provider may not assess a fee in excess of the maximum charges provided for in Section 1-1513 of this Article, as amended. Each authorized tow service provider shall conspicuously post a sign at the front of its business stating the business name and a telephone number where information can be obtained about any vehicle towed or stored by the business. If an authorized tow service provider's phone number changes during the term of any Tow Service Provider Contract, the authorized tow service provider shall provide the County Administrator with the new number before the change becomes effective.
- B. Each authorized tow service provider shall have drivers and wrecker services available to respond to tow requests on a 24 hour per day, 7 days a week basis.
- C. Each authorized tow service provider shall clean-up accident debris including but not limited to dirt, broken glass, metal, and other car pieces associated with the vehicle being towed, including but not limited to the use of oil dry or a similar product to clean up any fluid spills, unless otherwise directed by an official overseeing or having jurisdiction of the accident.
- D. Each authorized tow service provider must have properly zoned adequate storage facilities within the County. Outside storage areas shall be fenced, with at least 6 foot high chain link or similar security fence and shall be adequately secured.

- E. Each authorized tow service provider must have available storage area which is totally enclosed within a building for the protection and security of vehicles with broken windows and valuable property left in vehicles.
  - F. Each authorized tow service provider must agree to handle and tow abandoned vehicles in addition to tow requests received for damaged or disabled vehicles.
  - G. Each authorized tow service provider must provide the County with proof of the following insurance protection:
    - 1. Public liability insurance indemnifying the public generally against damages arising out of the operation of the wrecker service. The authorized tow operator shall be responsible for entering the County on such policy or policies of insurance as a named insured. Such policy or policies of insurance shall be in an amount of at least \$500,000.00 for one person, \$500,000.00 for one accident, and \$500,000.00 property damage and a minimum aggregate limit of \$1,000,000.00. This coverage can be provided as a combined single limit.
    - 2. Garage keeper's minimum liability policy covering fire, theft or damage to or loss of property while in tow or otherwise in the care, custody and control of the authorized tow operator. Such policy or policies of insurance shall be in an amount of at least \$100,000.00 for each individual claim up to a maximum aggregate limit of \$200,000.00 per occurrence.
- Proof of insurance must be furnished on standard Acord© certificate of insurance forms. The County is to be named as a named insured on all required insuring agreements and each certificate must state that the County will be given 10 days advanced written notice if the policy is canceled or changed.
- H. Each authorized tow service provider must enter into and sign a Tow Service Provider Contract with the County.
  - I. Each authorized tow service provider must provide the County with proof that it has a valid certificate of public service issued from the Kansas Corporation commission.
  - J. The criteria and requirements set forth in this Subsection A through I of this Section shall not apply when the owner or operator of the

vehicle to be towed requests services from a specific tow service provider and the vehicle is towed by that provider.

- 1-1508. COUNTY CONTRACT TOW ROTATION LIST. Based upon information provided by the County Administrator or his designee, the Emergency Communications Department shall maintain a list of authorized tow service providers to be used in providing rotation tow services for the County.
- A. When a tow is needed, the law enforcement officer will communicate the need for a tow to the dispatcher on duty. On receiving this communication, the dispatcher shall, as a general rule, call the next authorized tow service provider on the County contract tow rotation list to remove the vehicle and that authorized tow service provider shall then be moved to the bottom of the list. On each succeeding communication, the next tow service provider on the list is generally assigned. In the event an authorized tow service provider cannot be reached by the dispatcher or cannot provide the requested tow within the timeframe required, that authorized tow service provider shall forfeit its turn, that authorized tow service provider shall be moved to the bottom of the list, and the dispatcher shall generally call the next succeeding authorized tow service provider on the list. If an authorized tow service provider at the top of the contract tow rotation list is dispatched and the dispatch does not result in a vehicle tow due to no fault of the authorized tow service provider, such authorized tow service provider shall be moved back to the top of the list. The dispatcher shall keep a continuous rotation of each authorized tow service provider on the master County contract tow rotation list.
  - B. The County contract tow rotation list provided for in this Article may be used for tows that are initiated by law enforcement officers or other officials of other jurisdictions within the County if the governing body of that jurisdiction specifically requests the Emergency Communications Department to use such list for its tows, in which case, the provisions of this Article and the Tow Service Provider Contract shall apply to such tows.
  - C. Placement on the County contract tow rotation list shall be by alphabetical order. In the event a new tow service provider becomes authorized, it shall be placed on the list in alphabetical order, regardless of its resulting place in the rotation.

The Sheriff's Office and other County officials shall not be obligated to use the County contract tow rotation list for any of the following:  
(i) special events where one or more tows may be necessary; (ii)



tows involving impounding of a vehicle for evidentiary or other criminal investigation or law enforcement purposes; or (iii) tows involving County owned vehicles. Instead, the County may enter into an agreement with one or more tow service providers as needed for any such purposes. For purposes of this Section, special events shall include, but not be limited to, concerts, festivals, sobriety checkpoints, or any other similar event.

1-1509. **MAXIMUM FEES AND CHARGES.** No authorized tow service provider towing a vehicle pursuant to the County contract tow rotation list, and no any towing company towing a vehicle, without the prior consent or authorization of the owner or operator of the vehicle shall charge any towing, storage, or related fees in addition to or in excess of those provided for in Section 1-1513 of this Article, as amended. The County shall not be responsible for unpaid towing charges for such contract tows except as agreed to in writing by a County official.

1-1510. **SUSPENSION OR REVOCATION OF APPROVAL AND AUTHORIZATION; GROUNDS.**

A. Suspension or Revocation. The County Administrator or his designee may order that the approval and authority of an authorized tow service provider be suspended or revoked. Any such suspension shall temporarily remove the tow service provider from the contract tow rotation list and may be effective a maximum of 60 calendar days after any noted deficiency is corrected, with the period of suspension to be determined by the County Administrator or his designee. Any such revocation shall permanently remove the tow service provider from the contract tow rotation list and shall terminate the Tow Service Provider Contract with the tow service provider. A revoked tow service provider may be reinstated after entering into a new Tow Service Provider Contract but only upon terms and conditions that lead the County Administrator or his designee to conclude that whatever problems or deficiencies had existed are permanently remedied. Such suspension or revocation may be based upon good cause, including but not limited to any one or more of the following:

1. The tow service provider obtained its authority as an authorized tow service provider by fraudulent conduct or false statements;
2. The tow service provider has failed to comply with the provisions of this Article;
3. The tow service provider violated the fee and charge schedule by overcharge;

4. The tow service provider has consistently refused to respond to requests for services from the Emergency Communications Department or the Sheriff's Office or has consistently failed to answer telephone calls from them at the telephone number supplied by the tow service provider;
5. The tow service provider has responded to the scene of an accident, emergency, or impoundment situation, when not specifically called to do so, and solicited wrecker or towing business; and
6. The County is not satisfied with the general services of the owner and/or employees of the tow service provider or with the cooperation it has received from such tow service provider or other justifiable cause.

B. Appeal: Such suspension or revocation shall be by written notice to the tow service provider and shall contain the reasons for the suspension or revocation. The tow service provider may appeal such decision to the Board of County Commissioners or its designee by filing notice with the County Administrator within 10 calendar days of the notice of suspension or revocation. The Board of County Commissioners or its designee shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation.

C. No Vested Rights: Nothing in this Article, the County's designation as an authorized tow service provider, the County's entering into a Tow Service Provider Contract with any tow service provider, or the County's utilization of any tow service provider for tows shall confer any vested property rights upon the tow service provider to continue as an authorized tow service provider, to remain on the County contract tow rotation list, or to tow any vehicle for the County.

1-1511. SOLICITATION PROHIBITED. No tow service provider or tow service provider's employee, driver or contractor shall stop, stand or park a tow truck at or near the scene of an accident or at or near a disabled vehicle within the unincorporated areas of the County for the purpose of soliciting an agreement for towing services, unless such tow service provider, employee, driver or contractor has been called to the scene by the Emergency Communications Department, the Sheriff's Office, another law enforcement agency, or by the owner or authorized representative of an involved vehicle.

1-1512. ACCESS TO PERSONAL PROPERTY. Any owner or authorized representative of a vehicle towed pursuant to this Article shall have access to personal property that is not affixed to such vehicle for up to 96 hours

after such vehicle has been towed, and such personal property shall be released to said owner or authorized representative within one hour of the owner or authorized representative's request; except, however, if it is being held or seized as evidence. By becoming an authorized tow service provider and being placed on the County contract tow rotation list, each authorized tow service provider waives any possessory lien, to the extent it even has one, in any such personal property. The authorized tow service provider shall not charge any additional fee for retrieval of personal property during the hours and days specified in Section 1-1507 of this Article, as amended. For personal property released during other times, the authorized tow service provider may not assess a charge in excess of the maximum fee provided for in Section 1-1513 of this Article, as amended.

1-1513. MAXIMUM TOW, STORAGE, AND RELATED FEES.

- A. Charges for towing, storage and other related services in connection with any vehicle towed or impounded pursuant to the County contract tow rotation list or otherwise towed without the prior consent or authorization of the owner or operator of the vehicle shall not exceed the maximum fees and charges that the Board of County Commissioners adopts by resolution, as amended and in effect from time to time. These charges are the sole and exclusive charges that may be legally imposed for such towing, storage and other related services and it shall be unlawful to charge fees in addition to or in excess of such maximum fees and charges. All other charges not identified in this Article or by resolution are expressly prohibited, including, without limitation, fuel surcharges, gate fees or other similar unauthorized fees to retrieve vehicles or remove personal property.
- B. These fees include clean-up of all accident debris, including but not limited to the use of oil dry or a similar product to clean up any fluid spills.
- C. A tow service provider or other tow operator may charge a full day's storage fee for any portion of a day the vehicle is stored; provided, however, that no fee shall be charged if the owner or authorized representative retrieves the vehicle within the first 24 hours; provided further that no fee shall be charged for any additional day if a vehicle is stored for the additional day as a result of the tow service provider's or tow operator's failure to release the vehicle to the owner or authorized representative as required of authorized tow service providers in this Article.

1-1514. SEVERABILITY. If any provision of this Article or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

1-1515. PENALTY.

- A. Anyone who directly or indirectly violates any provision of this Article shall be guilty of a misdemeanor fined not less than \$100 nor more than \$500, or by up to one month imprisonment in jail, or both such fine and imprisonment.
- B. Any penalty imposed by this provision shall be in addition to any other remedy at law or equity available to the County, including but not limited to damages for any failure to comply with the provisions of a Tow Service Provider Contract.

SECTION II. Effective Date. This Resolution shall take effect and be in force from and after the later of the following to occur: (i) its publication once in the official County newspaper, and (ii) November 1, 2012.

IN WITNESS WHEREOF, the foregoing Resolution was adopted this \_\_\_\_\_ day of September, 2012.

**BOARD OF COUNTY COMMISSIONERS OF  
DOUGLAS COUNTY, KANSAS:**

\_\_\_\_\_  
Mike Gaughan, Chair

\_\_\_\_\_  
Nancy Thellman, Member

\_\_\_\_\_  
Jim Flory, Member

ATTEST:

\_\_\_\_\_  
Jameson D. Shew, County Clerk



**MEMORANDUM**

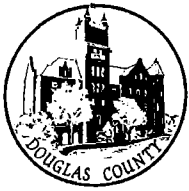
**To:** Craig Weinaug, Douglas County Administrator  
**From:** Chad Luce, Westar Energy  
**Date:** September 11, 2012  
**Re:** Douglas County Fairgrounds Easement

As we discussed at the August 8, 2012, County Commission Meeting, Westar Energy is requesting a utility easement on the eastern boundary of the Douglas County Fairgrounds. This easement on Fairgrounds property will save Westar approximately three months of construction time and will increase reliability to the new substation.

Westar's Transmission Department has determined that the line can be constructed with just two poles on Fairgrounds property. I understand that the Douglas County Fairgrounds Board has voted to support the easement.

I will attend the September 19, 2012, County Commission Meeting to discuss our request in greater detail. It is my hope the County Commission will conceptually approve the granting of the easement, with terms to be negotiated between the County Administrator and Westar.

Please let me know if you have any questions. Thank you for your consideration.



## DOUGLAS COUNTY ZONING & CODES DEPARTMENT

2108 W 27<sup>th</sup> Street, Suite I  
Lawrence, Kansas 66047-3168  
(785) 331-1343 Fax (785) 331-1347

### MEMORANDUM

**TO:** Douglas County Board of County Commissioners

**FROM:** Linda M. Finger, Interim Director of Zoning & Codes/Planning Resource Coordinator

**DATE:** September 13, 2012

**RE:** Tim Hoyt, 32 N 1000 Road, Overbrook, Kansas 66524  
Change the use of an existing non-conforming accessory building.

Mr. Timothy Hoyt has submitted a written request for a change in the use of the northern part of his existing non-conforming accessory building, located at 32 N 1000 Road. This portion of the building was previously used, by a former property owner, as a horse arena for public use, and is being requested to be changed by the current owner to a boat storage facility. Section 12-320-2.02 of the Zoning Regulations addresses the change in use of existing non-conforming buildings. The Board of County Commissioners is the body granted the authority to consider such requests.

The non-conforming building is actually three structures created over a period of more than 60 years. The original barn structure was built in 1940, based on real estate appraisal records. The lean-to was also built in 1940. The loafing shed was built in 1998 and the farm utility building (where the proposed use change will be located) was built in 2001. The Zoning Regulations took effect in Douglas County in September 1966. Building codes were first adopted in 1987. The loafing shed and farm utility buildings were constructed after adoption of the Zoning Regulations and/or the building codes, but as agricultural structures no permits or inspections were required.

From a zoning and land use perspective, a horse arena is a place of public assembly, typically found with a commercial stable. The parking requirements for an arena are greater than those for a warehouse/ boat storage facility. For example, the parking requirement for an arena (section 12-316) is based on occupancy and the requirement for a warehouse is based on employees (re: "1 per 5 seats of seating spaces" for an arena compared to "1 per 2 employees on maximum work shift" for a warehouse/storage facility). The number of parking spaces for the same use area is less for a boat storage facility with no employees (0) than for an arena with seating or public assembly/occupancy. A commercial riding stable in the current Zoning Regulations requires R-T (Rural Tourism) zoning. A boat storage facility requires either a Conditional Use Permit or business or industrial zoning.

There is no record in the Zoning & Codes office of how the horse arena was used or for how long this use existed. A boat storage use would be "*within the same or more restricted classification as the original non-conforming use*" [re: section 12-320-2.02.c.]

Actions the County Commission can take:

1. Grant approval of the change in use of the non-conforming building subject to the submittal and approval of a CUP for the boat storage facility.
2. Deny the change in use of the non-conforming building, or
3. Defer action and request additional information.

[Relevant sections of the Zoning Regulations are included on the reverse side.]

**DOUGLAS COUNTY ZONING REGULATIONS, CHAPTER XII, DOUGLAS COUNTY CODE**

**DEFINITIONS: 12-303**

**12-303-1.64. NON-CONFORMING USE.** Any building or land lawfully occupied by a use at the time of passage of this Resolution or amendment thereto which does not conform after the passage of this Resolution or amendment thereto with the use regulations of the district in which it is located.

**NON-CONFORMING USE OF BUILDINGS: 12-320**

**12-320-2.01.** Except as otherwise provided herein:

- a. The lawful use of a building, or structure existing at the effective date of this Resolution, or
- b. The lawful use of a building or structure made non-conforming through adoption of amendments to section 12-318 Height, Area and Bulk Requirements or through the dedication of additional road easement for road right-of-way as required in section 11-110(d)(4)(ii) of the Subdivision Regulations (Chapter XI, Article 1 of the County Code), may be continued although such use does not conform to the provisions hereof.

**12-320-2.02.** No non-conforming building, structure, or use shall be changed, extended, enlarged or structurally altered unless:

- a. Such change is required by law or order;
- b. The use is changed to a use permitted in the district in which it is located;
- c. Authority is granted by the Board of County Commissioners to change the use or occupancy, provided the Commission finds the use is within the same or more restricted classification as the original non-conforming use; or,
- d. Authority has been granted by the Board of County Commissioners to extend a non-conforming use throughout those parts of a building which were manifestly designed or arranged for such prior to the date when such use or building became non-conforming.

A building or structure which was made non-conforming solely by its' failure to satisfy setback requirements along road frontage(s) because of the granting, dedication or condemnation of required public road easement or right-of-way; may be changed, extended, enlarged or structurally altered if the change does not further reduce existing building or structure's setback from road right-of-way or easement or otherwise expand its nonconformity.



Linda M. Finger, AICP, CFM, RLA  
Interim Director, Douglas County Zoning & Codes Department  
Planning Resource Coordinator

Dear Linda,

Since my property at 32 North 1000 Road is a mile or so from a boat ramp to Clinton Lake and I own an 80-foot by 66-foot enclosed metal building that is currently not in use, I would like to use this building for boat storage. Fishing boats regularly use 1000 Road to get to the boat ramp, and I expect some boat owners would prefer using boat storage closer to the boat ramp rather than towing their boats a greater distance.

I am requesting a non-conforming use permit from the Douglas County Commission because the building in question is connected by a breezeway to a barn that is within 57 feet of North 1000 road. Because of the breezeway connecting the barn to the proposed boat storage building, the entire structure is considered one building, according to Douglas County Zoning and Codes.

A non-sided lean-to coming out from the south side of the barn is about 17 feet closer to the road than the barn, but if necessary, the lean-to can be taken down. Trees are along the roadway to the south of the barn along North 1000 Road and there are also corrals between these trees and the barn.

My wife and I purchased the property in 2007. The building in question previously was used as a horse arena, and as I understand it, used for horse shows.

The barn was built in 1940. The breezeway and horse arena were constructed in 2001, according to Douglas County Zoning and Codes.

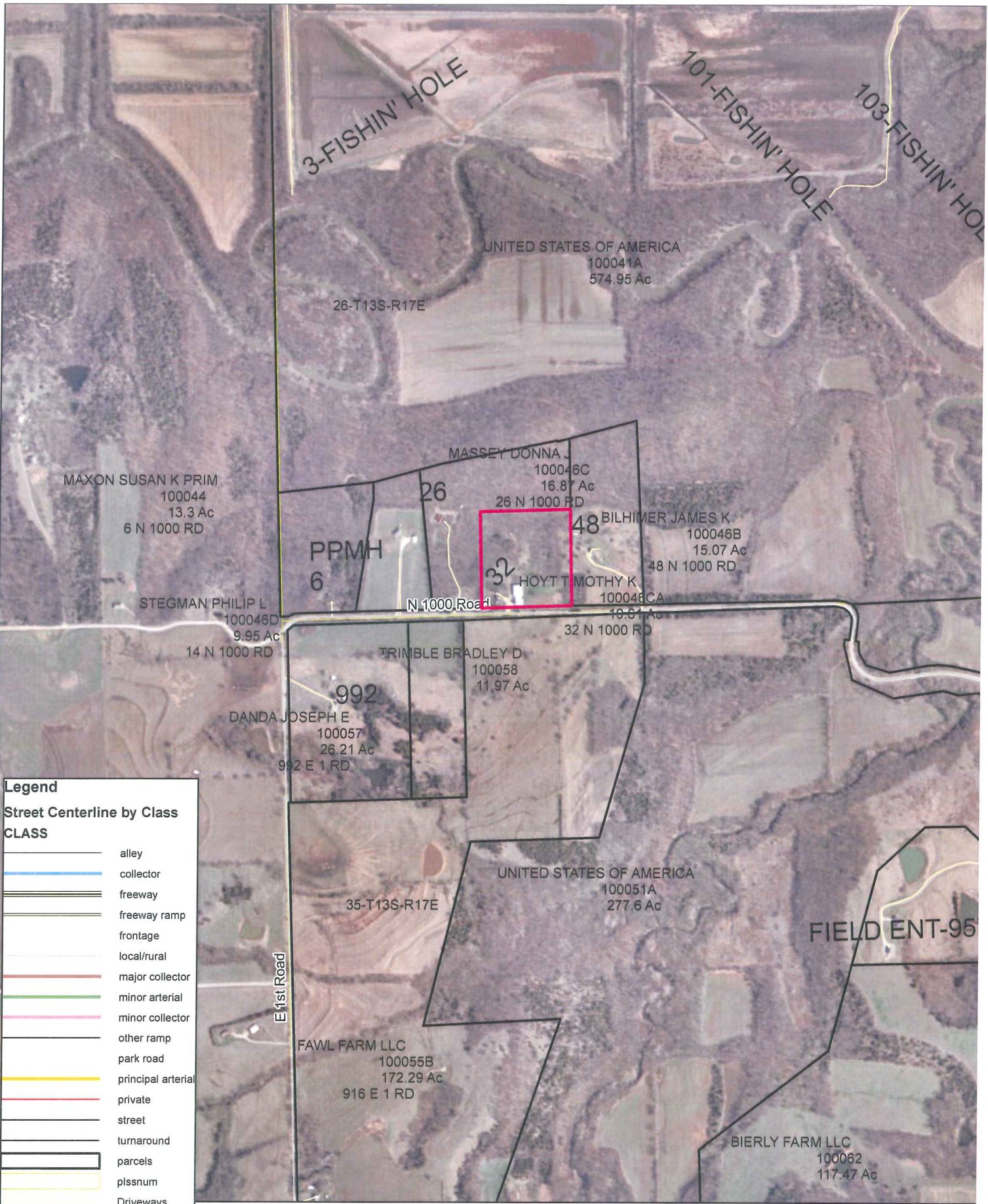
If the non-conforming use permit is allowed, I understand I need to apply to the Douglas County Planning Commission and ultimately the Douglas County Commission for a Conditional Use Permit.

Thank you for your consideration of this request.

Sincerely,

Timothy K. Hoyt





Tim Hoyt  
 32 N 1000 RD  
 Overbrook, KS 66524



**DISCLAIMER NOTICE** - The map is provided "as is" without warranty or any representation of accuracy, timeliness or complete. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use solely on the requester. Douglas County makes no warranties, express or implied, as to the use of the map. There are no in warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.



**Legend**  
Street Centerline by Class

CLASS	Symbol
alley	Thin black line
collector	Blue line
freeway	Thick black line
freeway/ramp	Thin black line
frontage	Thin black line
local/arterial	Thin black line
major collector	Red line
minor arterial	Green line
minor collector	Pink line
other ramp	Thin black line
park road	Yellow line
principal arterial	Yellow line
private	Thin black line
street	Thin black line
turnaround	Thin black line
plisnum	Thin black line
Driveways	Thin black line



Tim Hoyt  
32 N 1000 RD  
Overbrook, KS 66524



**DISCLAIMER NOTICE** - The map is provided "as is" without warranty or any representation of accuracy, timeliness or complete. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use solely on the requester. Douglas County makes no warranties, express or implied, as to the use of the map. There are no warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.

**PLANNING COMMISSION REPORT**  
**Regular Agenda – Public Hearing Item**  
**Joint Hearing with Baldwin City Planning Commission**

PC Staff Report  
8/20/12

**ITEM NO. 1: CONDITIONAL USE PERMIT FOR CREEKWOOD LAWN; 1753 N 700 (SLD)**

**CUP-2-1-12:** Conditional Use Permit request for a truck storage facility for Creekwood Lawn, located at 1753 N 700 Road. Submitted by Shelby Franklin, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

**STAFF RECOMMENDATION:** Staff recommends approval of a Conditional Use Permit for a Truck/Equipment Storage Facility and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report, and subject to the following conditions:

1. Provision of a note on the face of the site plan stating, "The Conditional Use Permit shall expire on December 31, 2017."
2. Provision of a revised site plan to include the following changes:
  - a. Show proposed electrical service to the existing building.
3. The applicant shall obtain from Douglas County a building permit as a condition of continued operation.
4. The applicant shall provide a revised site plan drawing to include the following information:
  - a. The limits of the floodplain need to be clearly shown and labeled on this site plan.
  - b. Note identifying the base flood elevation.
  - c. Note listing the floodplain panel number.
  - d. Note showing the current effective date (08-05-2010).
5. The applicant shall obtain from Douglas County a local floodplain development permit.
6. The applicant shall provide the following information for submission to the State Historic Preservation Officer:
  - a. Cover letter requesting review by the SHPO under K.S.A. 75-2724
  - b. Written description of the project
  - c. Location map showing the listed property and the location of the project
  - d. Photos of the site and photos of the view to and from the listed property.

**Attachments:**

Attachment A: Area Map  
Attachment B: Site Plan  
Attachment C: Historic Map overlay  
Attachment D: Floodplain Boundary Map

**Reason for Request:** *To store my equipment/trucks for my business*

**KEY POINTS**

- § Existing operation with previous CUP.
- § Conditions of approval of original 2003 CUP not met. CUP included time limit that would expire in February 2013.
- § Site includes existing building used for the purpose of storing equipment.
- § Property is located within 1000' of a designated historic resource. Approval required by State

Historic Preservation Office.

§ Local Floodplain Development Permit is required for this property.

### **DESCRIPTION OF USE**

This property is used for storage of trucks, equipment and materials related to a landscape business. Site activity includes some exterior storage. The purpose of this request is to accommodate the storage of vehicles and equipment as allowed, with a Conditional Use Permit, in the A (Agricultural) District.

The existing building was originally constructed as an agriculture building and exempt from building inspection review. The applicant is requesting the addition of electrical service to the building as part of the site improvements. The use of the building based on County Inspection Staff notes that this building does not meet the agricultural exemptions and therefore must be upgraded to comply with minimum building codes.

### **ASSOCIATED CASES/OTHER ACTION REQUIRED**

- Board of County Commissioner's approval of the Conditional Use.
- Release of Conditional Use Permit by the Douglas County Zoning and Codes Office.

### **PUBLIC COMMENT**

No public comment was received prior to the printing of this staff report.

## **I. Zoning and uses of Properties nearby**

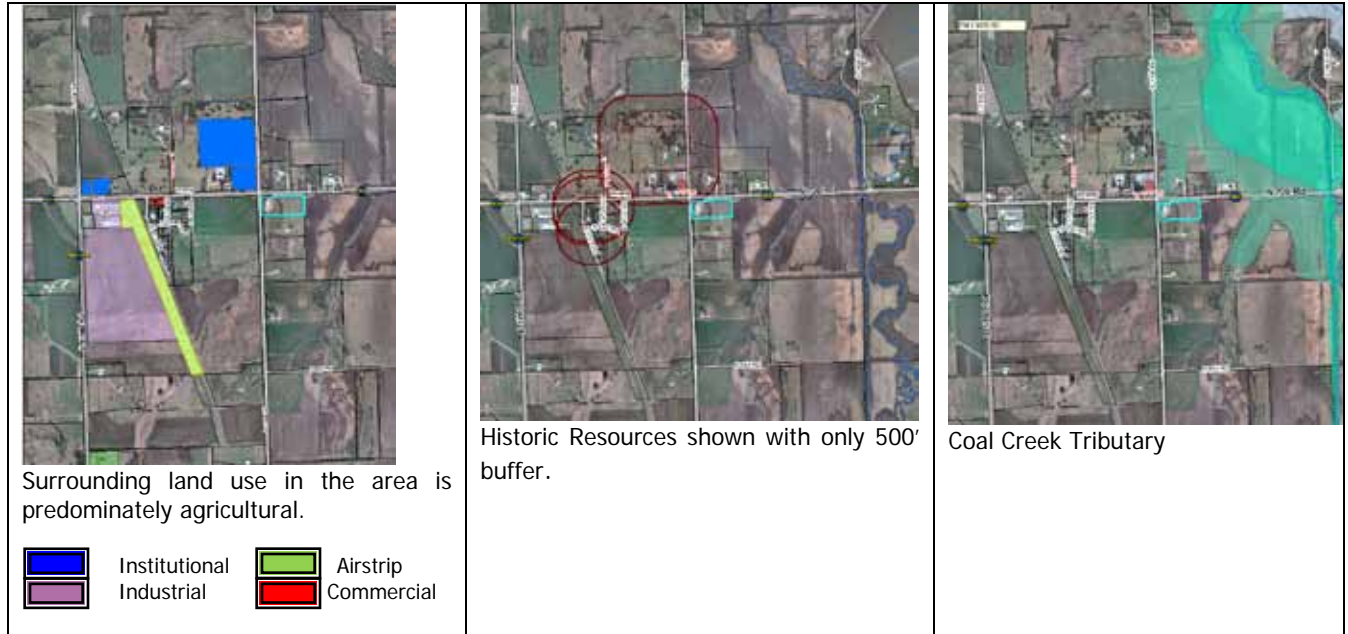
Current Zoning and Land Use: A (Agricultural) District; existing building and exterior storage on 3.87 acres

Surrounding Zoning and Land Use: A (Agricultural) District in all directions. Rural residential homes located along township roads.

- Public school and Vinland Fairgrounds located to the northwest.
- Rural residential homes along the north side of N 700 Road to the north and along E 1750 Road to the south.
- Agricultural field to the east and west.

## **II. CHARACTER OF THE AREA**

The property is located within 3 miles of Baldwin City and within the Vinland community of Douglas County. This unincorporated portion of Douglas County includes predominantly rural residences clustered along the County roads. However, the area also includes McFarlane Aviation, a manufacturing business, a private grass air strip, and several other non-residential uses in the immediate area. Several properties in the area are also of historic significance. The subject property is located within 1000 feet of a designated historic building (the Vinland Fair Grounds Exhibit Building). As such this property is subject to review by the State Historic Preservation Office. This requirement is reflected as a condition of approval. Additionally, the property is encumbered by a portion of the floodplain of the Cole Creek Tributary. A local floodplain development is therefore required.



**Staff Finding** – This portion of Douglas County includes a rich variety of uses and activities. The area is within 3 miles of Baldwin City but is identified as Vinland, an unincorporated town in Douglas County. The overall character of the area is rural with a mix of rural residential homes on smaller lots and larger agricultural tracts in the immediate area. The area includes several historically listed buildings and properties as well as extensive floodplain generally located west of E 1750 Road.

### III. SUITABILITY OF SUBJECT PROPERTY FOR THE USES TO WHICH IT HAS BEEN RESTRICTED

Applicant's response: *"The property is perfectly suitable for my needs."*

**Staff Finding** – A Conditional Use Permit (CUP) does not change the base, underlying zoning. The suitability of the property for agricultural or rural residential use will not be altered. The subject property is located within the community of Vinland and within 3 miles of Baldwin City. The subject property area is zoned for agricultural uses. The subject property is 3.8 acres and consistent with the rural residential development pattern for parcel sizes in this area.

### IV. LENGTH OF TIME SUBJECT PROPERTY HAS REMAINED VACANT AS ZONED

The subject property includes a storage building but no residence. The structure was constructed as an agricultural building; therefore no building permit was issued. The original CUP was approved by the Planning Commission on January 22, 2003. The County Commission approved the CUP on February 24, 2003. The primary activity of this site is as a storage facility for an existing landscape business.

**Staff Finding** – The subject property is developed with an existing storage building for machinery equipment. The County Zoning Regulations were adopted in 1966, this property has been zoned "A (Agricultural)" since that time.

### V. EXTENT TO WHICH REMOVAL OF RESTRICTIONS WILL DETRIMENTALLY AFFECT NEARBY PROPERTY

Applicant's Response: *"Not asking for any removal of restrictions. Just asking to be able to store equipment so I can continue running a business in Douglas County."*

Section 12-319-1.01 of the County Zoning Regulations recognize that *"Certain uses may be desirable when located in the community, but that these uses may be incompatible with other uses permitted in a district...when found to be in the interest of the public health, safety, morals and general welfare of the community may be permitted, except as otherwise specified in any district from which they are prohibited."* The proposed use is included in Section 12-319 Supplemental Use Regulations – Conditional Uses – Temporary Uses.

-4.24 Conditional Uses Enumerated, of the County Zoning Regulations listed as a *"truck storage facility"* use. The Regulations describe a truck storage facility as follows:

*12-319-4.24. Truck storage facility ancillary uses, open or enclosed, provided that wholesale and retail sales not be permitted on the premises. Open storage must meet the minimum yard requirements of the district in which it is located and must be screened by a view reducing wall, fence or landscaping material from adjacent public roads and adjoining properties.*

The existing building has been used for equipment storage of the applicant's lawn service business. The plan shows an area for external storage of mulch and an area for vehicle (employee) and equipment storage along the west side of the property.

Notes on the face of the plan address the limitation of the use to the storage of equipment and materials for the lawn care business. Storage of equipment for other purposes is prohibited. This plan shows screening to be added to the site along the south side to address the standards of the use stated above. The existing vegetation along the west property line provides adequate screening. This area also includes floodplain. The site plan shows that the storage areas are outside of the floodplain areas. Adequate measures have been taken to prevent detrimental impacts to adjacent properties.

Approval of the CUP will provide an opportunity for the applicant to be compliant with the minimum zoning regulations and standards. As a Conditional Use Permit, the issues of screening and buffering to reduce undesirable impacts such as noise and view on residential properties to the south can and should be provided.

**Staff Finding** – Approval of this request will not detrimentally impact adjacent property owners so long as adequate screening is maintained.

## **VI. RELATIVE GAIN TO THE PUBLIC HEALTH, SAFETY AND WELFARE BY THE DESTRUCTION OF THE VALUE OF THE PETITIONER'S PROPERTY AS COMPARED TO THE HARDSHIP IMPOSED UPON THE INDIVIDUAL LANDOWNERS**

Applicant's Response: *"There will be no destruction of value in the property. It will be a usable building with landscape screening."*

The purpose of this criterion is to compare the effect of denial of the request on the public health, safety and welfare to the effect of denial on the individual landowner. If the request were denied, the existing business would be required to relocate to a commercial or industrially zoned location.

The impact to the existing building would be significant in that the investment could not easily be reused except as a strictly agricultural use or with the construction of a residence as a primary use.

Approval of the subject property neither directly benefits the community nor harms the public health, safety and welfare, as the underlying A (Agricultural) zoning district is unchanged. However, approval allows an existing business to remain in Douglas County. The impact of the use for storage of lawn equipment is comparable to other similar requests for truck storage facilities.

**Staff Finding** – There is no significant gain to the public’s health, safety and welfare by permitting the continued use as a Conditional Use Permit. The underlying A (Agricultural) zoning remains unchanged. Denial of the request would prevent the applicant from continuing to operate a business from this location. Approval of the request benefits the applicant by allowing continued operation the business.

## VII. CONFORMANCE WITH THE COMPREHENSIVE PLAN

Applicant’s Response: *“My wife and I still plan on building a home so I do not believe it conflicts with the plan.”*

The subject property is not located within the identified Baldwin City Urban Growth boundary. The property is however, located within 3 miles of the city limits of Baldwin City. The comprehensive plan recommends that agricultural uses continue to be the predominant land use within the areas of the county beyond the designated urban growth areas. **Horizon 2020** encourages the support of local businesses to *“ensure their retention and to facilitate expansion plans for the future.”* Industrial uses are directed to urban areas where services such as sewer, water and transportation options are available. **Horizon 2020** does not address conditional use permits as a tool to achieve specific policies.

**Staff Finding** – The Comprehensive Plan recommends that uses in the rural area be limited to those compatible with agricultural uses and that the design should be consistent with the rural character. A Conditional Use Permit can be used to allow specific non-residential uses subject to approval of a site plan. This tool allows proportional development in harmony with the surrounding area. The proposed request is consistent with the Comprehensive Plan.

## STAFF REVIEW

### Joint Hearing

County Resolution No 80-5 established the policy that a joint hearing be held for requests within 3 miles of the incorporated cities in Douglas County so that the County Commission would have the benefit of both Planning Commissions’ recommendations. A joint meeting is being held between the Lawrence/Douglas-County Metropolitan Planning Commission and Baldwin City Planning Commission. Both recommendations will be forwarded to the Board of County Commissioners.

### Site Summary:

Subject Property: 3.8 acres  
Existing Building: 2,400 SF (40’x 60’)

Off Street Parking Required: 1 space per two employees—[No on-site employees]  
Employees leave personal vehicles on site while business vehicles are taken to specific job sites.  
28’ by 23’ space provided for employees parking – approximately 3 spaces are provided.

## STAFF REVIEW

The subject property is located in the southeast portion of Douglas County within the Vinland area. The original 2003 application was the result of a change in the County Zoning Regulations relating to Home Occupations. This business could not operation as a home occupation since there was an accessory building on-site without a primary residential structure.

The existing building has never had an inspection because it was constructed under the Agricultural Building exemption. The applicant has indicated to County Staff that he would like electrical service extended to the building. A Douglas County inspector visited the site and did a cursory review of the building, notifying the applicant of additional information needed to bring the building into compliance with minimum building codes. The building is not an “agricultural building”. As a condition of approval, staff recommends the applicant obtain a commercial building permit for the existing structure and that the building be improved to meet current code requirements.

Approval of this request would allow a “commercial type business” within an existing rural area. The subject property is not located within any urban growth area. It should be noted that if the applicant resided on this property, this use may qualify as a Home Occupation and a CUP would not be required.

**Setback Requirements** - Building setback requirements for the “A” District are as follows:

- Front Yard - 50'
- Side Yard - 15'
- Rear Yard - 50'

Setback requirements are measured from the property lines. The building is accessed from N. 700 Road. The existing structure complies with the minimum yard requirements. The subject property is described by metes and bounds; it is not a platted property. The storage areas are generally setback from the west property line 15' or more. Additionally since this area is encumbered by regulatory floodplain staff required the applicant to show that the storages areas were also located outside of the floodplain.

**Access to the site** - Specific access to the site is provided via a driveway from N. 700 Road. No changes to the existing access are proposed with this application.

**Screening and Outdoor Storage**- The site plan drawing shows that the area is substantially screened by dense vegetation along the county roadways. Additional screening has been added to the site to screen the exterior areas from adjacent property to the south and east.

**Floodplain**-As noted in the description of the neighborhood above, a portion of this property is encumbered by the regulatory floodplain of Coal Creek. There is no floodplain development permit for this property. From the site plan and visual inspection by Douglas County inspection staff, it appears that development of the site has occurred outside the limits of the floodplain. Prior to the adoption of the August 2010 FEMA maps, the property was not in the regulatory floodplain.





If new development or changes to the existing site are proposed, the applicant will be required to make application for a floodplain development permit. Additional information should be added to the site plan to reference the regulatory floodplain that encumbers this property. This plan was not prepared by a surveyor or engineer. Any future changes to the site shall require a detailed survey of the site. Staff recommends the site plan be revised to provide the necessary floodplain references and notes on the face of the drawing.

**Time Limit** -This use is clearly a business, not an agricultural use. The existing building is not used for any agricultural purpose. This property has been the subject of zoning violations and complaints from nearby residents. This request is intended to address compliance issues as a new Conditional Use Permit and address complaints by the addition of berms and screening along the south side of the property. Staff recommends, based on comments from the Douglas County Zoning and Codes office this approval be limited to 5 years at this location. If the applicant wishes to continue or intensify the use (e.g. include a business office) then an appropriate commercial or industrial zoning district would be required or the business would need to be relocated to an appropriately zoned property.

A Conditional Use Permit with a time limit is recommended to expire on one of two dates to allow better administration of enforcement by County Staff. These date ranges are:

- January 1/December 31 or
- June 30/July 1.

Staff recommends this CUP expire on December 31, 2017. This time limit is intended to provide the applicant adequate time to resolve the existing violations and make permanent arrangements for the continued operation of this business.

### **Conclusion**

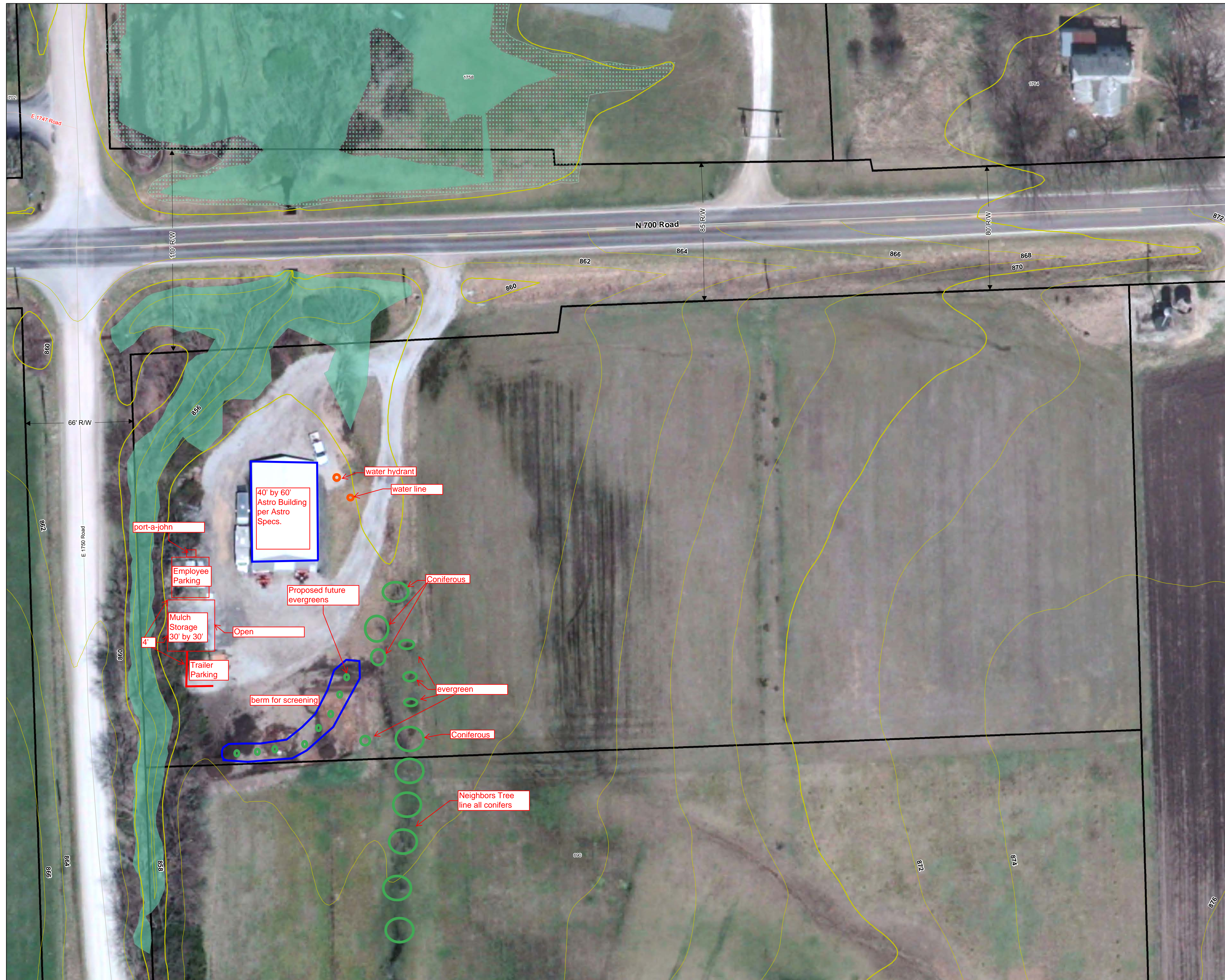
A Conditional Use Permit does not allow the range of uses found in commercial or industrial districts. Approval of a CUP can be tailored to address specific issues such as intensity or frequency of use, include time limitations, and provide screening requirements.

This use could have existed as an extension of a Home Occupation if a single-family residence was already constructed on this property. The applicant has indicated a long term plan to establish a residence on this property. There is no benefit to denial of the request for the application. This would result in the relocation of the business to another commercial or industrially zoned location. The benefit results in the continued operation of a local business. The access to the property is immediately adjacent to a paved road and county highway network. There is no public harm in approval of the request.

All vehicles and equipment are intended to be stored within the existing building or in designated areas on the site. It is assumed that only minor maintenance of these vehicles will also be provided within this building.

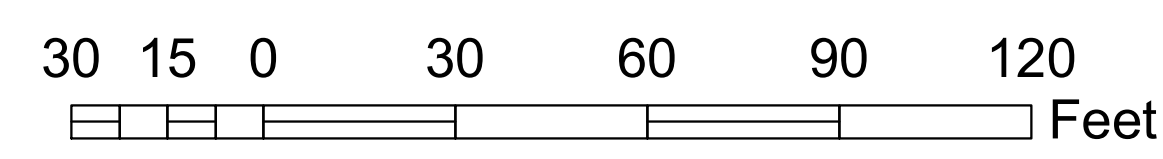
This Conditional Use Permit (CUP-12-00030) would allow the continued operation of an existing landscape business in Douglas County for a limited time.

Shelby D. Franklin Property,  
1753 N 700 Road  
Baldwin City, KS



General Notes:  
a. Topography shown on 2' intervals  
b. Employees shall not work on property except to pick up, drop off and or service vehicles, equipment and/or machinery  
c. Portajohn on west side of building serviced by A-1  
d. Water is the only utility on the property  
e. Dimensions of adjacent roadways shown  
f. The approved use for this site is an interior equipment storage facility for vehicles and all related lawn care machinery. Repair and/or services stored vehicles and/or all related lawn care machinery other than that necessary for standards maintenance/upkeep is prohibited.  
g. Any exterior storage of material shall be located completely screened per section 12-319-4.31 of the County Zoning Regulations.  
h. The addition of exterior storage of materials shall first require a revision to the site plan portion of the CUP  
i. Existing landscaping shown, berm shown is in the process of being completed and will be planted with evergreen trees for screening in September/October 2012.  
• When employees are not working, there are company trucks in the spaces  
• Much is not stored year-round. Large deliveries are made to the site for spring and fall.  
• The majority of grass clippings and brush are dumped at the City Compost facility, we report monthly to Cassandra Ford.  
**Legal Description:**  
Legal Description: 5.01 Ac., S15-T14-R20 beginning at the north west corner of the NE 1/4 TH N89DEG40'07"E 659.23 FT, SD PT BEING ON N LINE NE 1/4; TH S 0DEG03'09"E 662.1 FT THS89DEG40'07"W 659.23 FT, SD PT BEING ON W LINE NE 1/4; TH N 0DEG03'09"W 662.1 FT TO PT BEG, LESS 5.01A D 804/381 WW35 (DIV2003 7001168)

— Contour line (2' elevation intervals)  
▭ Parcel Ownership Boundary  
**August 5, 2010 FEMA Flood Maps**  
▨ 500 YEAR, 0.2 PCT ANNUAL CHANCE  
■ 100 YEAR, ZONE AE



1 inch = 30 feet

Date: 6/8/2012

DISCLAIMER NOTICE  
The map is provided "as is" without warranty or any representation of accuracy, timeliness or completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the requester. The City of Lawrence makes no warranties, express or implied, as to the use of the map. There are no implied warranties of merchantability or fitness for a particular purpose. The requester acknowledges and accepts the limitations of the map, including the fact that the map is dynamic and is in a constant state of maintenance, correction and update.

Drawing prepared by Lawrence-Douglas County Planning and Development Services Department  
Aerial Photo was flown in the spring of 2009  
June 7, 2012

Shelby D. Franklin Property,  
1753 N 700 Road  
Baldwin City, KS

CUP-12-17-02

- a. Topography shown as 2' intervals
- b. Employees shall not work on property except to pick up, drop off and or service vehicles, equipment and for machinery
- c. Portjohn on west side of building serviced by A-1
- d. water is the only utility on the property
- e. Dimensions of adjacent roadways shown
- f. "The approved use for this site is an interior equipment storage facility for vehicles and all related lawn care machinery. Repair and/or servicing stored vehicles and/or all related lawn care machinery other than that necessary for standard maintenance/upkeep is prohibited"
- g. "Any exterior storage of material shall be located completely screened per section 19-4(24) of the City Zoning Regulations"
- h. "The addition of exterior storage of materials shall first require a revision to the site plan portion of the CUP."
- i. Existing landscaping shown. Barn shown is in the process of being completed and will be planted with Evergreen trees for screening in September/October.

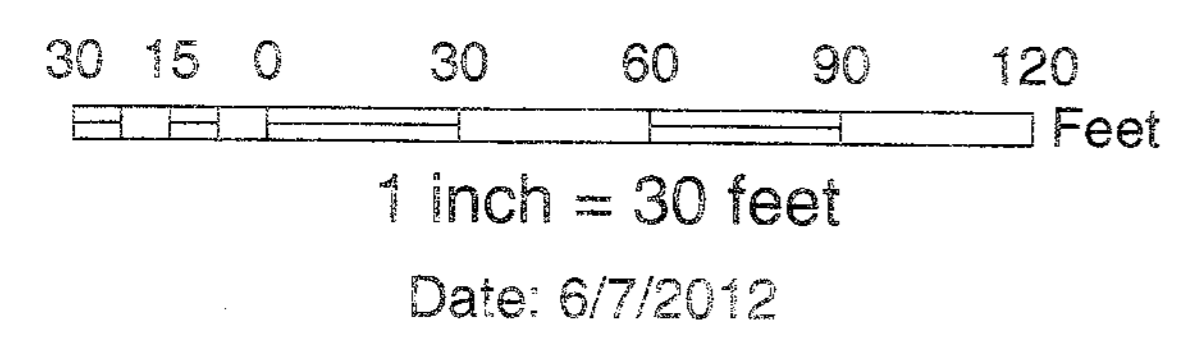
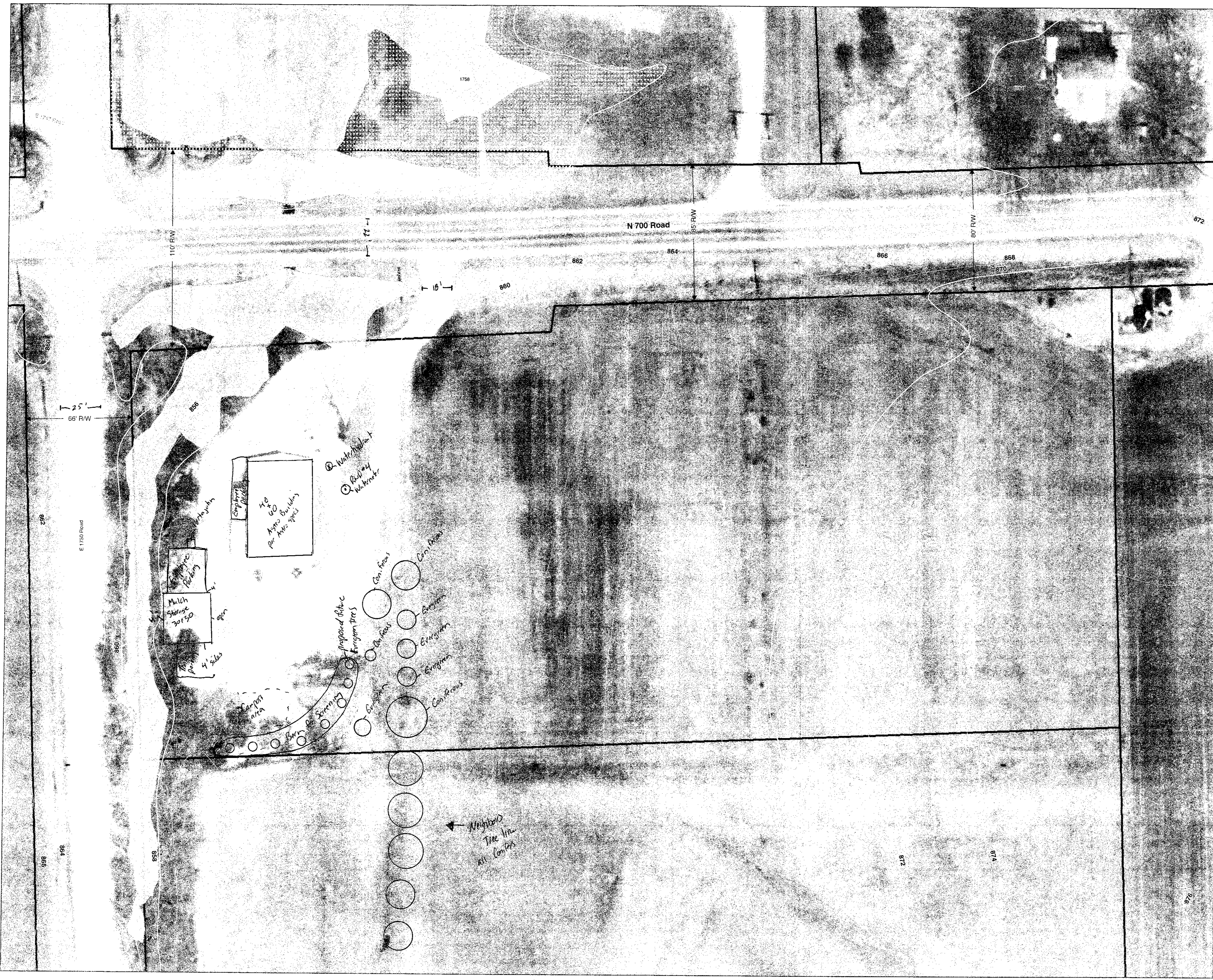
- \* When employees are not working, there are company trucks in those spaces. \*
- \* Mulch is not stored year round, I bring it in for spring and then again for fall \*
- \* We dump a majority of our grass clippings + brush at the city compost, we report monthly to Cassanda Ford \*

Legal Description

S21A 15-14-20 B25 W NW Cor  
NE 1/4 TH N89°40'7" E 659.25' 50 PT  
Being on N Line NE 1/4; TH S 0° 5' 9" E  
602.7 FT TH S89°40'7" W 659.25' 50 PT  
Being on W Line NE 1/4; TH N 0° 5' 9" W 602.11' to Pt B25, Less S21A DEEM/39  
1 W/55' (P1220) 70011015

Contour line (2' elevation intervals)  
Parcel Ownership Boundary

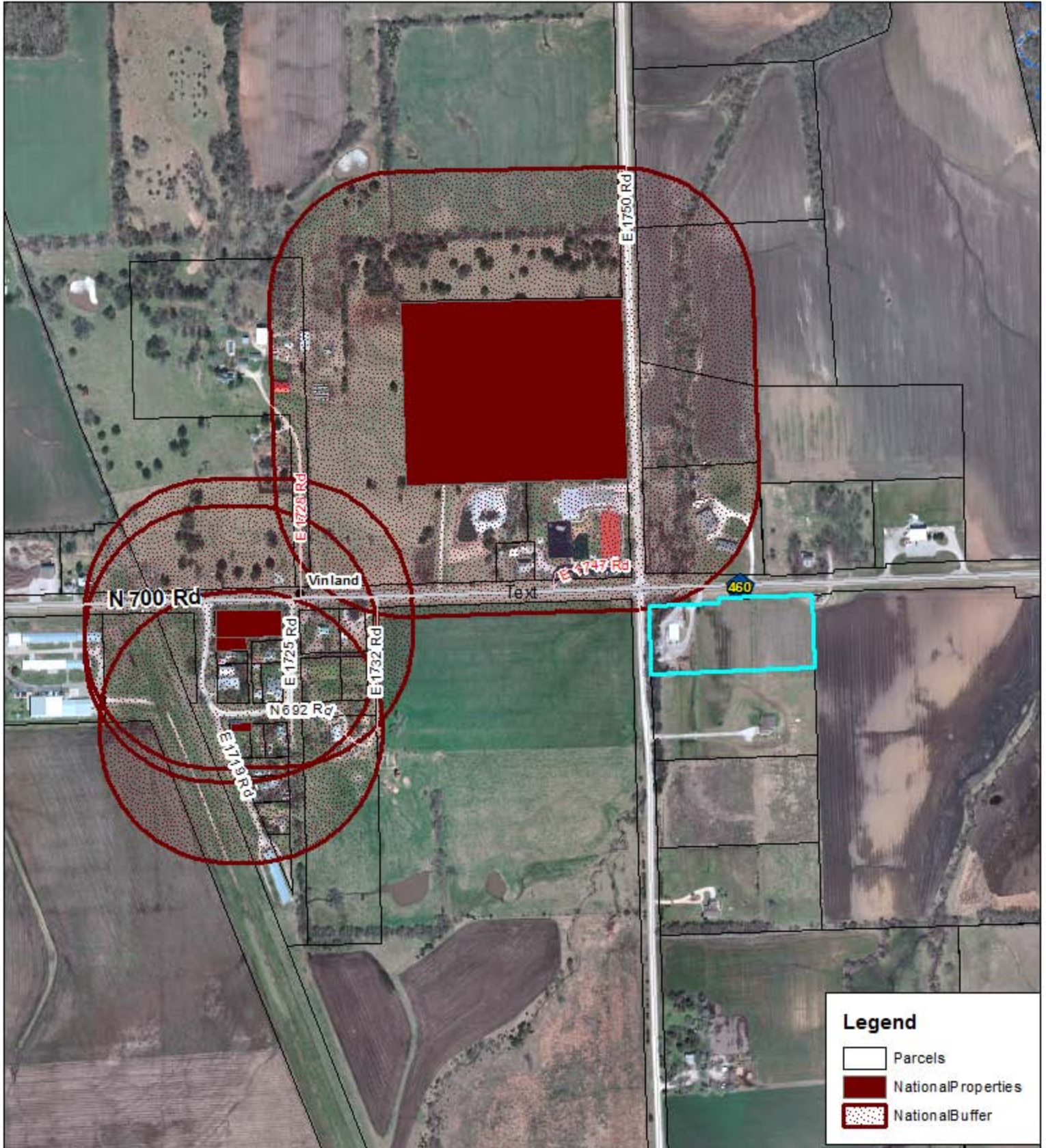
August 5, 2010 FEMA Flood Maps  
500 YEAR, 0.2 POT ANNUAL CHANCE  
100 YEAR, ZONE AE



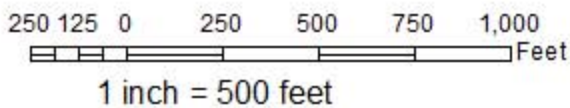
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# Historic Resources Boundary Map

## Vinland Fair Association Fairgrounds Exhibit Building



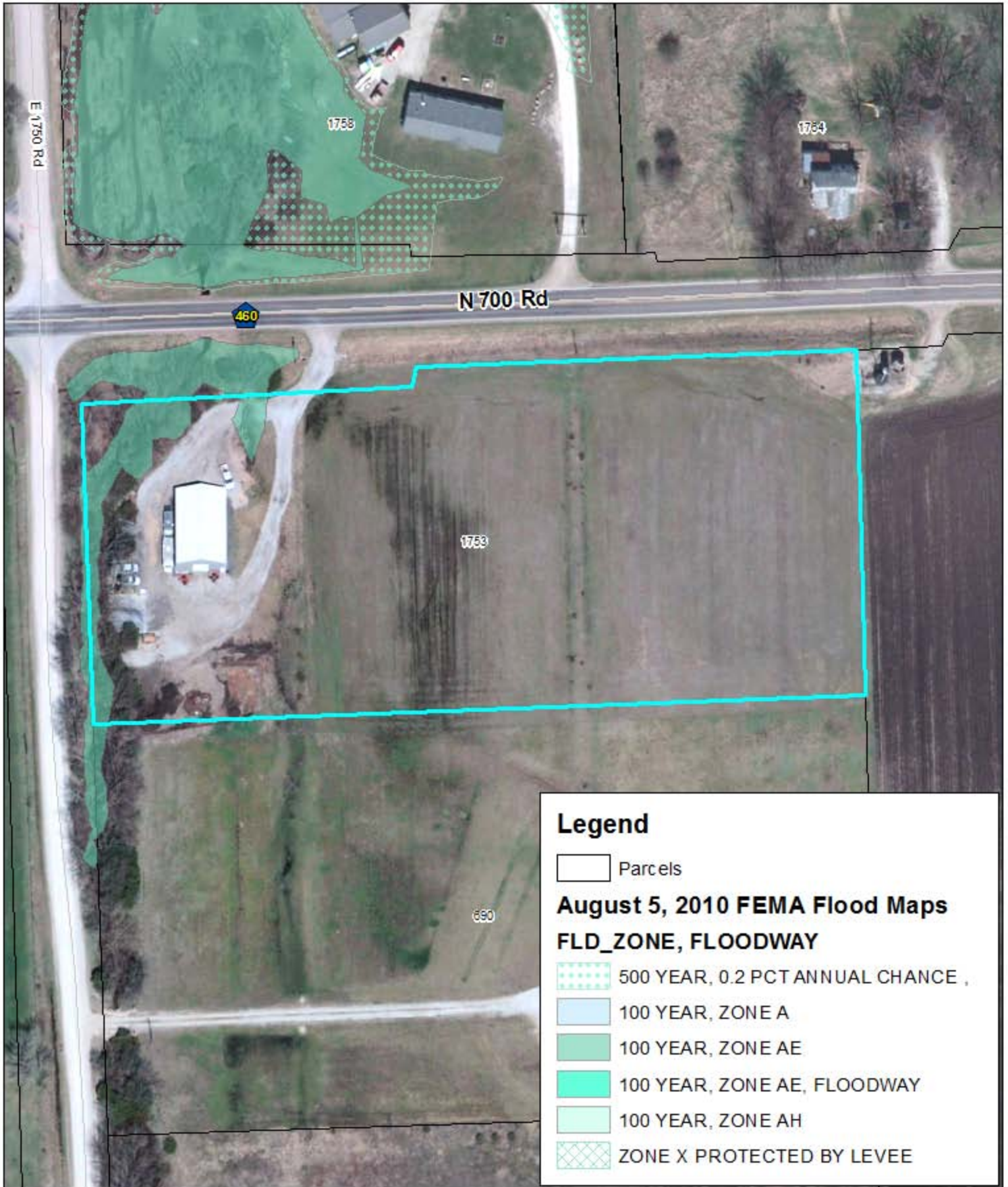
Note: State Review Boundary is 1000'



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# Floodplain Boundary Map

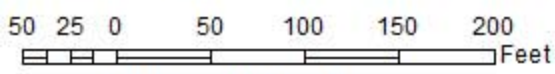


## Legend

Parcels

### August 5, 2010 FEMA Flood Maps FLD\_ZONE, FLOODWAY

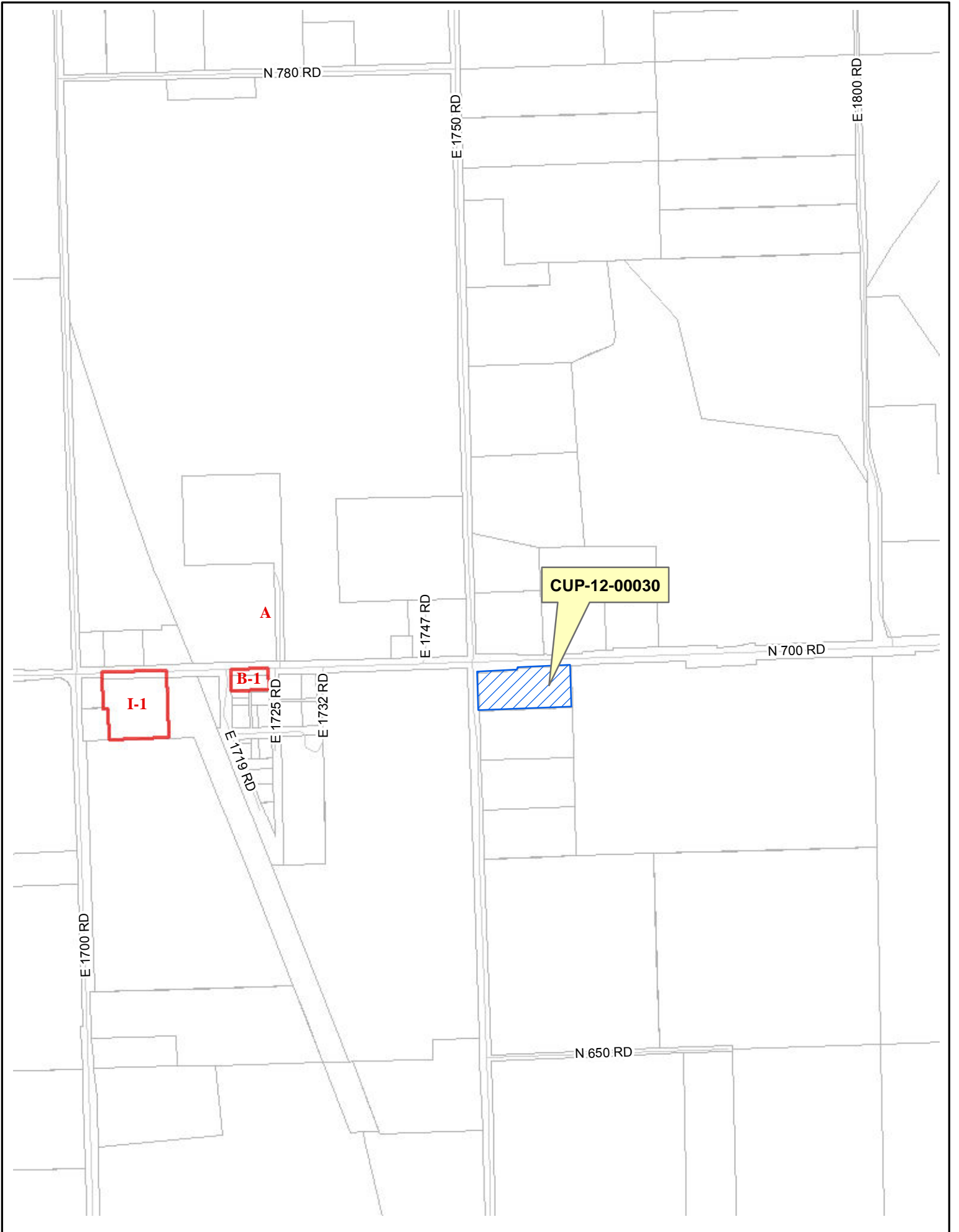
- 500 YEAR, 0.2 PCT ANNUAL CHANCE
- 100 YEAR, ZONE A
- 100 YEAR, ZONE AE
- 100 YEAR, ZONE AE, FLOODWAY
- 100 YEAR, ZONE AH
- ZONE X PROTECTED BY LEVEE



1 inch = 102 feet

**DISCLAIMER NOTICE**  
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Date: 8/16/2012



N 780 RD

E 1750 RD

E 1800 RD

CUP-12-00030

A

E 1747 RD

N 700 RD

I-1

B-1

E 1725 RD

E 1732 RD

E 1716 RD

E 1700 RD

N 650 RD

**ITEM NO. 1      CONDITIONAL USE PERMIT FOR CREEKWOOD LAWN; 1753 N 700 RD (SLD)**

**CUP-12-00030:** Consider a Conditional Use Permit for a truck storage facility for Creekwood Lawn, located at 1753 N 700 Road. Submitted by Shelby Franklin, property owner of record. *Joint meeting with Baldwin City Planning Commission.*

**STAFF PRESENTATION**

Ms. Sandra Day presented the item.

**APPLICANT PRESENTATION**

Mr. Shelby Franklin was present for questioning.

**PUBLIC HEARING**

No public comment.

**COMMISSION DISCUSSION**

Commissioner Hird said he was concerned with limiting the duration of Conditional Use Permits, particularly where a business was trying to obtain financing for an activity. He said a Conditional Use Permit that could expire prior to the end of the term of financing could become problematic from a banking standpoint. He said he would support the staff recommendation but in general was very reluctant to endorse a Conditional Use Permit with a short fuse on it.

Mr. Franklin said he was requesting the Conditional Use Permit due to financing reasons. He said the five year time duration was doable.

**ACTION TAKEN**

Motioned by Commissioner Blaser, seconded by Commissioner Hird to approve the Conditional Use Permit for a Truck/Equipment Storage Facility and forwarding of it to the County Commission with a recommendation for approval, based upon the findings of fact presented in the body of the staff report, and subject to the following conditions:

1. Provision of a note on the face of the site plan stating, "The Conditional Use Permit shall expire on December 31, 2017."
2. Provision of a revised site plan to include the following changes:
  - a. Show proposed electrical service to the existing building.
3. The applicant shall obtain from Douglas County a building permit as a condition of continued operation.
4. The applicant shall provide a revised site plan drawing to include the following information:
  - a. The limits of the floodplain need to be clearly shown and labeled on this site plan.
  - b. Note identifying the base flood elevation.
  - c. Note listing the floodplain panel number.
  - d. Note showing the current effective date (08-05-2010).
5. The applicant shall obtain from Douglas County a local floodplain development permit.
6. The applicant shall provide the following information for submission to the State Historic Preservation Officer:
  - a. Cover letter requesting review by the SHPO under K.S.A. 75-2724
  - b. Written description of the project
  - c. Location map showing the listed property and the location of the project
  - d. Photos of the site and photos of the view to and from the listed property

Unanimously approved 8-0.



## DOUGLAS COUNTY ZONING & CODES DEPARTMENT

2108 W 27<sup>th</sup> Street, Suite I  
Lawrence, Kansas 66047-3168  
(785) 331-1343 Fax (785) 331-1347

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### MEMORANDUM

**TO:** Douglas County Board of County Commissioners  
**FROM:** Zoning & Codes Department, Interim Director  
**DATE:** September 13, 2012  
**RE:** Adoption of **2012 I-Codes** [IRC, IBC, IPC, IMC, IFGC] and **2011 NEC**



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The Building Codes are currently incorporated by reference into Chapter 3 in the Douglas County Code. Working with the County Counselor, the administrative chapter for the new 2012 building codes would be located in an entirely new chapter of the County Code, Chapter 13. All previous Home Rule Resolutions adopted to amend the existing 1997 Uniform Building Code are repealed in Section 5 of this Home Rule Resolution. Those portions of Chapter 3 pertinent to the administration of the 2012 I-Codes and the 2011 NEC are included in the new Chapter 13. Chapter 3 will continue to exist in the County Code as a placeholder or a “reserved” chapter, making it available to the County for future use. One minor change for clarification has been made to an amendment to the electrical code, to more fully explain the existing process followed and the expectations of the work performed. This new language has been highlighted in the draft of Chapter 13, which accompanies this memorandum.

Chapter 13 provides the administrative procedures the building code official and inspectors will follow and the amendments to the 2012 IRC (International Residential Code) and to the 2011 NEC (National Electric Code) that staff reviewed with the Commission on August 29<sup>th</sup>.

The Home Rule Resolution drafted by Evan Ice, which was originally submitted to the Commission on August 29<sup>th</sup>, is also included in this packet. Please note that section 6 of this Resolution indicates the effective date is not the date of adoption, but will be the later or “publication once in the official County newspaper, and (ii) January 1, 2013”.

**Staff Recommendation:** Approval of the Home Rule Resolution provided with this memo that adopts Chapter 13 and incorporates by reference the adoption of the following codes, with the amendments noted in Chapter 13:

- International Building Code, 2012 Edition
- International Residential Code, 2012 Edition
- International Building Code, 2012 Edition
- International Plumbing Code, 2012 Edition
- International Mechanical Code, 2012 Edition
- International Fuel Gas Code, 2012 Edition
- National Electric Code (NFPA 70), 2011 Edition



**HOME RULE RESOLUTION NO. HR-12-\_\_\_\_\_**

A HOME RULE RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS ADOPTING AND INCORPORATING BY REFERENCE THE CONSTRUCTION CODES OF DOUGLAS COUNTY, KANSAS, SEPTEMBER 19, 2012 EDITION, TO BE CODIFIED AT CHAPTER 13 OF THE DOUGLAS COUNTY CODE, GOVERNING AND REGULATING BUILDING AND CONSTRUCTION, INCLUDING BUILDING SYSTEMS AND APPLIANCE, IN THE UNINCORPORATED AREAS OF DOUGLAS COUNTY, KANSAS, CONSISTING OF ADMINISTRATIVE PROVISIONS; THE INTERNATIONAL RESIDENTIAL CODE, 2012 EDITION; THE INTERNATIONAL BUILDING CODE, 2012 EDITION; THE INTERNATIONAL PLUMBING CODE, 2012 EDITION; THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION; THE INTERNATIONAL FUEL GAS CODE, 2012 EDITION; AND THE NATIONAL ELECTRIC CODE (NFPA 70), 2011 EDITION; AND REPEALING RESOLUTION NO. HR-99-6-2, RESOLUTION NO. HR-99-6-3, RESOLUTION NO. HR-99-6-4, AND RESOLUTION NO. HR-99-6-5, ALL AS AMENDED, CODIFIED AT CHAPTER 3, ARTICLE S 1, 2, 3, AND 4 OF THE DOUGLAS COUNTY CODE, TOGETHER WITH ALL OTHER CODE PROVISIONS, RESOLUTIONS OR PARTS OF LAWS IN CONFLICT THEREWITH.

**WHEREAS**, K.S.A. 19-101a, and amendments thereto, authorizes the Board of County Commissioners (hereinafter the "Board") to transact all County business and perform all powers of local legislation and administration it deems appropriate, including the enactment of legislation designed to protect the health, safety, welfare, and quality of life of the citizens of Douglas County; and

**WHEREAS**, by Resolution No. HR-99-6-2, Resolution No. HR-99-6-3, Resolution No. HR-99-6-4, and Resolution No. HR-99-6-5, all as amended, the Board has adopted the Uniform Building Code 1997 Edition; the Uniform Mechanical Code; 1997 Edition; the Uniform Plumbing Code, 1997 Edition; and the National Electric Code, 1999 Edition, respectively, all with certain amendments, which are codified at Articles 1, 2, 3, and 4 of Chapter 3 the Douglas County Code; and

**WHEREAS**, the Board desires to adopt new construction codes and repeal previously adopted codes as provided in this Resolution.

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, SITTING IN REGULAR SESSION THIS \_\_\_ DAY OF \_\_\_\_\_ 2012 AND INTENDING TO EXERCISE THE POWERS OF HOME RULE LEGISLATION PURSUANT TO K.S.A. 19-101a, DOES HEREBY RESOLVE AS FOLLOWS:

**Section 1. ADOPTION OF CONSTRUCTION CODE.** The Construction Codes of Douglas County, Kansas, September 19, 2012 Edition, to be codified at Chapter 13 of the Douglas County Code, is hereby adopted as the "Construction Codes" of the Douglas County, Kansas, regulating and governing the construction, conditions and maintenance of property, buildings and structures; regulating and governing the

construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress; regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems; regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems; regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of fuel gas systems and gas-fired appliances, including gas piping from the point of delivery to the inlet connections of appliances and the installation and operation of gas appliances and related accessories; regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems; providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures; providing for the issuance of permits and collection of fees therefore; and each and all of the terms, conditions, regulations, provisions, and penalties, of said Construction Codes are hereby referred to, adopted, and made a part hereof, as if fully set out herein.

**Section 2. COPIES.** Not less than one copy of the Construction Codes incorporated by reference and adopted herein, together with the International Building Code, 2012 Edition; the International Residential Code, 2012 Edition; the International Plumbing Code, 2012 Edition; the International Mechanical Code, 2012 Edition; the International Fuel Gas Code, 2012 Edition; and the National Electric Code (NFPA 70), 2011 Edition; all adopted therein, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Construction Codes" shall mean the Construction Codes as adopted and amended herein.

**Section 3. SEVERABILITY.** If any section, subsection, sentence, clause or phrase herein or in the Construction Codes is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have adopted the Construction codes, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**Section 4. EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Construction Codes hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or

causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Construction Codes, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Resolution.

**Section 5. REPEAL.** Resolution No. HR-99-6-2, Resolution No. HR-99-6-3, Resolution No. HR-99-6-4, and Resolution No. HR-99-6-5, all as amended, adopting the Uniform Building Code 1997 Edition; the Uniform Mechanical Code, 1997 Edition; the Uniform Plumbing Code, 1997 Edition, and the National Electric Code, 1999 Edition, respectively, all with certain amendments, which are codified at Articles 1, 2, 3, and 4 of Chapter 3 the Douglas County Code, and all other Resolutions or parts of laws in conflict herewith are repealed.

**Section 6. EFFECTIVE DATE.** This is a home rule resolution and shall take effect and be in force and effect from and after its adoption and the later of (i) its publication once in the official County newspaper, and (ii) January 1, 2013.

**ADOPTED** THIS \_\_\_\_ day of \_\_\_\_\_ 2012.

BOARD OF COUNTY COMMISSIONERS OF  
DOUGLAS COUNTY, KANSAS

\_\_\_\_\_  
Mike Gaughan, Chair

\_\_\_\_\_  
Nancy Thellman, Member

\_\_\_\_\_  
Jim Flory, Member

ATTEST:

\_\_\_\_\_  
Jameson D. Shew, County Clerk

**September 19, 2012 Edition of**  
**CHAPTER 13. CONSTRUCTION CODES**  
**OF THE DOUGLAS COUNTY, KANSAS CODE**

Adopted and incorporated by reference on \_\_\_\_\_, 2012 by the Board of Douglas County Commissioners pursuant to Resolution No. HR-12-\_\_\_\_\_.

Incorporating by reference the following codes, with amendments as provided herein:

- International Building Code, 2012 Edition
- International Residential Code, 2012 Edition
- International Building Code, 2012 Edition
- International Plumbing Code, 2012 Edition
- International Mechanical Code, 2012 Edition
- International Fuel Gas Code, 2012 Edition
- National Electric Code (NFPA 70), 2011 Edition

## CHAPTER 13. CONSTRUCTION CODES

- Article 1. Administration
- Article 2. Residential Code
- Article 3. Building Code
- Article 4. Plumbing Code
- Article 5. Mechanical Code
- Article 6. Fuel Gas Code
- Article 7. Electrical Code

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### ARTICLE 1. ADMINISTRATION

- 13-101     **TITLE.** This Chapter and the codes adopted pursuant to the various Articles of this Chapter shall be collectively known as the “Construction Codes of The Unincorporated Areas of Douglas County Kansas”, hereinafter collectively referred to in this Article interchangeably as “this Code” or “the Construction Codes” or “this Chapter.”
- 13-102     **SCOPE.** The provisions of this Chapter shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use, and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances and systems connected or attached to such buildings or structures and located in the unincorporated areas of Douglas County, Kansas, including but not limited to the construction, conditions and maintenance of property, buildings and structures; the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress; the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems; the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems; the conditions and maintenance of plumbing systems; the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of fuel gas systems and gas-fired appliances; the design, construction, quality of materials, erection, installation, alteration repair, location, relocation, replacement, addition to, use or maintenance of electrical systems.
- 13-102.1   **Appendices.** Provisions in the appendices shall not apply unless specifically adopted.
- 13-103     **INTENT.** The purpose of this code is to establish the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress from facilities, stability, sanitation, adequate light and ventilation, energy conservation, and safety to life and property from fire and other hazards attributed to the building environment and to provide safety to fire fighters and emergency responders during emergency operations.

- 13-103.1 **Referenced Codes.** The codes referenced in this Chapter, including the separate codes identified in Sections 103.1.1 through 103.1.6, and those referenced elsewhere in this Chapter and in the foregoing separate codes shall be considered part of the requirements of this Chapter to the prescribed extent of each such reference. Where differences occur between provisions of this Chapter and referenced codes and standards, the more restrictive shall govern.
- 13-103.1.1 **Residential One and Two Family Dwellings.** The provisions of the International Residential Code, 2012 Edition, adopted pursuant to Article 2 of this Chapter, as amended, shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress.
- 13-103.1.2 **Commercial and Multi-Family Structures.** The provisions of the International Building Code, 2012 Edition, adopted pursuant to Article 3 of this Chapter, as amended, shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use, and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.
- 13-103.1.3 **Plumbing.** The provisions of the International Plumbing Code, 2012 Edition, adopted pursuant to Article 4 of this Chapter, as amended, shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.
- 13-103.1.4 **Mechanical.** The provisions of the International Mechanical Code, 2012 Edition, adopted pursuant to Article 4 of this Chapter, as amended, shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems, including ventilating, heating, cooling, air-conditioning and refrigeration systems, incinerators and other energy-related systems. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.
- 13-103.1.5 **Gas.** The provisions of the International Fuel Gas Code, 2012 Edition, adopted pursuant to Article 5 of this Chapter, as amended, shall apply to the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of fuel gas systems and gas-fired appliances, including gas piping from the point of delivery to the inlet connections of appliances and the installation and operation of gas appliances and related accessories. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.
- 13-103.1.6 **Electrical.** The provisions of the 2011 National Electric Code (NFPA 70), 2011 Edition, adopted pursuant to Article 6 of this Chapter, as amended,

shall apply to design, construction, quality of materials, erection, installation, alteration repair, location, relocation, replacement, addition to, use or maintenance of electrical systems. Exception: Buildings or structures regulated by the International Residential Code, 2012 Edition.

- 13-104     **APPLICABILITY.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall be applicable. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.
- 13-104.1   **Other Laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.
- 13-104.2   **Application of References.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Chapter or the applicable code, as the case may be.
- 13-104.3   **Referenced Codes and Standards.** The codes and standards referenced in this Chapter, including the separate codes, as amended, adopted pursuant to the various Articles of this Chapter, shall be considered part of the requirements of this Chapter to the prescribed extent of such reference. Where differences occur between provisions of this Chapter and referenced codes and standards, the more restrictive shall govern.
- 13-104.4   **Partial Invalidity.** In the event that any part or provision of this code is held to be illegal or void, it shall not have the effect of making void or illegal any of the other parts or provisions.
- 13-104.5   **Existing Structures.** The legal occupancy of any structure existing on the date of adoption of this Chapter shall be permitted to continue without change, or as is otherwise deemed necessary by the building official for the general safety and welfare of the occupants and the public.
- 13-105     **ENFORCEMENT AGENCY; BUILDING OFFICIAL.** The Douglas County Department of Zoning and Codes shall administer and enforce the provisions of this Chapter and the official in charge thereof shall be known as the building official.
- 13-105.1   **Appointment.** The Douglas building official shall be appointed by the Douglas County Administrator.
- 13-105.2   **Deputies.** In accordance with the prescribed procedures of Douglas County, the building official shall have the authority to appoint a deputy building official, the related technical officers, inspectors, plan examiners and other employees. Such employees shall have powers as delegated by the building official.
- 13-106     **DUTIES AND POWERS OF BUILDING OFFICIAL**
- 13-106.1   **General.** The building official is hereby authorized and directed to enforce the provisions of this Chapter. The building official shall have the authority to render

interpretations of this Chapter and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Chapter and the codes adopted pursuant to this Chapter. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Chapter.

- 13-106.2 **Applications and Permits.** The building official shall receive applications, review construction documents and issue permits for the erection, and alteration, demolition and moving of buildings and structures and their components, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Chapter.
- 13-106.3 **Notices and Orders.** The building official shall issue all necessary notices or orders to ensure compliance with this Chapter.
- 13-106.4 **Inspections.** The building official shall make all of the required inspections, or the building official shall have the authority to accept reports of inspection by approved agencies or individuals. Reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The building official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.
- 13-106.5 **Identification.** The building official shall carry proper identification when inspecting structures or premises in the performance of duties under this Chapter.
- 13-106.6 **Right of Entry.** Where it is necessary to make an inspection to enforce the provisions of this Chapter, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this Chapter which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Chapter, provided that if such structure or premises be occupied that credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.
- 13-106.7 **Department Records.** The building official shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records for the period required for retention of public records.
- 13-106.8 **Liability.** The building official, member of the Board of Construction Codes Appeals or employee charged with the enforcement of this Chapter, while acting for Douglas County in good faith and without malice in the discharge of the duties required by this Chapter or other pertinent law or ordinance, shall not thereby be rendered liable personally and is hereby relieved from personal liability for any



damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against an officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Chapter shall be defended by legal representative of the jurisdiction until the final termination of the proceedings. The building official or any subordinate shall not be liable for cost in any action, suit or proceeding that is instituted in pursuance of the provisions of this Chapter.

13-106.9 **Approved Materials and Equipment.** Materials, equipment and devices approved by the building official shall be constructed and installed in accordance with such approval.

13-106.10 **Used Materials and Equipment.** The use of used materials which meet the requirements of this Chapter or new materials is permitted. Used equipment and devices shall not be reused unless approved by the building official.

13-106.11.1 **Modifications.** Wherever there are practical difficulties involved in carrying out the provisions of this Chapter, the building official shall have the authority to grant modifications for individual cases, upon application of the owner or owner's representative, provided the building official shall first find that special individual reason makes the strict letter of this Chapter impractical and the modification is in compliance with the intent and purpose of this Chapter and that such modification does not lessen health, accessibility, life and fire safety, or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety.

13-106.11.2 **Flood Hazard Areas.** The building official shall not grant modifications to any provision related to flood hazard areas, as established by Section 1612.3 of the International Building Code, 2012 Edition or Table R301.2(1) of the International Residential Code, 2012 Edition, as the case may be, unless the Douglas County Floodplain Administrator has made a determination that:

1. A showing of good and sufficient cause that the unique characteristics of the size, configuration or topography of the site render the elevation standards inappropriate.

2. A determination that failure to grant the modification would result in exceptional hardship by rendering the lot undevelopable.

3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, cause fraud on or victimization of the public, or conflict with existing laws or resolutions.

4. A determination that the modification is the minimum necessary to afford relief, considering the flood hazard.

Upon any such modification, the Floodplain Administrator shall submit to the applicant a written notice specifying the difference between the design flood

elevation and the elevation to which the building is to be built, stating that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation, and stating that construction below the design flood elevation increases risks to life and property.

13-106.12 **Alternative Materials, Design and Methods of Construction and Equipment.** The provisions of this Chapter are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this Chapter, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the building official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

13-106.12.1 **Research Reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Chapter, shall consist of valid research reports from approved sources.

13-106.12.2 **Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records.

## 13-107 **PERMITS**

13-107.1 **Required.** Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this Chapter, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

13-107.2 **Annual Permit.** In lieu of an individual permit for each alteration to an already approved electrical, gas, mechanical or plumbing installation, the building official is authorized to issue an annual permit upon application therefore to any person, firm or corporation regularly employing one or more qualified tradespersons in the building, structure or on the premises owned or operated by the applicant for the permit.

13-107.3 **Annual Permit Records.** The person to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The

building official shall have access to such records at all times or such records shall be filed with the building official as designated.

13-107.4 **Work Exempt From Permit.** Exemptions from permit requirements of this Article shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this Article or any other laws or regulations of Douglas County. Permits shall not be required for the following:

13-107.4.1 **Building.**

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area is not greater than 120 square feet (11 m<sup>2</sup>)

2. Fences not over 7 feet (2134 mm) high.

3. Oil derricks.

4. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding Class I, II or IDA liquids.

5. Water tanks supported directly on grade if the capacity is not greater than 5,000 gallons (18 925L) and the ratio of height to diameter or width is not greater than 2:1.

6. Sidewalks and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route.

7. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.

8. Temporary motion picture, television and theater stage sets and scenery.

9. Prefabricated swimming pools accessory to a Group R-3 occupancy that are less than 24 inches (610 mm) deep, are not greater than 5,000 gallons (18, 925L) and are installed entirely above ground.

10. Shade cloth structures constructed for nursery or agricultural purposes, not including service systems.

11. Swings and other playground equipment accessory to detached one- and two-family dwellings.

12. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

13. Non-fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches (1753 mm) in height.

14. Agricultural Buildings. Constructing, moving, converting, extending, or enlarging a building to be used solely for agricultural purposes shall be exempt from the necessity of obtaining a building permit if the owner or owners fully completes and files with the building official an application containing information necessary for the building official to determine eligibility for an agricultural building exemption. Such application shall be limited to (1) a statement of the intended use of the building; (2) a description of the real estate upon which the proposed agricultural building is to be located, together with a description of the building or alterations with sufficient detail of size, location, and character or kind of proposed construction, to enable the building official to distinguish and identify it; (3) a statement of an owner acknowledging the owner or owners of the building must obtain a building permit and bring the building into compliance with the building code in the event its use subsequently changes and the building is no longer used solely for agricultural purposes; and (4) such other documents or evidence that the building official reasonably believes necessary to determine that the owner or tenant of the land on which the building is to be placed or constructed is engaged in agricultural pursuits and the building will be used as an agricultural building.

The building official shall not require the owner or owners to provide certificates or drawings of architects, engineers, or other professionals relating to the proposed agricultural building or alterations.

No fee shall be charged for requesting or receiving a building permit exemption under this subsection.

Upon receipt of such properly completed application and determining that the construction or other work is entitled to receive an exemption from the building permit requirement, the building official shall issue to the owner or owners of the building a document evidencing the agricultural building exemption.

Any owner or owners desiring an exemption from the building permit requirement with respect to any particular agricultural building shall apply for and obtain such exemption prior to commencement of the construction or other work. No construction or other work shall be exempt under this subsection unless and until a properly completed application has been filed with the building official and the building official has issued an agricultural building exemption with respect to the building. The failure of an owner or owners to apply for and receive an agricultural building exemption with respect to any building or alteration used solely for agricultural purposes, however, shall not preclude the building official from later issuing an agricultural building exemption with respect to such building or alteration.

The owner or owners of a building that is eligible for an agricultural building exemption pursuant to this subsection who fail to apply for and receive an agricultural building exemption prior to commencement of construction work shall not be subject to any fine or other penalty if an owner of the building

submits an application to the building official before receiving any notice of noncompliance or other formal notice of violation.

For purposes of this subsection, an “agricultural building” and a “building to be used solely for agricultural purposes” is a structure designed, constructed, and used solely to do any one or combination of the following: (a) to house hay, grain, poultry, livestock, or other agricultural or horticultural products; (b) to sort, grade, wash, weigh, package, or otherwise prepare agricultural or horticultural products produced on site for market; (c) to prepare, sort, or house agricultural inputs if such agricultural inputs are to be planted or otherwise used in connection with agricultural pursuits (i) on site, (ii) on other property under common control of the owner or tenant of the property on which the building is located, or (iii) on other property if the use on other property is ancillary to the use of such agricultural inputs on property under (i) or (ii); or (d) to house farm implements, tools and equipment used in connection with any of the foregoing.

Except as expressly provided above, a building is not an “agricultural building” or a “building to be used solely for agricultural purposes” if it is a place of human habitation or a place of employment where agricultural or horticultural products not produced on site are processed, treated or packaged; nor is it an agricultural building if it is a place used by the public (other than a temporary “farmer’s market” predominantly for the sale of agricultural or horticultural products produced or grown on site).

The foregoing definition of agricultural building is solely for purposes of the building code and the owner’s or owners’ ability to obtain an exemption from the requirements of obtaining a building permit. A building used to sell agricultural products grown or produced off site may be an agricultural building for purposes of obtaining an exemption from obtaining a building permit if the predominate products sold are produced or grown on site, while such land use may still require a conditional use permit under applicable zoning regulations.

This subsection shall not exempt signs advertising or identifying agricultural uses such as farms. A building permit for such a sign, however, may be issued if the sign complies with all other applicable regulations and codes.

#### 13-107.4.2 **Electrical.**

1. Repairs and maintenance: Minor repair work, including the replacement of lamps or the connection of *approved* portable electrical equipment to *approved* permanently installed receptacles.

2. Radio and television transmitting stations: The provisions of this code shall not apply to electrical equipment used for radio and television transmissions, but do apply to equipment and wiring for a power supply and the installations of towers and antennas.

3. Temporary testing systems: A *permit* shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

#### 13-107.4.3 **Gas.**

1. Portable heating appliance.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

#### 13-107.4.4 **Mechanical.**

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part that does not alter its approval or make it unsafe.
6. Portable evaporative cooler.
7. Self-contained refrigeration system containing 10 pounds (5 kg) or less of refrigerant and actuated by motors of 1 horsepower (746 W) or less.

#### 13-107.4.5 **Plumbing.**

1. The stopping of leaks in drains, water, soil, waste or vent pipe, provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this Article.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

13-107.4.6 **Emergency Repairs.** Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the building official.

13-107.4.7 **Repairs.** Application or notice to the building official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage,

drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

13-107.4.8 **Public Service Agencies.** A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

13-107.4.9 **Preliminary Meeting.** When requested by the permit applicant or the building official, the permit applicant and the building official shall meet prior to the application for a permit to discuss plans for the proposed work or change of occupancy in order to establish the specific applicability of the provisions of this Chapter.

13-107.10 **Application for Permit.** To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the department of building safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.

2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.

3. Indicate the use and occupancy for which the proposed work is intended.

4. Be accompanied by construction documents and other information as required in the applicable Article.

5. State the valuation of the proposed work.

6. Be signed by the applicant, or the applicant's authorized agent.

7. Give such other data and information as required by the building official.

13-107.11 **Action on Application.** The building official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of pertinent laws, the building official shall reject such application in writing, stating the reasons therefor. If the building official is satisfied that the proposed work conforms to the requirements of this Chapter and laws and resolutions applicable thereto, the building official shall issue a permit therefor as soon as practicable.

13-107.12 **Time Limitation of Application.** An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the building official is authorized to grant one or more

extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause demonstrated.

- 13-107.13 **Validity of Permit.** The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this Chapter or of any other applicable law, resolution or regulation. Permits presuming to give authority to violate or cancel the provisions of this Chapter or other law, resolution or regulation shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent occupancy or use of a structure where in violation of this Chapter or of any other laws, resolutions or regulations.
- 13-107.14 **Expiration.** Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.
- 13-107.15 **Suspension or Revocation.** The building official is authorized to suspend or revoke a permit issued under the provisions of this Chapter wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this Chapter.
- 13-107.16 **Placement of Permit.** The building permit or copy shall be kept on the site of the work until the completion of the project.
- 13-108 **FLOOR AND ROOF DESIGN LOADS**
- 13-108.1 **Live Loads Posted.** Where the live loads for which each floor or portion thereof of a commercial or industrial building is or has been designed to exceed 50 psf (2.40 kN/m<sup>2</sup>), such design live loads shall be conspicuously posted by the owner in that part of each story in which they apply, using durable signs. It shall be unlawful to remove or deface such notices
- 13-108.2 **Issuance of Certificate of Occupancy.** A certificate of occupancy required by any provision of this Chapter shall not be issued until the floor load signs, required hereby have been installed.
- 13-108.3 **Restrictions on Loading.** It shall be unlawful to place, or cause or permit to be placed, on any floor or roof of a building, structure or portion thereof, a load greater than is permitted by this Chapter.
- 13-109 **SUBMITTAL DOCUMENTS**
- 13-109.1 **General.** Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be



submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the building official is authorized to require additional construction documents to be prepared by a registered design professional. Exception: The building official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this Chapter.

- 13-109.2 **Construction Documents.** Construction documents shall be in accordance with Sections 13-109.2.1 through 13-109.2.7.
- 13-109.2.1 **Information on Construction Documents.** Construction documents shall be dimensioned and drawn upon suitable material. Electronic media documents are permitted to be submitted when approved by the building official. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of this code and relevant laws, resolutions, rules and regulations, as determined by the building official.
- 13-109.2.2 **Fire Protection System Shop Drawings.** Shop drawings for the fire protection systems shall be submitted to indicate conformance to this Chapter and the construction documents and shall be approved prior to the start of system installation. Shop drawings shall contain all information as required by the referenced installation standards in Chapter 9 of the International Building Code, 2012 Edition.
- 13-109.2.3 **Means of Egress.** The construction documents shall show in sufficient detail the location, construction, size and character of all portions of the means of egress including the path of the exit discharge to the public way in compliance with the provisions of this Chapter. In other than occupancies in Groups R-2, R-3, and I-1, the construction documents shall designate the number of occupants to be accommodated on every floor, and in all rooms and spaces.
- 13-109.2.4 **Exterior Wall Envelope.** Construction documents for all buildings shall describe the exterior wall envelope in sufficient detail to determine compliance with this code. The construction documents shall provide details of the exterior wall envelope as required, including flashing, intersections with dissimilar materials, corners, end details, control joints, intersections at roof, eaves or parapets, means of drainage, water-resistive membrane and details around openings. The construction documents shall include manufacturer's installation instructions that provide supporting documentation that the proposed penetration and opening details described in the construction documents maintain the weather resistance of the exterior wall envelope. The supporting documentation shall fully describe the exterior wall system which was tested, where applicable, as well as the test procedure used.
- 13-109.2.5 **Site Plan.** The construction documents submitted with the application for permit shall be accompanied by a site plan showing to scale the size and

location of new construction and existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades and, as applicable, flood hazard areas, floodways, and design flood elevations; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The building official is authorized to waive or modify the requirement for a site plan when the application for permit is for alteration or repair or when other-wise warranted.

- 13-109.2.6 **Design Flood Elevations; IBC.** Where design flood elevations are not specified with respect to building and structures regulated by Article 2 (i.e. the International Building Code), they shall be established in accordance with Section 1612.3.1 of the International Building Code, 2012 Edition.
- 13-109.2.7 **Information for Construction in Flood Hazard Areas; IRC.** For buildings and structures regulated by Article 3 (i.e. the International Residential Code) and located in whole or in part in the flood hazard areas as established by Table R301.2(1), construction documents shall include:
1. Delineation of flood hazard areas, floodway boundaries and flood zones and the design flood elevation, as appropriate;
  2. The elevation of the proposed lowest floor, including basement; in areas of shall flooding (AO Zones), the height of the proposed lowest floor, including basement, above the highest adjacent grade;
- 13-109.3 **Examination of Documents.** The building official shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this Chapter and other pertinent laws or regulations.
- 13-109.3.1 **Approval of Construction Documents.** When the building official issues a permit, the construction documents shall be approved, in writing or by stamp, as "Reviewed for Code Compliance." One set of construction documents so reviewed shall be retained by the building official. The other set shall be returned to the applicant, shall be kept at the site of work and shall be open to inspection by the building official or a duly authorized representative.
- 13-109.3.2 **Previous Approvals.** This Chapter shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.
- 13-109.3.3 **Phased Approval.** The building official is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with pertinent requirements of this code. The holder of such permit

for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

- 13-109.3.4 **Design Professional in Responsible Charge.** When it is required that documents be prepared by a registered design professional, the building official shall be authorized to require the owner to engage and designate on the building permit application a registered design professional who shall act as the registered design professional in responsible charge. If the circumstances require, the owner shall designate a substitute registered design professional in responsible charge who shall perform the duties required of the original registered design professional in responsible charge. The building official shall be notified in writing by the owner if the registered design professional in responsible charge is changed or is unable to continue to perform the duties.

The registered design professional in responsible charge shall be responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building.

- 109.3.5 **Deferred Submittals.** For the purposes of this section, deferred submittals are defined as those portions of the design that are not submitted at the time of the application and that are to be submitted to the building official within a specified period.

Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge shall list the deferred submittals on the construction documents for review by the building official.

Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by the building official.

- 13-109.6 **Amended Construction Documents.** Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

- 13-109.7 **Retention of Construction Documents.** One set of approved construction documents shall be retained by the building official for a period of not less than 180 days from date of completion of the permitted work, or as required by state or other local laws.

- 13-110 **TEMPORARY STRUCTURES AND USES**

- 13-110.1 **General.** The building official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but shall not be permitted for more than 180 days. The building official is authorized to grant extensions for demonstrated cause.
- 13-110.2 **Conformance.** Temporary structures and uses shall conform to the structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of this code as necessary to ensure public health, safety and general welfare.
- 13-110.3 **Temporary Power.** The building official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the National Electric Code, 2011 Edition, NFPA 70.
- 13-110.4 **Termination of Approval.** The building official is authorized to terminate such permit for a temporary structure or use and to order the temporary structure or use to be discontinued.
- 13-111 **FEES**
- 13-111.1 **Payment of Fees.** A permit shall not be valid until the fees prescribed herein have been paid. Nor shall an amendment to a permit be released until the additional fee, if any, has been paid.
- 13-111.2 **Schedule of Permit Fees.** On buildings, structures, electrical, gas, mechanical, and plumbing systems or alterations requiring a permit pursuant to the codes adopted under this Chapter, a fee for each permit shall be paid as required according to the following table:

PERMIT FEE SCHEDULE

TOTAL VALUATION	FEE
\$1 to \$500	\$23.50
\$501 to \$2,000	\$23.50 for the first \$500 plus \$3.05 for each additional \$100 or fraction thereof, to and including \$2,000.
\$2,000 to \$25,000	\$69.25 for the first \$2,000 plus \$10.89 for each additional \$ 1,000 or fraction thereof, to and including \$25,000.
\$25,001 to \$50,000	\$391.25 for the first \$25,000 plus \$10.10 for each additional \$1,000 or fraction thereof, to and including \$50,000.

\$50,001 to \$100,000	\$643.75 for the first \$50,000 plus \$7.00 for each additional \$1,000 or fraction thereof, to and including \$100,000.
\$100,001 to \$500,000	\$993.75 for the first \$100,000 plus \$5.60 for each additional \$1,000 or fraction thereof, to and including \$500,000.
\$500,001 to \$1,000,000	\$3,233.75 for the first \$500,000 plus \$4.75 for each additional \$1,000 or fraction thereof, to and including \$1,000,000.
\$1,000,001 to \$5,000,000	\$5,608.75 for the first \$ 1,000,000 plus \$3.15 for each additional \$1,000 or fraction thereof, to and including \$5,000,000.
\$5,000,001 to \$15,000,000	\$17,980.92 for the first \$5,000,000 plus \$1.54 for each additional \$ 1,000 or fraction thereof, to and including \$15,000,000.
\$15,000,001 and above	\$33,562.30 for the first \$15,000,000 plus \$1.02 for each additional \$1,000 or fraction thereof.

Inspection and Other Fees:

1. Inspections outside of normal business hours (minimum charges - two hours) - \$47.00 per hour.\*
2. Reinspection fees assessed under provisions of Section 108.8 - \$47.00 per hour.\*
3. Inspections for which no fee is specifically indicated (minimum charge - one-half hour) - \$47.00 per hour.\*
4. Additional plan review required by changes, additions or revisions to approved plans (minimum charge - one-half hour) - \$47.00 per hour or the total hourly cost to Douglas County, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.
5. Any person who commences any work before obtaining the necessary permits and paying the necessary permit fees shall pay an additional fee equal to 100 percent of the permit fee set forth above, which is in addition to all other required permit fees.
6. The permit applicant shall pay costs of any third party plan review required by the size or complexity of the building project, as determined by the building official.

13-111.3 **Building Permit Valuations.** The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued, such as electrical, gas, mechanical, plumbing equipment and permanent systems. If, in the opinion of the building official, the valuation is

underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the building official. Final building permit valuation shall be set by the building official.

- 13-111.4 **Disposition of Fees.** The building official shall keep, or cause to be kept, an accurate account of fees collected and received under the provisions of this Chapter and record the name of the person on whose account the same was paid, the date and the amount thereof together with the location of the proposed construction or installation to which the fees relate. The building official shall deposit the amount of the fees collected with the County Treasurer.
- 13-111.5 **Work Commencing Before Permit Issuance.** Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee established by the permit fee schedule, which shall be in addition to all other required permit fees.
- 13-111.6 **Related Fees.** The payment of the fee for the construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law.
- 13-111.7 **Fee Refund.** The building official may authorize the refunding of fees as follows:
1. The full amount of any fee paid hereunder that was erroneously paid or collected.
  2. Not more than 50% of the permit fee paid when no work has been done under a permit issued in accordance with this Chapter.
  3. Not more than 50% of a plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

13-112 **INSPECTIONS**

- 13-112.1 **General.** Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this Chapter or of resolutions of Douglas County. Inspections presuming to give authority to violate or cancel the provisions of this Chapter or of other resolutions of Douglas County shall not be valid. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the building official nor Douglas County shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

- 13-112.2 **Preliminary Inspection.** Before issuing a permit, the building official is authorized to examine or cause to be examined buildings, structures and sites for which an application has been filed.
- 13-112.3 **Required Inspections.** The building official, upon notification, shall make the inspections set forth in this Article.
- 13-112.3.1 **Footing and Foundation Inspection.** Footing and foundation inspections shall be made after excavations for footings are complete and any required reinforcing steel is in place. For concrete foundations, any required forms shall be in place prior to inspection. Materials for the foundation shall be on the job, except where concrete is ready mixed in accordance with ASTM C 94, the concrete need not be on the job.
- 13-112.3.2 **Concrete Slab and Under-Floor Inspection.** Concrete slab and under-floor inspections shall be made after in-slab or under-floor reinforcing steel and building service equipment, conduit, piping accessories and other ancillary equipment items are in place, but before any concrete is placed or floor sheathing installed, including the subfloor.
- 13-112.3.3 **Lowest Floor Elevation.** In flood hazard areas, upon placement of the lowest floor, including the basement, and prior to further vertical construction, the documentation required in Section 1612.5 of the International Building Code, 2012 Edition or Section R109.1.3 of the International Residential Code, 2012 Edition, as the case may be, shall be submitted to the building official.
- 13-112.3.4 **Frame Inspection.** Framing inspections shall be made after the roof deck or sheathing, all framing, fire- blocking and bracing are in place and pipes, chimneys and vents to be concealed are complete and the rough electrical, plumbing, heating wires, pipes and ducts are approved.
- 13-112.3.5 **Lath and Gypsum Board Inspection.** Lath and gypsum board inspections shall be made after lathing and gypsum board, interior and exterior, is in place, but before any plastering is applied or gypsum board joints and fasteners are taped and finished. Exception: Gypsum board that is not part of a fire-resistance-rated assembly or a shear assembly.
- 13-112.3.6 **Fire and Smoke-Resistant Penetrations.** Protection of joints and penetrations in fire-resistance- rated assemblies, smoke barriers and smoke partitions shall not be concealed from view until inspected and approved.
- 13-112.3.7 **Energy Efficiency inspections.** Inspections shall be made to determine compliance with energy efficiency requirements and shall include, but not be limited to, inspections for: envelope insulation R- and U-values, fenestration U-value, duct system R-value, and HVAC and water-heating equipment efficiency.
- 13-112.3.8 **Special Inspections.** For special inspections, see Chapter 17 of the International Building Code, 2012 Edition.

- 13-112.3.9 **Final Inspection.** The final inspection shall be made after all work required by the building permit is completed.
- 13-112.3.10 **Flood Hazard Documentation (Elevation Certificate).** If located in a flood hazard area, documentation of the elevations as required in Section 1612.5 of the International Building Code, 2012 Edition or Section R109.1.6.1 of the International Residential Code, 2012 Edition, as the case may be, shall be submitted to the building official prior to the final inspection.
- 13-112.3.11 **Other Inspections.** In addition to the inspections specified in Sections 13-112.3.1 through 13-112.3.10, the building official is authorized to make or require other inspections of any construction work to ascertain compliance with the provisions of this code and other laws that are enforced by the department of building safety.
- 13-112.4 **Inspection Agencies.** The building official is authorized to accept reports of approved inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.
- 13-112.5 **Inspection Requests.** It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this Chapter.
- 13-112.6 **Approval Required.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.
- 13-113 **CERTIFICATE OF OCCUPANCY**
- 13-113.1 **Use and Occupancy.** No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefor as provided herein. Issuance of a certificate of occupancy shall not be construed as an approval of a violation of the provisions of this code or of other resolutions of Douglas County.  
Exceptions:
1. Certificates of occupancy are not required for work exempt from permits under pursuant to this Article.
  2. Accessory buildings or structures.
- 13-113.2 **Certificate Issued.** After the building official inspects the building or structure and finds no violations of the provisions of this code or other laws



that are enforced by the department of building safety, the building official shall issue a certificate of occupancy that contains the following:

1. The building permit number.
2. The address of the structure.
3. The name and address of the owner.
4. A description of that portion of the structure for which the certificate is issued.
5. A statement that the described portion of the structure has been inspected for compliance with the requirements of this Chapter for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
6. The name of the building official.
7. The edition of the code under which the permit was issued.
8. The use and occupancy, in accordance with the provisions of the applicable code.
9. The type of construction as defined in the applicable code
10. The design occupant load.
11. If an automatic sprinkler system is provided, whether the sprinkler system is required.
12. Any special stipulations and conditions of the building permit.

13-113.3 **Temporary Occupancy.** The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.

13-113.4 **Revocation.** The building official is authorized to, in writing, suspend or revoke a certificate of occupancy or completion issued under the provisions of this Chapter wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions of this Chapter.

## 13-114 **SERVICE UTILITIES**

13-114.1 **Connection of Service Utilities.** No person shall make connections from a utility, source of energy, fuel or power to any building or system that is

regulated by this code for which a permit is required, until released by the building official.

13-114.2 **Temporary Connection.** The building official shall have the authority to authorize the temporary connection of the building or system to the utility source of energy, fuel or power.

13-114.3 **Authority to Disconnect Service Utilities.** The building official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this Chapter and the referenced and adopted codes and standards set forth therein in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without the required approval. The building official shall notify the serving utility, and wherever possible the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing, as soon as practical thereafter.

13-115 **BOARD OF CONSTRUCTION CODES APPEALS.**

13-115.1 **General.** In order to determine the suitability of alternate materials and types of construction and in order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of the codes adopted pursuant to this Chapter, there shall be and is hereby created a Board of Construction Codes Appeals, consisting of 5 members who are qualified by experience and training to pass upon matters pertaining to building projects. The Board of Construction Codes Appeals shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction and are not employees of Douglas County. Board of County Commissioners shall use reasonable efforts to appoint members to the Board of Construction Codes Appeals having one of the following qualifications: (1) a license professional engineer; (2) a licensed professional architect; (3) a building contractor or superintendent of building construction; or (4) a master plumber, electrician or other individual in the building trades. Each member of the Board of Construction Codes Appeals shall have had 10 years of experience, no less than 5 years of which shall have been in a position of responsible authority on building projects. No more than two members should be selected from the same profession, business, or trade, and at least one of the members should have professional registration and engineering experience as a structural, civil, or architectural engineer, or architect. Notwithstanding the foregoing, the failure of the members of the Board of Construction Codes Appeals to possess the foregoing qualifications shall not invalidate actions and determinations that the Board of Construction Codes Appeals makes. The building official shall be an ex-officio member and shall act as Secretary to the Board of Construction Codes Appeals. The Board of Construction Codes Appeals shall be appointed by the Board of County Commissioners for terms of office of 4 years. Notwithstanding the foregoing, the members of the Board of Construction Codes Appeals appointed and serving pursuant to the construction codes in place on the effective date of this Section shall continue as members of the Board of Construction Codes Appeals hereby

created for the remainder of their appointed terms, subject to removal or resignation. The Board of Construction Codes Appeals shall adopt reasonable rules and regulations for conducting its investigations and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant, and may recommend to the Board of County Commissioners such new legislation as is consistent therewith. The Board of Construction Codes Appeals shall annually elect or re-elect a Chair and a Vice-Chair from its membership.

13.115.2 **Authority.** An application or appeal shall be based on a claim that the true intent of the applicable code or rules legally adopted thereunder have been incorrectly interpreted, the provisions of the applicable code do not fully apply, or an equally good or better form of construction is proposed. The Board of Construction Codes Appeals, however, shall not have the authority to waive requirements under the applicable code.

13-115.3 **Rules, Meetings, and Records.** The Board of Construction Codes Appeals shall adopt rules to govern its proceedings in accordance with the provisions of this subsection.

1. Meetings of the Board of Construction Codes Appeals shall be held at least once a month if there is business for the Board to consider. Additional meetings may be called at such other times as are determined by the Chair at any time or by the Board of Construction Codes Appeals at regular or special meeting.

2. The Board of Construction Codes Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or filing to vote, indicted such facts.

3. The Board of Construction Codes Appeals shall keep records of hearings, examinations and other action. Such minutes and records shall be public records.

13-115.4 **Appeals.** Any person whose application for a building permit requesting the use of an alternate material or type of construction has been denied by the building official, or who disagrees with the application of the Residential Code, Building Code, Mechanical Code, Plumbing Code, Fuel Gas Code, or Electric Code or other determination of the building official, may appeal the action of the building official to the Board of Construction Codes Appeals by serving written notice upon the building official and paying a \$100 application fee. The notice shall state the action being appealed, the reasons for appeal, and that the applicant shall pay all costs and expenses of tests deemed necessary by Board of Construction Codes Appeals in determining the merits of the appeals. The building official shall at once transmit the notice to the members of the Board of Construction Codes Appeals and schedule a hearing on the matter.

13-115.5 **Authority of the Board of Construction Codes Appeals.** The Board of Construction Codes Appeals may reverse, affirm or modify the decision of the building official. All decisions of the Board of Construction Codes Appeals shall be by a majority of the members of the Board present and voting at which a

quorum is present. Three members shall constitute a quorum for meeting purposes.

13-115.6 **Disposition of Fee.** In the event the Board of Construction Codes Appeals reverses or modifies the decision of the building official, the \$100 application fee shall be refunded to the applicant. If the Board affirms the decision of the building official, the application fee shall be retained by Douglas County and deposited with the County Treasurer to the credit of the general fund.

13-116 **VIOLATIONS AND STOP WORK ORDERS.**

13-116.1 **Unlawful Acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this Chapter, or cause the same to be done, in conflict with or in violation of any of the provisions thereof.

13-116.2 **Notice of Violation.** The building official is authorized to serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this chapter, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this Chapter. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

13-116.3 **Violation Penalties.** Any person who violates a provision of this Chapter or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the building official, or of a permit or certificate issued under the provisions of this Chapter, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500 or by imprisonment for not more than one month, or by both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense. In addition to any other remedies provided by the code or other applicable law, the county or building official may bring civil suit to enjoin the violation of any provisions of the code.

13-116.4 **Stop Work Orders.** Upon notice from the building official or his designee that work on any building or structure is being performed contrary to the provisions of any codes adopted in this Chapter or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work and shall state the conditions under which work will be permitted to resume. Where an emergency exists, the building official shall not be required to give a written notice prior to stopping work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not more than \$500 and such other penalties as prescribed by law.

13-116.5 **Abatement and Injunction of Violation.** The imposition of the penalties herein prescribed shall not preclude the building official or Douglas County from instituting appropriate action to prevent unlawful construction or restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business or utilization of a building or other construction on or about any premises.

13-117 **UNSAFE STRUCTURES AND EQUIPMENT**

13-117.1 **Conditions.** Structures or existing equipment that are or hereafter become unsafe, insanitary or deficient because of inadequate means of egress facilities, inadequate light and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or that involve illegal or improper occupancy or inadequate maintenance, shall be deemed an unsafe condition. Unsafe structures shall be taken down and removed or made safe, as the building official deems necessary and as provided for in this section. A vacant structure that is not secured against entry shall be deemed unsafe.

13-117.2 **Record.** The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

13-117.3 **Notice.** If an unsafe condition is found, the building official shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within a stipulated time. Such notice shall require the person thus notified to declare immediately to the building official acceptance or rejection of the terms of the order.

13-117.4 **Method of Service.** Such notice shall be deemed properly served if a copy thereof is (a) delivered to the owner personally; (b) sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested; or (c) delivered in any other manner as prescribed by local law. If the certified or registered letter is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

13-117.5 **Restoration.** The structure or equipment determined to be unsafe by the building official is permitted to be restored to a safe condition. To the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements of Section 113-107.4.7 and Chapter 34 of the International Building Code, 2012 Edition or Appendix J of the International Residential Code, 2012 Edition, as the case may be.

13-118 **QUALIFICATION AND LICENSURE**

- 13-118.1     **Licensure of Plumbers.** All plumbers practicing their trade within the unincorporated area of Douglas County shall hold a valid license from some Kansas jurisdiction. This license shall be subject to the requirement of K.S.A. 12-1508 *et seq.* and any amendment thereto. Any property owner shall be allowed to do his or her own plumbing work; provided, however, after the second failure to pass a plumbing inspection, a licensed plumber will be required to finish the work.
- 13-118.2     **Licensure of Electricians.** All electricians practicing their trade within the unincorporated area of Douglas County shall hold a valid license from some Kansas jurisdiction. This license shall be subject to the requirement of K.S.A. 12-1525 *et seq.* and any amendment thereto. Any property owner shall be allowed to do his or her own electrical work; provided, however, after the second failure to pass an electrical inspection, a licensed electrician will be required to finish the work.
- 13-118.3     **Licensure of Mechanical Mechanics.** All mechanical heating, ventilation and air conditioning mechanics practicing their trade within the unincorporated area of Douglas County shall hold a valid license from some Kansas jurisdiction. This license shall be subject to the requirement of K.S.A. 12-1540 *et seq.* and any amendment thereto. Any property owner shall be allowed to do his or her own mechanical work; provided, however, after the second failure to pass an electrical inspection, a licensed mechanical heating, ventilation and air conditioning mechanic will be required to finish the work.

## ARTICLE 2. RESIDENTIAL CODE

13-201 **ADOPTION OF INTERNATIONAL RESIDENTIAL CODE.** The International Residential Code, 2012 Edition, including the following Appendix Chapters:

Appendix E	Manufactured Housing Used as Dwellings
Appendix F	Radon Control Methods
Appendix G	Swimming Pools, Spas and Hot Tubs
Appendix J	Existing Buildings and Structures
Appendix P	Sizing of Water Piping Systems

as published by the International Code Council, is hereby adopted as the “Residential Code” of Douglas County, Kansas, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions, and said Residential Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Residential Code of Douglas County, Kansas, hereinafter interchangeably referred to as the “Code” or the “Residential Code.”

13-202 **COPIES.** Not less than one copy of the International Residential Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the “Residential Code” shall mean the International Residential Code, 2012 Edition, as adopted and amended herein.

13-203 **AMENDMENTS TO RESIDENTIAL CODE.** The International Residential Code, 2012 Edition is amended or supplemented as provided below.

13-203.1 Chapter 1 of the Residential Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-203.2 **Table R301.2 (1). Climatic and Geographic Design Criteria.** Table R301.2(1) is completed and inserted to read as follows:

Table R301.2(1)  
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

GROUND SNOW LOAD	WIND DESIGN		SEISMIC DESIGN CATEGORY <sup>f</sup>	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP <sup>e</sup>	ICE BARRIER UNDERLAYMENT REQUIRED <sup>h</sup>	FLOOD HAZARDS <sup>g</sup>	AIR FREEZING INDEX <sup>i</sup>	MEAN ANNUAL TEMP <sup>j</sup>
	Speed <sup>d</sup> (mph)	Topographic effects <sup>k</sup>		Weathering <sup>a</sup>	Frost line depth <sup>b</sup>	Termite <sup>c</sup>					
20 lbs psf	90 mph	No	A	Severe	30"	Moderate to Heavy	4° F	No	See note g below	778	56° F

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

- a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index (i.e., "negligible," "moderate" or "severe") for concrete as determined from the Weathering Probability Map [Figure R301.2(3)]. The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.
- b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The stated depth in the frost line depth column is the minimum depth of footing below finish grade.
- c. This part of the table indicates the need for protection based upon a history of local subterranean termite damage.
- d. This part of the table is the wind speed from the basic wind speed map [Figure R301.2(4)A]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
- e. The outdoor design dry-bulb temperature shall be selected from the columns of 97 <sup>1/2</sup> – percent values for winter from Appendix D of the International Plumbing Code, 2012 Edition. Deviations from Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the building official.
- f. This part of the table is from the seismic design category determined from Section R301.2.2.1.
- g. (a) The date of Douglas County's entry into the National Flood Insurance Program and date of adoption of the first code or ordinance for management of flood hazard areas was 03/02/1981, (b) the Date of the Flood Insurance Study is 08/05/2010, and (c) the panel numbers and dates of all currently effective FIRMs and FBFMs or other flood hazard map adopted by Douglas County, as amended are: Panel numbers:  
20,29,33,36,37,40,41,42,43,44,61,62,63,64,66,67,68,69,88,89,90,95,110,120,130,135,140,145,151,152,153,154,156,157,158,159,16,165,166,167,168,169,176,177,178,179,181,182,183,184,186,187,188,189,191,192,195,201,202,203,204,206,208,211,212,215,220,23,245,255,257,259,260,265,270,276,277,280,281,282,285,290,295,301,304,305,306,308,310,312,314,315,316,318,320,330,335,341,360,380,385,405,410,430,435,455.
- h. In accordance with Sections R905.2.7.1, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, there has not been a history of local damage from the effects of ice damming.
- i. This part of the table is the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)" at [www.ncdc.noaa.gov/fpsf.html](http://www.ncdc.noaa.gov/fpsf.html).
- j. This part of the table is the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index- USA Method (Base 32°F)" at [www.ncdc.noaa.gov/fpsf.html](http://www.ncdc.noaa.gov/fpsf.html).
- k. In accordance with Section R301.2.1.5, there is not local historical data documenting structural damage to buildings due to topographic wind speed-up effects.

13-203.3 **Section R313.2 One- and Two-Family Dwellings Automatic Fire Systems.** First sentence is amended to read: An automatic residential fire sprinkler system may be installed in one-and two-family dwellings. [Changed from "shall be installed" to "may be installed".]

13-203.4 **Section R403.3. Frost Protected Shallow Foundations.** Delete whole section and subsections, including figures R403.3(1), R403.3 (3), and R403.3(4), and Table R403.3(1). [Frost Protected Shallow Foundations are not permitted.]



13-203.5

**Table N1102.1.1 (R402.1.1). Insulation and Fenestration Requirements by Component.** Table N1102.1.1 (R402.1.1) is amended to read as follows:

Table N1102.1.1 (R402.1.1)  
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT<sup>a</sup>

CLIMATE ZONE	FENESTRATION U-FACTOR	SKYLIGHT <sup>b</sup> U-FACTOR	GLAZED FENESTRATION SHGC	CEILING R-VALUE	WOOD FRAME WALL R-VALUE	MASS WALL R-VALUE <sup>k</sup>	FLOOR R-VALUE	BASEMENT <sup>c</sup> WALL R-VALUE	SLAB <sup>d</sup> R-VALUE AND DEPTH	CRAWL SPACE <sup>e</sup> WALL R-VALUE
1	1.2	0.75	0.35 <sup>i</sup>	30	13	3/4	13	0	0	0
2	0.65 <sup>i</sup>	0.75	0.35 <sup>j</sup>	30	13	4/6	13	0	0	0
3	0.50	0.65	0.35 <sup>e,j</sup>	30	13	5/8	19	5/13 <sup>f</sup>	0	5/13
<b>4 except Marine</b>	<b>0.35</b>	<b>0.60</b>	<b>NR</b>	<b>38</b>	<b>13</b>	<b>5/10</b>	<b>19</b>	<b>10/13</b>	<b>10, 2ft</b>	<b>10/13</b>
5 and Marine <sup>4</sup>	0.35	0.60	NR	38	20 or 13 + 5 <sup>h</sup>	13/17	30 <sup>f</sup>	10/13	10, 2ft	10/13
6	0.35	0.60	NR	49	20 or 13 + 5 <sup>h</sup>	15/19	30 <sup>g</sup>	10/13	10, 4 ft	10/13
7 and 8	0.35	0.60	NR	49	21	19/21	30 <sup>g</sup>	10/13	10, 4 ft	10/13

- a. R-values are minimums. U-factors and solar heat gain coefficient (SHGC) are maximums. R-19 batts compressed in to nominal 2 x 6 framing cavity such that the R-value is reduced by R-1 or more shall be marked with the compressed batt R-value in addition to the full thickness R-value. b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- c. The first R-value applies to continuous insulation, the second to framing cavity insulation; either insulation meets the requirement.
- d. R-5 shall be added to the required slab edge R-values for heated slabs. Insulation depth shall be the depth of the footing or 2 feet, whichever is less, in zones 1 through 3 for heated slabs. Slab edge insulation may be eliminated for slab on grade floors when the building's heating system efficiency rating is 90% or better.
- e. There are no SHGC requirements in the Marine Zone.
- f. Basement wall insulation is not required in warm-humid locations as defined by Figure N1101.2 and Table N1101.2. g. Or insulation sufficient to fill the framing cavity, R-19 minimum.
- h. "13+5" means R-13 cavity insulation plus R-5 insulated sheathing. If structural sheathing covers 25% or less of the exterior, R-5 sheathing is not required where structural sheathing is used. If structural sheathing covers more than 25% of exterior, structural sheathing shall be supplemented with insulated sheathing of at least R-2.
- i. For impact-rated fenestration complying with Section R301.2.1.2, the maximum U-factor shall be 0.75 in zone 2 and 0.65 in zone 3.
- j. For impact-resistant fenestration complying with Section R301.2.1.2 of the International Residential Code, 2012 Edition, the maximum SHGC shall be 0.40.
- k. The second R-value applies when more than half the insulation is on the interior.

[Using the 2009 table rather than the 2012 table, which requires 49 R in ceilings and 20 R in walls.]

13-203.6 **Section N1102.4.1.2 Testing.** Delete section which requires a blower door test. Building official will perform an insulation inspection but will not require a blower door test.

13-203.7 **Section N1102.2.8. Building Thermal Envelope/ Basement Walls.** Section N1102.2.8 is amended to read: Exterior walls associated with conditioned basements shall be insulated from the top of the basement wall down to 10 feet (3048 mm) below grade or to the basement floor, whichever is less. Walls associated with unconditioned basements shall meet this requirement unless the floor overhead is insulated in accordance with Sections N1102.1.1 and N1102.2.7. *Exception:* Basement walls that are otherwise exposed shall be insulated from the top of the basement wall down 3 feet (914mm) below grade or the basement floor, whichever is less. [The exception is added.]

13-203.8 **Section G2406. Appliance location.** The following is added:

Appliances burning liquefied petroleum gas (LPG) or liquid fuel may be installed in a basement, a pit, an underfloor space, below grade or similar location; provided, however, that each area in which such appliances are located shall be equipped with a listed and approved liquefied petroleum gas or liquid fuel detection alarm (110-Volt with a battery backup, with all detectors in new construction being permanently wired into the electrical system if such permanently wired detectors are reasonably available at a comparable price in Douglas County). Detectors shall sound an alarm audible in all areas of the dwelling unit and be installed per the manufacturer's installation instructions.

- 13-203.9      **Section G2417.4.1 Fuel Gas Test Pressure.** Amended to read: The test pressure to be used shall be not less than one and one-half time the proposed maximum working pressure, but not less than 10 psig (69 kPa gauge), irrespective of design pressure. Where the test pressure exceeds 125 psig (862 kPa gauge), the test pressure shall not exceed a value that produces a hoop stress in the piping greater than 50 percent of the specified minimum yield strength of the pipe. [Changed test pressure from 3 psig to 10 psig.]
- 13-203.10    **Section P2503.5.1. Rough Plumbing.** Amended to read: DWV systems shall be tested on completion of the rough piping installation by water or air with no evidence of leakage. Either test shall be applied to the drainage system in its entirety or in sections after rough piping has been installed, as follows:
1.      Water test. Each section shall be filled with water to a point not less than 10 feet (3048mm) above the highest fitting connection in that section, or to the highest point in the completed system. Water shall be held in the section under test for a period of 15minutes. The system shall prove leak free by visual inspection.
  2.      Air test. The portion under test shall be maintained at a gauge pressure of 5 pounds per square inch (psi) (34kPa) or 10 inches of mercury column (34kPa). This pressure shall be held without introduction of additional air for a period of 15 minutes. [Changed to allow air test on plastic DWV.]
- 13-203.11    **Section P2603.5.1. Sewer Depth.** Amended to read: Building sewers that connect to private sewage disposal systems shall be not less than 12 inches (304 mm) below finished grade at the point of septic tank connection. Building sewers shall be not less than 12 inches (304 mm) below grade. [Inserted number of inches and millimeters in two locations.]
- 13-203.12    **Section P3005.4.2. Building drain and sewer size and slope.** Amended to read: Pipe sizes and slope shall be determined from Table P3005.4.2 on the basis of drainage load in fixture units (d.f.u.) computed from Table P3004.1; however no building sewer shall be less than four (4) inches in diameter. [Added minimum sewer size requirement of 4 inches.]
- 13-203.13    **Section P3113.5 Total Size of Vents.** New Section added read: The drainage piping of each building and each connection to a public sewer or a private sewage disposal system shall be vented by means of one or more vent pipes, the aggregate cross-sectional area of which shall not be less than that of the largest required building sewer. *Exception:* When connected to a common

building sewer, the drainage piping of two buildings located on the same lot and under one ownership may be vented by means of piping sized in accordance with Table P3005.4.2, provided the aggregate cross-sectional area of all vents is not less than that of the largest required common building sewer.

- 13-203.14 **Section P3114.2. Installation of Air Admittance Valves.** Amended to read: The valves shall only be installed with prior approval from the Zoning & Codes Department, in accordance with the requirements of this section and the manufacturer's installation instructions. Air admittance valves shall be installed after the DWV testing required by Section P2503.5.1 or P2503.5.2 has been performed. [Added requirement to get prior approval for air admittance valves.]
- 13-203.15 **Section P3114.3. Air Admittance Valves, Where Permitted.** Amended to read: Individual vents, branch vents, circuit vents and stack vents shall be permitted to terminate with a connection to an permitted air admittance valve. Individual and branch type air admittance valves shall vent only fixtures that are on the same floor level and connect to a horizontal branch drain. [Added requirement to get prior approval for air admittance valves.]
- 13-203.16 **Section P3114.8. Air Admittance Valves, Prohibited Installations.** Amended to read: Air admittance valves without an engineered design shall not be used to vent sumps or tanks of any type and shall not be installed in new construction. Exception: Island fixtures in new construction may be vented by air admittance valves that comply with Section 3114. [Added prohibition to use of non-engineered air admittance valves in new construction and added exception.]
- 13-203.17 **Section P3201.2. Trap Seals and trap seal protection.** Amended to read: Traps shall have a liquid seal not less than 2 inches (51mm) and not more than 4 inches (102 mm). [Eliminated requirement of trap primers or deep seals on floor drains for residential (still required for commercial).]
- 13-203.18 **Section E3601.6.2. Service disconnect location.** Amended to read: The service disconnecting means shall be installed at a readily accessible location either outside of the building or structure or inside the building or structure at a point limited to a horizontal distance not to exceed three (3) feet from the point of penetration of the service entrance raceway into the structure. The service entrance conductors shall be protected by a raceway from the point of service to the termination at the service disconnecting means enclosure. Service disconnecting means shall not be installed in bathrooms. Each occupant shall have access to the disconnect servicing the dwelling unit in which they reside. [Added 3' horizontal distance limitation.]
- 13-203.19 **Section E3604.5 Service masts as supports.** Amended to read: Where a service mast is used for the support of service-drop conductors, it shall be a galvanized rigid conduit with a minimum trade size diameter of two (2) inches and of adequate strength to withstand the strain imposed by the service drop. Where the service mast projects above the roof surface in excess of three (3) feet, the mast shall be supported by braces or guys to withstand safely the strain imposed. Where raceway-type service masts are used, all equipment shall be approved. Only power service drop conductors shall be permitted to be attached to a service mast. [Added minimum requirement of 2-inch rigid conduit.]

13-203.20 **Section E3609.3 Bonding for Other Systems.** Amended to read: An intersystem bonding termination for connecting intersystem bonding conductors required for other systems shall be provided external to enclosures at the service or metering equipment enclosure and at the disconnecting means for any additional buildings or structures. The intersystem bonding termination shall comply with the following:

1. It shall be accessible for connection and inspection.
2. It shall consist of a set of terminals with the capacity for connection of not less than three intersystem bonding conductors.
3. It shall not interfere with opening the enclosure for a service, building or structure disconnecting means, or metering equipment.
4. Where located at the service equipment, it shall be securely mounted and electrically connected to an enclosure for the service equipment, or shall be mounted at one of these enclosures and connected to the enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.
5. Where located at the disconnection means for a building or structure, it shall be securely mounted and electrically connected to the metallic enclosure for the building or structure disconnecting means, or shall be mounted at the disconnecting means and connected to the metallic enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.
6. It shall be listed as grounding and bonding equipment.

[Deleted allowance in #4 for intersystem bonding on meter or raceway.]

13-203.21 **Section E3611.2. Accessibility.** Amended to read: All mechanical elements used to terminate a grounding electrode conductor or bonding jumper to the grounding electrodes that are not buried or concrete encased shall be accessible. The location of the grounding electrode conductor connection to the grounding electrodes shall be permanently stated on a plaque or directory on the service disconnecting means. [Added requirement that the location of the GEC connection to the grounding electrodes shall be permanently stated on the disconnecting means.]

13-203.22 **Section E3902.12. Arc-fault circuit-interrupter protection.** Amended to read: All branch circuits that supply 120-volt, single-phase, 15- and 20-ampere outlets installed in bedrooms shall be protected by a listed arc-fault circuit interrupter installed to provide protection of the branch circuit.

Exceptions:

1. Where a listed AFCI is installed at the first outlet to provide protection for the remaining portion of the branch circuit, the portion of the branch

circuit between the branch-circuit over-current device and such outlet shall be wired with metal outlet and junction boxes and RMC,IMC, EMT or steel armored cable, Type AC meeting the requirements of Section E3908.8.

2. AFCI protection is not required for a branch circuit supplying only a fire alarm system where the branch circuit is wired with metal outlet and junction boxes and RMC, IMC, EMT, or steel armored cable Type AC meeting the requirements of Section E3908.8.

[Not all circuits need be arc faulted, just the bedrooms.]

13-203.23 **Section E4002.14. Tamper-resistant receptacles.** Amended to read: In areas specified in Section E 3901.1, 125-volt, 15- and 20-ampere receptacles may be listed tamper-resistant receptacles. [Used “may” rather than “shall”.]

13-203 **SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Residential Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

13-204 **EXISTING RIGHTS OR VIOLATIONS.** Nothing in this Article or in the Residential Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Residential Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

### ARTICLE 3. BUILDING CODE

13-301 **ADOPTION OF INTERNATIONAL BUILDING CODE.** The International Building Code, 2012 Edition, including the following Appendix Chapters:

Appendix G Flood-Resistant Construction

as published by the International Code Council, be and is hereby adopted as the "Building Code" of the Douglas County, Kansas, for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Building Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Building Code of Douglas County, Kansas, hereinafter interchangeably referred to as the "Code" or the "Building Code."

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies.

13-302 **COPIES.** Not less than one copy of the International Building Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the "Building Code" shall mean the International Building Code, 2012 Edition, as adopted and amended herein.

13-303 **AMENDMENTS TO BUILDING CODE.** The International Building Code, 2012 Edition is amended or supplemented as provided below.

13-303.1 Chapter 1 of the Building Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-303.2 **Section 1612.3. Establishment of flood hazard areas.** The title and date of the flood insurance study referred to and incorporated by reference in Section 1612.3 is The Flood Insurance Study for the Unincorporated Territory of Douglas County, Kansas, dated August 5, 2010.

13-303.3 **Section 3412.2. Applicability.** The applicability date in Section 3412.2 is January 1, 2013.

13-304 **Section 4. SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Building Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the

remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

13-305

**EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Building Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

## ARTICLE 4. PLUMBING CODE

**13-401**      **ADOPTION OF INTERNATIONAL PLUMBING CODE.** The International Plumbing Code, 2012 Edition, including the following Appendix Chapters:

Appendix E    Sizing of Water Piping System  
Appendix F    Structural Safety

as published by the International Code Council, be and is hereby adopted as the “Plumbing Code” of the Douglas County, Kansas, for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Plumbing Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Plumbing Code of Douglas County, Kansas, hereinafter interchangeably referred to as the “Code” or the “Plumbing Code.”

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies.

**13-402**      **COPIES.** Not less than one copy of the International Plumbing Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the “Plumbing Code” shall mean the International Plumbing Code, 2012 Edition, as adopted and amended herein.

**13-403**      **AMENDMENTS TO PLUMBING CODE.** The International Plumbing Code, 2012 Edition is amended or supplemented as provided below.

**13-403.1**      Chapter 1 of the Plumbing Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

**13-403.1**      **Section 305.4.1. Sewer Depth.** Amended to read: The minimum building sewer depth is inserted in Section 305.4.1 as (i) 12 inches (304 mm) below finished grade at the point of septic tank connection; and (ii) 12 inches (304 mm) below grade for other building sewers. [Inserted number of inches and millimeters in two locations.]

**13-403.2**      **Section 312.3. Drainage and vent air test.** The first sentence of Section 312.3, prohibiting use of air for testing plastic piping, is deleted. The remainder of the Section remains as written.



- 13-403.3 **Section 312.5. Water supply system test.** Amended to read: Upon completion of a section of or the entire water supply system, the system, or portion completed, shall be tested and proved tight under a water pressure not less than the working pressure of the system; or by an air test of not less than 50 psi (344 kPa). This pressure test shall be held for not less than 15 minutes. The water utilized for tests shall be obtained from a potable source of supply. The required tests shall be performed in accordance with this section and Section 107. [Added provision permitting testing of plastic water pipes with air.]
- 13-403.4 **Section 710.1. Maximum fixture unit load.** Amended to read: The maximum number of drainage fixture units connected to a given size of building sewer, building drain or horizontal branch of the building drain shall be determined using Table 710.1(1); however no building sewer shall be less than four (4) inches in diameter. The maximum number of drainage fixture units connected to a given size of horizontal branch or vertical soil or waste stack shall be determined using table 710.1(2). [Added minimum sewer size requirement of 4 inches.]
- 13-403.5 **Section 903.1. Roof extension.** The standard minimum vent pipe roof extension is inserted in Section 903.1 as six (6) inches (152mm) above the roof.
- 13-404 **SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Plumbing Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.
- 13-405 **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Plumbing Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Plumbing Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

## ARTICLE 5. MECHANICAL CODE

13-501        **ADOPTION OF INTERNATIONAL MECHANICAL CODE.** The International Mechanical Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of Douglas County, Kansas, regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Mechanical Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Mechanical Code of Douglas County, Kansas, hereinafter interchangeably referred to as the “Code” or the “Mechanical Code.”

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies.

13-502        **COPIES.** Not less than one copy of the International Mechanical Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the “Residential Code” shall mean the International Mechanical Code, 2012 Edition, as adopted and amended herein.

13-503        **AMENDMENTS TO MECHANICAL CODE.** The International Mechanical Code, 2012 Edition is amended or supplemented as provided below.

13-503.1      Chapter 1 of the Mechanical Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.

13-504        **SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Mechanical Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

13-505        **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Mechanical Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Mechanical Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

## ARTICLE 6. FUEL GAS CODE

- 13-601      **ADOPTION OF INTERNATIONAL FUEL GAS CODE.** The International Fuel Gas Code, 2012 Edition, as published by the International Code Council, be and is hereby adopted as the Fuel Gas Code of Douglas County, Kansas, regulating and governing fuel gas systems and gas-fired appliances in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Fuel Gas Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.
- The regulations hereby adopted, as amended, shall be known as the Fuel Gas Code of Douglas County, Kansas, hereinafter interchangeably referred to as the “Code” or the “Fuel Gas Code.”
- This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies.
- 13-602      **COPIES.** Not less than one copy of the International Fuel Gas Code, 2012 Edition, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the “Residential Code” shall mean the International Fuel Gas Code, 2012 Edition, as adopted and amended herein.
- 13-603      **AMENDMENTS TO FUEL GAS CODE.** The International Fuel Gas Code, 2012 Edition is amended or supplemented as provided below.
- 13-603.1      Chapter 1 of the Fuel Gas Code is deleted and replaced with the provisions of Article 1 of this Chapter 13.
- 13-603.2      **Section 406.4.1. Fuel Gas Test Pressure.** Section 406.4.1 is amended so that the minimum test pressure in is increased from 3 psig (20 kPa gauge) to 10 psig (69 kPa gauge).
- 13-604      **SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Fuel Gas Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.
- 13-605      **EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Fuel Gas Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Fuel Gas Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.

## ARTICLE 7. ELECTRICAL CODE

13-701 **ADOPTION OF NATIONAL ELECTRIC CODE.** The National Electric Code, 2011 Edition, NFPA 70, including the following Appendix Chapters, as published by the National Fire Protection Association, be and is hereby adopted as the “Electric Code” of the Douglas County, Kansas, regulating and governing electrical systems and appliances in the unincorporated areas of Douglas County, Kansas as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Electric Code are hereby referred to, adopted, and made a part hereof, as if fully set out herein, with the additions, insertions, deletions and changes hereinafter provided.

The regulations hereby adopted, as amended, shall be known as the Electric Code of Douglas County, Kansas, hereinafter interchangeably referred to as the “Code” or the “Electric Code.”

This Code shall not apply to the extent that the Residential Code adopted pursuant to Article 2 of this Chapter applies.

13-702 **COPIES.** Not less than one copy of the National Electric Code, 2011 Edition, NFPA 70, marked and stamped in the manner provided by K.S.A. 12-3304, shall be filed with the County Clerk and shall be open to inspection and available to the public at reasonable business hours. Subsequent references to the “Electric Code” shall mean the National Electric Code, 2011 Edition, NFPA 70, as adopted and amended herein.

13-703 **AMENDMENTS TO ELECTRIC CODE.** The National Electric Code, 2011 Edition, NFPA 70 is amended or supplemented as provided below.

13-703.1 **Section 230.28 Service Masts as Supports.** Amended to read: Where a service mast is used for the support of service-drop conductors, it shall be a galvanized rigid conduit with a minimum trade size diameter of two (2) inches and of adequate strength to withstand the strain imposed by the service drop. Where the service mast projects above the roof surface in excess of three (3) feet, the mast shall be supported by braces or guys to withstand safely the strain imposed. Where raceway-type service masts are used, all equipment shall be approved. Only power service drop conductors shall be permitted to be attached to a service mast. [Added minimum requirement of 2-inch rigid conduit.]

13-703.2 **Section 230.70(A)(1) Readily Accessible Location.** Amended to read: The service disconnecting means shall be installed at a readily accessible location either outside of the building or structure or inside the building or structure at a point limited to a horizontal distance not to exceed three (3) feet from the point of penetration of the service entrance raceway into the structure. **The service entrance conductors shall be protected by a raceway from the point of service to the termination at the service disconnecting means enclosure.** [Added 3' horizontal distance limitation.]

13-703.3 **Section 250.94 Bonding for Other Systems.** Amended to read: An intersystem bonding termination for connecting intersystem bonding conductors

required for other systems shall be provided external to enclosures at the service or metering equipment enclosure and at the disconnecting means for any additional buildings or structures. The intersystem bonding termination shall comply with the following:

1. Be accessible for connection and inspection.
2. Consist of a set of terminals with the capacity for connection of not less than three intersystem bonding conductors.
3. Not interfere with opening the enclosure for a service, building or structure disconnecting means, or metering equipment.
4. At the service equipment, be securely mounted and electrically connected to an enclosure for the service equipment, or be mounted at one of these enclosures and be connected to the enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.
5. At the disconnecting means for a building or structure, be securely mounted and electrically connected to the metallic enclosure for the building or structure disconnecting means, or be mounted at the disconnecting means or be connected to the metallic enclosure or to the grounding electrode conductor with a minimum 6 AWG copper conductor.
6. The terminals shall be listed as grounding and bonding equipment.

[Deleted allowance in #4 for intersystem bonding on meter or raceway.]

13-704

**Section 4. SEVERABILITY.** If any section, subsection, sentence, clause or phrase in this Article or in the Electric Code is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions hereof. The Board declares that it would have passed this code, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

13-705

**EXISTING RIGHTS OR VIOLATIONS.** Nothing herein or in the Electric Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or resolution repealed in connection with the adoption of the Electric Code; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this legislation.



# MEMORANDUM

To: Board of County Commissioners  
From: Jim Lawson, Director of Information Technology  
CC: Craig Weinaug, Sarah Plinsky  
Date: 9/14/2012  
Subject: Telephone System Replacement

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## Overview

Douglas County's phone system is in need of major upgrades. The main hardware cabinet that supports the analog and digital phone lines was manufactured in approximately 1978 and has served us well, but it is definitely showing its age. We did replace the phone system CPU and voice mail system in 2004 but this equipment is now at the end of its life and again needs to be replaced. Douglas County is using separate phone systems at the Jail, Youth Services, Public Works Shop and the South Lawrence Treasurer/Zoning office. These phone systems are also old, reaching the end of their life and do not allow for integration with our central system. In addition, the remote phone systems use a service called Plexar which provides the PBX functions to the remote offices. Examples of PBX functions are: ability to make and receive calls, caller id, call forwarding, call hold, direct inward dialing, call pickup, 3 way calling, etc. We currently pay \$48,475 a year for Plexar services for all of the remote offices combined.

## Process

We have been working with SKC Communications from Kansas City to help us develop a plan to upgrade our phone system, give us the ability to provide phone services to our remote locations from our central location, reduce our costs and to position us for the future. We have developed a 2-phase plan to accomplish this.

Phase 1: Replace telephone hardware and software in primary location in the JLE building

This phase will replace the old refrigerator sized hardware equipment with 4 rack-mounted G450 equipment enclosures that will support all of our analog, digital and IP lines used at the central location. The central location provides phone service to the JLE building, Court House and the Public Works facility at 12<sup>th</sup> and Massachusetts. We will also replace the phone system server central processing unit and server voice mail system with a single rack-mounted server that will support all of our phone functions, voice mail functions and provide us with the ability to bring our remote sites back to the central system to provide them phone services without having to have separate systems. With the new hardware we will also be getting new phone system software that will greatly expand our system capabilities by giving us the ability to seamlessly have our desk phones ring to our mobile devices, move a call in progress to a different device, make and receive calls directly at our computer and utilize our Outlook contact list to initiate calls. In addition, it will allow us to convert more of our phones to IP type phones that are easier to administer and that use existing network cabling.

Phase 2: Replace remote office phone system hardware and connect to the primary location

This phase will install G450 or G430 media gateways at the Jail, Public Works shop, Youth Services, South Lawrence Treasurer/Zoning and Fairgrounds locations. These gateways will allow us to connect these remote offices back to the central system using communication lines either already in place or planned in the near future. This will allow us to provide their phone service from the central location and replace their aging separate phone systems. This solution will be much easier to manage and will provide the remote offices with the same capabilities as the central location. In

addition, each of these gateways will have local survivability. This means they will still have the ability to make and receive calls, even if the communication line to the central facility is down. When this phase is completed we will be able to reduce our annual costs for Plexar services to under \$10,000 a year saving the County approximately \$38,000 a year. We need to keep some of the Plexar services to provide the survivability to the remote offices.

## Costs and Funding

We have received a detailed quote from SKC Communications utilizing State of Kansas Contract 05771 for Phase 1 of this project. It is attached to this memo. The total quote amount for Phase 1 is \$121,907.35. This quote includes the first year hardware and software maintenance. In 2013 and 2014 the annual hardware and software maintenance costs will be \$21,288 per year. We are currently paying \$17,636.28 per year which only covers the hardware. Even though our maintenance will increase \$3,651.72, we would have access to software updates to keep our phone system up to date.

I have also received a preliminary quote for Phase 2 of this project utilizing the same State of Kansas Contract. At this time that quote is \$78,238. This price might change a few thousand dollars depending on whether we can reuse some existing equipment or need to purchase new. I will bring this back to the commission with firm numbers if Phase 1 is approved.

We anticipated the need to replace the main phone system and bring the remote locations back to the central location and have adequate funds in reserve account 232-21120 specifically targeted for this project.

## Recommendation

Authorize Douglas County Staff to utilize State of Kansas Contract 05771 to purchase the equipment and services listed on the attached quote from SKC Communications in an amount not to exceed \$121,907.35. This will allow us to complete Phase 1 of this project.



# Avaya Quote

Prepared For: Douglas County - Budgetary Phase 1 Quote  
 Date: 7/18/2012  
 Contract: State of Kansas

Contact: Nick Krueger  
 Phone: 913-543-7206  
 Contract# 05771

## Project Details & Pricing

Site	QTY	Description	Purchase Price	
County HQ	1	MIDSIZE ENTERPRSE SOLUTION MODEL UPG		
County HQ	1	SAL STDALN GATEWAY LIC R1.5 DWNLD	\$ -	\$ -
County HQ	1	SAL POLICY SRVR LIC R1.5 DWNLD	\$ -	\$ -
County HQ	2	SURVIVABLE REMOTE SOLUTION	\$ -	\$ -
County HQ	614	AVAYA AURATM R6 ENT ED UPG LIC	\$ 37.70	\$ 23,147.80
County HQ	1	AVAYA AURATM RFA TO PLDS CONVERSION	\$ -	\$ -
County HQ	1	MEDIA ENCRYPTION R6+/MBT	\$ -	\$ -
County HQ	1	AVAYA AURATM PS R6.X SFTW DWNLD	\$ -	\$ -
County HQ	1	DL360G7 SRVR MIDSIZE ENTPRS/COL	\$ 14,300.00	\$ 14,300.00
County HQ	1	R6 MIDSIZE ENT SOL MIG TRACKING	\$ -	\$ -
County HQ	1	ENT ED R6 MGMT SITE ADMIN R6 LIC /E	\$ -	\$ -
County HQ	1	ENT ED R6 MGMT NTWK MGMT R6 LIC /E	\$ -	\$ -
County HQ	1	ENT ED R6 SYSTEM MANAGER R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED R6 SM SIP CONN R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED R6 PS R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED R6 PS SFTW DWNLD R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED R6 B5800 SURV STN R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED R6 B5800 SIP TRNK R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED R6 CMM R6 LIC /E	\$ -	\$ -
County HQ	2	PWR CORD USA	\$ 14.95	\$ 29.90
County HQ	1	ADMIN TOOLS R6.0 CD	\$ 32.50	\$ 32.50
County HQ	1	NETWORK MGMT TOOLS R6.0 DVD	\$ 32.50	\$ 32.50
County HQ	1	PROGNOSIS VOIP MONITORING R3 CD	\$ -	\$ -
County HQ	1	AVAYA AURATM MIDSIZE ENT SOL 6.1 DVD	\$ 32.50	\$ 32.50
County HQ	1	NETWORK ASSESSMENT - 3RD PARTY	\$ -	\$ -
County HQ	614	ENT ED UCE R6 ONE-X COMM R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED UCE R6 AES UNFD DSK R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED UCE R6 AES DMCC R6 LIC /E	\$ -	\$ -
County HQ	614	ENT ED UCE R6 EC500 SM R9 LIC /E	\$ -	\$ -
County HQ	614	ENT ED UCE R6 ONE-X PRTL R5 LIC /E	\$ -	\$ -
County HQ	614	ENT ED UCE R6 ONE-X CES R6 LIC /E	\$ -	\$ -
County HQ	4	PWR CORD USA	\$ 14.95	\$ 59.80
County HQ	1	DS1 LOOPBACK JACK 700A RHS	\$ 110.50	\$ 110.50
County HQ	21	CABLE ASSY B25A 25FT RHS	\$ 29.90	\$ 627.90
County HQ	4	G450 MP80 W/POWER SUPPLY NON-GSA	\$ 5,525.00	\$ 22,100.00
County HQ	4	MM711 ANLG MEDIA MODULE - Refurb	\$ 472.50	\$ 1,890.00
County HQ	1	MM710B E1/T1 MEDIA MODULE - Refurb	\$ 1,282.50	\$ 1,282.50
County HQ	12	MM716 ANLG MEDIA MOD 24FXS - Refurb	\$ 1,282.50	\$ 15,390.00
County HQ	1	AVAYA AURATM SYSTEM PLTFRM 6.0.3 DVD	\$ 32.50	\$ 32.50
County HQ	9	MM717 24PT DCP MEDIA MODULE - Refurb	\$ 1,282.50	\$ 11,542.50
County HQ	2	96XX RPLCMNT LINE CORD	\$ 5.20	\$ 10.40
County HQ	1	120A CSU CABLE 50FT RHS	\$ 56.55	\$ 56.55
County HQ	2	IP PHONE 9611G	\$ 295.75	\$ 591.50

**Total Upgrades at County HQ** \$ 91,269.35  
**Installation at County HQ** \$ 9,350.00

Support Advantage with software upgrades  
 3 year agreement prepaid annually \$ 16,500.00



Support Advantage Hardware onsite 8X5  
3 year agreement prepaid annually - County HQ

\$ 4,788.00

**Quote Total**

**\$ 121,907.35**

PRICING QUOTED MAY BE CHANGED WITHOUT NOTICE. APPLICABLE TAX AND SHIPPING NOT INCLUDED.

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## **MEMORANDUM**

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : September 14, 2012

Re : Consider refurbishing rental modular home at Lone Star Lake

Attached is information on a modular home Douglas County owns at Lone Star Lake. The house is located on the east side of the lake approximately 650 feet south of the park's shop building, and was originally used by the lake superintendent until 1994. The house was rented from 1994 to 2010, but has been vacant since. The most recent monthly rental charge was \$650.

The house needs some refurbishing and modernizing if we are to resume renting it. It is in overall good condition, but is outdated. The attached information lists work items needed and their estimated costs. Total estimated remodeling costs are approximately \$12,100. About 1/3 of the total is the cost for materials to be installed by county forces.

It is helpful to Lone Star Park in general to have a reliable renter occupying the house. A reliable renter provides another set of eyes at the lake, and helps the Parks Superintendent keep abreast of goings on at the lake. If we are to continue renting the house, it is necessary to spend some money to refurbish it.

A specific funding source for this work has not been identified at this time. The county administrator has indicated funds could be found for this work.

Action Required: Consider authorizing refurbishing the modular home at Lone Star Lake.

Douglas County Public Works  
 Lone Star Lake Rental House Remodel Estimate  
 30-Aug-12

**History:** In 1975 Douglas County purchased a modular house that was placed at 654 East 665 Road as the Lake Superintendent residence. The lake superintendent retired in 1994 leaving the house vacant. During the next 18 years this house has been rented to several different tenants. In 2010 the last tenant relocated leaving the house vacant.

**House Description/Condition:** This house consists of 3 bedrooms, 2 bathrooms, dining area and a good sized living area on a full basement. The house was inspected for condition in July 2012. It was found to be in overall good condition but very outdated, just needing a few cosmetic changes on the interior, some structural repairs to the carport and vinyl siding. The needed interior updates include new linoleum, carpeting, fixtures, and appliances.

**Itemized Material/Construction Cost Estimate**

**Contract Repairs**

Item#	Description	Quantity	Unit Cost	Approx. Cost
1	Carpeting (Living Room & 3 bedrooms)	1	\$3,000.57	\$3,000.57
2	Linoleum (Kitchen & 2 bathrooms)	1	\$2,981.49	\$2,981.49
3	Vinyl Siding (New siding north side, repair remaining)	1	\$2,100.00	\$2,100.00
Subtotal - Total Contract Repair Costs				\$8,082.06

**Repair/Installation by County Forces**

Item#	Description	Quantity	Unit Cost	Approx. Cost
1	Electric Range - Frigidaire model FFEF3011LW	1	\$329.00	\$329.00
2	Range Electric Cord	1	\$10.00	\$10.00
3	Dishwasher - Frigidaire Model FFB2407LQ	1	\$269.00	\$269.00
4	Microwave - Frigidaire Model FFCM1134LW	1	\$99.00	\$99.00
5	Refrigerator - Frigidaire Model FFTR1814LW	1	\$419.00	\$419.00
6	Paint (Interior)	1	\$174.91	\$174.91
7	Lighting Fixtures (Interior)	10	\$10.00	\$100.00
8	Master Bathroom Mirror	1	\$66.00	\$66.00
9	Hall Bathroom Mirror	1	\$45.00	\$45.00
10	Carport-6" x 6" x 12' Posts	4	\$64.97	\$259.88
11	Carport-Tin Roofing Material (600 sf)	9	\$72.22	\$650.00
12	Carport-Wood Sheeting	19	\$13.27	\$252.13
13	Carport-30# Felt	6	\$13.49	\$80.94
14	Counter Top	22	\$16.09	\$353.98
15	Exterior Lights	2	\$40.00	\$80.00
16	Kitchen Sink and Faucet	1	\$99.95	\$99.95
17	Ceiling Fan	1	\$85.00	\$85.00
18	Bathroom Lights	2	\$14.97	\$29.94
19	Basement Handrail	1	\$45.36	\$45.36
20	Front Deck Repair (2"x6"x16')	6	\$9.97	\$59.82
21	Contingency & Misc. Materials (Trim, nails, etc.)	1	\$500.00	\$500.00
Subtotal - Materials Only				\$4,008.91
<b>TOTAL ESTIMATED REMODEL COSTS</b>				<b>\$12,090.97</b>

## MEMORANDUM

To : Board of County Commissioners

From : Keith A. Browning, P.E., Director of Public Works/County Engineer

Date : September 13, 2012

Re : Authorization to issue Requests for Proposals  
Lone Star Lake concession building improvements

In September 2010, we discussed options for improving the concession (or “marina”) building at Lone Star Lake. The building has been vacant since after the 2002 summer season. Discussions narrowed on installing public restrooms in the building. It is required to address several building issues identified by the Zoning & Codes Department if the building is to be reopened for public use. The building was found to be in need of repair or upgrades concerning the following:

- ADA access issues
- Electrical system
- Plumbing
- Existing flooring material (containing asbestos) needs replacing
- Miscellaneous structural issues
- Miscellaneous mechanical issues

In addition, the building’s exterior needs work to ensure the building is protected from weather. These items include replacing windows, replacing some rotted siding, painting, replacing gutters, and replacing roofing materials.

We hired a local contractor, Stuart Young with Prime Construction, Inc., to prepare a realistic cost estimate to address the issues identified by the Zoning & Codes Department and the exterior deficiencies. Attached are two estimates prepared by Mr. Young, (1) constructing the bathrooms only, and (2) constructing the bathrooms and refurbishing the remaining building space to allow public use. Please note on each estimate there are “add options” for the exterior work to make the building more weather tight. Cost estimate No. 1 is \$73,537 not including add options, and cost estimate No. 2 is \$125,031 not including add options.

In my opinion, we need to have the exterior work done whichever remodeling option is chosen.

Fund 224, Special Parks & Recreation Fund, has a current balance of approximately \$100,000.

Action Required: Determine appropriate scope of remodeling work for the Lone Star Lake concession building, and authorize requesting contractor proposals.

# Prime Construction Inc.

Stuart A. Young \* Owner

1555 N. 400 Rd. \* Baldwin City, KS 66006

Phone 785-594-4864 \* FAX 785-594-2258 \* Mobile 785-925-1168

Email: [stu@primeconstructioninks.com](mailto:stu@primeconstructioninks.com)

Keith Browning  
Douglas County Public Works  
kbrowning@douglas-county.com

August 26, 2012

Revised construction estimate base on building of (3) restroom facilities and on the requirements for new electrical, mechanical and over all building systems needed to make these areas fully functional and safe.

## Line items are as follows for restroom facility, approximately 30% of overall space:

• Mobilization, equipment & safety -	\$500.00
• Building permit, Douglas County -	\$400.00
• Lead base paint procedures, if required -	\$400.00
• Demolition of all interior drywall and ceilings -	\$1,000.00
• Demolition of existing stud walls in existing restroom area -	\$600.00
• Cleanup of all particles & insulation, related -	\$200.00
• Remove existing kitchen hood & miscellaneous -	\$450.00
• Remove kitchen duct work in attic -	\$200.00
• Remove all wiring, plumbing & mechanical restroom area -	\$200.00
• Remove & infill two small window holes, restroom -	\$400.00
• Demolition of interior stairs and rebuild floor deck -	\$825.00
• Remove and dispose of existing asbestos flooring, estimate only -	\$750.00
• Hamm's special permit process asbestos -	\$150.00
• Repair and patch all subfloor plywood, 4 sheets -	\$340.00
• Install new 2X12 floor joists, restroom area -	\$660.00
• Rough lumber, new restroom walls -	\$400.00
• Rough labor, new restroom walls -	\$900.00
• New Drywall, walls, ceilings restroom area -	\$1,950.00
• New plumbing, restroom area & fixtures -	\$11,600.00
• Plumbing miscellaneous -	\$200.00
• New electrical system as required for building service, rough & trim -	\$13,800.00
• Electrical fixtures, restroom -	\$450.00
• New insulation, R-38 attic, R-15 walls -	\$1,440.00
• New HVAC system complete & duct work, restroom area -	\$7,532.00
• Hardware, knobs, grab bars, etc. -	\$500.00
• Floor tile (3), new restrooms, includes base tile -	\$4,300.00
• F.R.P. white paneling (2), public restroom -	\$2,500.00
• New interior painting, walls and ceilings -	\$1,600.00
• Interior mirrors, restrooms -	\$300.00
• Miscellaneous job costs & related expenses -	\$1,000.00
• Clean up general and material handling-	\$500.00
• Dumpster trash removal fees -	\$600.00

**Exterior:**

- Install 2 new public restroom door headers & siding - \$600.00
- Remove and replace 2 exterior doors with new steel doors & misc - \$1,830.00
- Replace framing, siding and kitchen duct exhaust east side - \$275.00
- General labor and supervision - \$3,500.00
- **Construction subtotal labor and materials - \$62,852.00**
- **Contractor fees, office, insurance, job expenses and proceeds 17% - \$10,684.84**

**Total estimated job costs as outlined in this document \$73,536.84**

**Exclusions:**

- Remodeling conditions and or unknown conditions not actually known or included in bid due to hidden defects.
- No treatment for mold, termites, carpenter ants, structural conditions etc.
- No drywall, trims, doors, windows etc in basement area.

**Add options, if necessary:**

1. Remove and replace exterior guttering and downspouts - \$1,150.00
2. Remove and replace up to 20 exterior sheets of 4X9 T-1-11 siding with trims – \$3,000.00
3. Pressure wash, caulk and repaint exterior of whole building - \$3,550.00
4. Remove and replace existing roof system and shingles - \$5,225.00
5. Remove and replace basement wood support beam with new steel beam - \$2,750.00
6. 15% will apply to additional work requests.

Thank you for the opportunity to bid this job, contractor guarantees professional workmanship, licensed contractors, clean-up and care of existing building during construction. Workman’s comprehensive and general liability insurances are current and furnished by Willis of Greater Kansas, Overland Park, Kansas.

**Prices subject of adjustment after 90 days.**

**Respectfully Submitted** \_\_\_\_\_ **Date** \_\_\_\_\_

**Prime Construction Inc.**  
**Stuart A. Young \* Owner**  
**1555 N. 400 Rd. \* Baldwin City, KS 66006**  
**Phone 785-594-4864 \* FAX 785-594-2258 \* Mobile 785-925-1168**  
**Email: [stu@primeconstructioninks.com](mailto:stu@primeconstructioninks.com)**

**Keith Browning**  
**Douglas County Public Works**  
**kbrowning@douglas-county.com**

**August 5, 2012**

The following information contained in this document is a combination of construction estimating based on real and similar pricing on projects in Douglas County Kansas and actual bid prices from local professional building subcontractors. I fully believe this cost estimate to be accurate and the costs contained on this estimate to be reasonable and very close to the actual expense required to furnish and install all work that is actually needed to make the Lone Star Lake marina building sound, safe and a useable space for a facility meeting room, restroom, storage room and two public restroom facilities.

Part of this cost estimate is based on "memorandum" to Keith Browning from Patrick Wempe dated May 7, 2012. As outlined plumbing, mechanical, structural, electrical and overall page 4 of memorandum. During the process of meetings on site and research this bid must also include a lot of related items that are fully necessary to complete all remodeling and construction procedures that are needed to provide a new functional, safe and lasting structure for the Douglas County marina building.

**Line items are as follows:**

• Mobilization, equipment & safety -	\$1,000.00
• Building permit, Douglas County -	\$1,133.75
• Lead base paint procedures, if required -	\$1,000.00
• Demolition of all interior drywall and ceilings -	\$2,000.00
• Demolition of existing stud walls in existing restroom area -	\$600.00
• Cleanup of all particles & insulation, related -	\$600.00
• Remove existing kitchen hood & miscellaneous -	\$450.00
• Remove kitchen duct work in attic -	\$200.00
• Remove all wiring, plumbing & mechanical basement area -	\$600.00
• Remove all wiring, plumbing & mechanical 1 <sup>st</sup> floor -	\$450.00
• Remove & infill two small window holes, 1 <sup>st</sup> floor -	\$400.00
• Demolition of interior stairs and rebuild floor deck -	\$825.00
• Remove and dispose of existing asbestos flooring, estimate only -	\$1,757.00
• Hamm's special permit process asbestos, estimate -	\$300.00
• Repair and patch all subfloor plywood, 10 sheets -	\$850.00
• Install new 2X12 basement joists, approx. 40 total -	\$2,200.00
• Power equipment -	\$200.00
• Rough lumber, new interior walls -	\$550.00
• Rough labor, new interior walls -	\$1,200.00
• Remove and replace exterior windows 1 <sup>st</sup> floor, labor & materials -	\$7,450.00
• New Drywall, walls, ceilings interior 1 <sup>st</sup> floor -	\$4,200.00
• New plumbing, complete building & fixtures -	\$12,400.00
• Plumbing miscellaneous -	\$200.00
• New electrical system in conduit, whole building per code -	\$17,200.00
• Electrical miscellaneous -	\$200.00

• Electrical fixtures, interior and exterior -	\$1,200.00
• New insulation, R-38 attic, R-15 walls -	\$3,200.00
• Interior trim materials, casings, doors etc. -	\$1,650.00
• Interior trim labor, casings, doors, molding etc. -	\$2,350.00
• New HVAC system complete & duct work -	\$7,532.00
• Hardware, knobs, grab bars, etc. -	\$600.00
• Carpet in meeting areas -	\$2,700.00
• Linoleum in storage area -	\$950.00
• Floor tile (3), new restrooms, includes base tile -	\$4,300.00
• F.R.P. white paneling (2), public restroom -	\$2,500.00
• New interior painting, walls, trims and casings -	\$3,500.00
• Interior mirrors, restrooms -	\$300.00
• Miscellaneous job costs & related expenses -	\$2,000.00
• Clean up general and material handling-	\$1,000.00
• Dumpster trash removal fees -	\$1,200.00

**Exterior:**

• Install 2 new public restroom door headers & siding -	\$600.00
• Remove and replace 3 exterior doors with new steel doors & misc -	\$2,750.00
• Remove, remodel and replace existing exterior west stairs -	\$1,400.00
• Remove and replace 6, 6X6 posts & footings west side -	\$2,600.00
• Remove and replace up to 100 L.F. of safety handrails -	\$1,150.00
• Replace framing, siding and kitchen duct exhaust east side -	\$275.00
• General labor and supervision -	\$7,500.00
• Construction subtotal labor and materials -	\$108,722.75
• Contractor fees, office, insurance, job expenses and proceeds 15% -	\$16,308.41

**Total estimated job costs as outlined in this document \$125,031.16**

**Exclusions:**

- Remodeling conditions and or unknown conditions not actually known or included in bid due to hidden defects.
- No treatment for mold, termites, carpenter ants, structural conditions etc.
- No drywall, trims, doors, windows etc in basement area.

**Add options, if necessary:**

1. Remove and replace exterior guttering and downspouts -	\$1,150.00
2. Remove and replace up to 20 exterior sheets of 4X9 T-1-11 siding with trims –	\$3,000.00
3. Pressure wash, caulk and repaint exterior of whole building -	\$3,550.00
4. Remove and replace existing roof system and shingles -	\$5,225.00
5. Remove and replace basement wood support beam with new steel beam -	\$2,750.00

Thank you for the opportunity to bid this job, contractor guarantees professional workmanship, licensed contractors, clean-up and care of existing building during construction. Workman’s comprehensive and general liability insurances are current and furnished by Willis of Greater Kansas, Overland Park, Kansas.

**Prices subject of adjustment after 90 days.**

**Respectfully Submitted** \_\_\_\_\_ **Date** \_\_\_\_\_



# OFFICE OF



# THE SHERIFF

Steve Hornberger, Undersheriff  
111 E 11<sup>th</sup> St – Operations  
Lawrence, KS 66044  
(785) 841-0007, fax (785) 841-5168

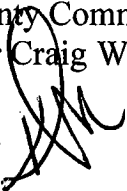
Ken Massey, Undersheriff  
3601 E 25<sup>th</sup> St – Corrections  
Lawrence, KS 66046  
(785) 830-1000, fax (785) 830-1085

**KENNETH M. MCGOVERN**  
Sheriff

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## MEMORANDUM

To: Douglas County Board of County Commissioners  
Douglas County Administrator Craig Weinaug

From: Sheriff Kenneth M. McGovern 

Re: Consider Recommendation to Purchase a Chiller Compressor for the Correctional Facility

Date: September 12, 2012

The Douglas County Sheriff's Office is requesting authorization to purchase a chiller compressor for the Douglas County Correctional Facility at a cost of \$61,296. Funding for this purchase is currently available in the 2012 Sheriff's Office budget in the equipment reserve line item.

The chiller compressor on chiller unit number two will reach the manufacturers recommend hours of service (50,000 hours) by the end of 2012. Because of the lead time to manufacture a new chiller, should the chiller fail prior to replacement, repair cost will equal approximately one-half the cost of a new chiller.

In April 2012, the Douglas County Sheriff's Office solicited bids to replace the compressor on chiller number one at the Correctional Facility. Bids were received from three companies; with Johnson Controls submitting the low bid of \$61,296. This purchase was approved by the County Commission.

Johnson Controls has agreed to supply the compressor for chiller number two at the same price outlined in the original bid process, \$61,296, and to abide by all provisions outlined in the April 2012 contract.

I would like to complete the purchase of the chiller compressor with Johnson Controls and would recommend the County Commission authorize the Sheriff to complete this purchase. Attached you will find correspondence from Johnson Controls and a copy of the contract agreement dated April of 2012. I will be available to answer any question you may have.

Attachments

Johnson  
Controls



 **YORK**  
PRODUCTS/SERVICES

August 20, 2012

Mr. David Sparks  
Douglas County Corrections  
3601 East 25<sup>th</sup> Street  
Lawrence, Kansas 66044

Reference Bid No. 12-F-007 Douglas County Jail Compressor Replacement  
York Model YSCA Serial # SCGM861150 Chiller #1

Mr. Sparks,

As you are aware, we experienced extended lead time issues on the compressor replacement for Chiller #1. Production schedules continue to be stretched due to high demand caused in part by the number of units nearing the end of their fixed bearing life cycle and the higher than normal ambient temperatures throughout the country.

The compressor is now on site, ready for installation when the weather and load conditions allow.

**Please note:** Douglas County Jail is served by a quantity of (2) identical York Screw Chillers. Both chiller compressors have over 45,000 run hours.

Due to the actual run hours and fixed life bearing design in the rotary screw compressor, we highly recommend proactive replacement of the York Chiller #2 compressor (Model YSCA serial # SCGM861280) in an effort to prevent the risk of a catastrophic bearing failure prior to or during the next cooling season.

As discussed above, new compressors have a 4 to 6 month production delivery schedule.

Johnson  
Controls



**YORK**  
PRODUCTS/SERVICES

As the successful winner of the competitively bid process on Chiller #1, Johnson Controls / York Factory Service would provide the exact scope and price for the second compressor should you choose to purchase at this time.

Price: Sixty One Thousand Two Hundred Ninety Six Dollars \$61,296.00

Specification / Scope of Work Chiller #2

- Supply New Compressor ( not remanufactured ) labor and equipment needed to facilitate the change of compressor on a York Model # YSCACASO-CFC Serial # SCGM861280 ( Chiller #2)
- Upon completion of installation , unit to be started and checked for refrigerant and oil leaks while assuring unit is operational
- Run chiller compressor through standard test procedures to ensure proper operation

Douglas County, Kansas

Johnson Controls, Inc.

*James L. Sharpton*

*Johnson Controls - York Factory Service  
8-22-2012*

Thank you for the opportunity to be of service and should you have any questions or required additional information please feels free to contact me direct at 913-307-4209

*James L. Sharpton*

James L Sharpton  
Johnson Controls-York Factory Service

Johnson Controls -York Factory Service

9850 Legler , Lenexa, Kansas 66219

# Douglas County Sheriff's Office

Corrections Division



# Memo

**To: Sheriff Ken McGovern**

**From: Undersheriff Kenneth Massey** *Kim*

**CC: Dave Sparkes**

**Date: August 20, 2012**

**Re: Replacement of compressor on second chiller**

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**Intent:**

Replace compressor on chiller #2 as it is nearing the maximum recommended hours of service (50,000) according to manufacturer's recommendations. Compressor #2 is expected to exceed the number of hours of operation by the end of this cooling season. The increase in hours of usage is due to the extreme heat experienced within the last month.

**Liability:**

The manufacturer (York) of the compressor recommends replacement of the compressor "pre-failure" saving approximately one-half the cost of failure repairs if in fact a "failure" occurred.

**Bid Process:**

Douglas County completed a formal bid process to replace the compressor on chiller #1 recently (March 2012). Johnson Controls was awarded the bid to replace chiller #1 for the sum of \$61,296.00. Other bids received were McElroy's \$76,800.00 and Fagan Company \$69,705.00.

**Budgetary Impact:**

The Sheriff's Office equipment reserve line item has the funding available to cover the \$61,296.00 bid from Johnson Controls. Johnson Controls has indicated they would replace compressor #2 for the same amount as compressor #1.

**Narrative:**

Due to the delay in delivery of the compressor for chiller #1, Johnson Controls was asked if a similar delay would be encountered in the delivery of compressor #2. Maintenance supervisor Dave Sparkes was informed a delay could be possible but an alternative would be to order the compressor now thus mitigating any delay in delivery while allowing compressor #2 to be installed during a period when temperatures were much cooler. This would allow the entire air conditioning system for the facility to be updated prior to the maximum use period of next summer. Johnson Controls has stated they would honor the previous quote/bid they provided for compressor #1 (\$61,296.00).

As we continually strive to be proactive in the overall maintenance of this facility, we respectfully ask the County Commission to bypass the county's formal bid/purchasing process and allow Johnson Controls to order, and install compressor #2 for the same contract price that they were awarded in March of 2012. If allowed, facility maintenance staff will have the opportunity to take possession of the compressor #2 and formulate a proactive installation plan well in advance of the heat of next summer.

KLM/DLS



**DOUGLAS COUNTY ADMINISTRATIVE SERVICES**

**Division of Purchasing**  
1100 Massachusetts Street  
Lawrence, KS 66044-3064  
(785) 832-5286 Fax (785) 838-2480  
www.douglas-county.com

**MEMO TO:** The Board of County Commissioners  
Craig Weinaug, County Administrator

**FROM:** Jackie Waggoner, Purchasing Director *JW*  
Division of Purchasing

**SUBJECT:** Consider Recommendation of Contract Award for a Compressor

**DATE:** April 5, 2012

The Sheriff's Office has allocated \$50,000 to replace a compressor within one of the chillers at the Correctional Facility. The compressor has reached the manufacture's recommended life expectancy which indicates a 90% failure rate at 50,000+ hours. This preventative maintenance protects the County against much bigger expenses.

We solicited formal bids and received the following three responses:

	<b>IACAN COMPANY</b>	<b>MCILROY'S</b>	<b>JOHNSON CONTROLS</b>
<b>Bid Amount</b>	\$69,705	\$76,800	\$61,296
<b>Warranty</b>	1 Year	1 Year	1 Year
<b>Number of Days to Complete Installation</b>	No Response	120 Days	45 Days (original submitted 30 days)

As you can see, the bids received exceeded the funds allocated. The additional funds of \$11,296 from the low bidder are available in the budget. Dave Sparkes and I will be available at the commission meeting to answer any questions you may have.

**RECOMMENDATION:** The Board of County Commissioners accepts the low bid in the amount of \$61,296 to replace a chiller compressor at the Correction Facility.

#  
232 - FUND  
13072 - EQUIP RESERVE  
Should Be In MAINT

## **CONTRACT AGREEMENT**

**THIS AGREEMENT**, made and entered into this 11th day of April, 2012, by and between Douglas County, Party of the First Part hereinafter referred to as the Owner, and

**Chiller Compressor (purchase & installation) at the Correctional Facility - \$61,296**

**Johnson Controls Inc.**

of Lenexa, Kansas, Party of the Second Party and hereinafter referred to as the Contractor.

### **WITNESSETH:**

**THAT WHEREAS**, the Owner has caused to be prepared, in accordance with the law, specifications, terms and conditions, and other contract documents for the purchase herein described and has approved the adopted said documents in connection with Douglas County, Kansas Request for Bids No.12-F-0007 in accordance with the terms of this contract; and,

**WHEREAS**, the said contractor, has submitted to the Owner, in the manner and at the time specified, a sealed bid; and

**WHEREAS**, the Owner in the manner prescribed by law, has publicly opened, examined, and canvassed the bids submitted in response to the invitation therefore, and as a result of such canvas has determined and declared the aforesaid Contractor to be the best bidder for the service and has duly awarded to the said Contractor therefore, for the sum or sums named in the Contractor's bid, a copy thereof being attached to and made a part of this contract.

**NOW THEREFORE**, in consideration of the compensation to be paid to the Contractor and of the mutual agreements herein contained, the Parties to these presents have agreed and hereby agree, the Owner of itself and its successors, and the Contractor for itself, himself, or themselves, or its, or their successors and assigns, or its, his, or their executors and administrators, as follows:

**ARTICLE 1.** It is hereby mutually agreed, that for and in consideration of the sum or sums to be paid the Contractor by Owner as set forth in the Contract Documents, Contractor shall furnish all units, supplies, equipment, accessories and services as set forth in the Contract Documents, ready for use, and in strict accordance with the contract specifications and the Contract Documents. In the event of any conflict between the Request for Bids, including the Standard Terms and Conditions, and Contractor's Response thereto, as modified by any specifically negotiated terms, and any separate agreement or contract prepared by Contractor, the terms of Request for Proposals, including the Standard Terms and Conditions, and Contractor's response thereto shall control. For this purpose, the term "Contract Documents" shall mean the Owner's Request For Proposals, including the Standard Terms and Conditions, Contractor's Response thereto, as modified by any specifically negotiated terms, and other written contracts relating hereto; provided, however, that the Standard Terms and Conditions set forth in Owner's Request for Proposal may only be amended by specific changes agreed to by Owner in writing and, solely by signing this Contract, Owner does not agree to any proposed changes to the Standard Terms and Conditions set forth in Contractor's Response.

written contracts relating hereto; provided, however, that the Standard Terms and Conditions set forth in Owner's Request for Proposal may only be amended by specific changes agreed to by Owner in writing and, solely by signing this Contract, Owner does not agree to any proposed changes to the Standard Terms and Conditions set forth in Contractor's Response.

**ARTICLE 2.** It is hereby further agreed that, in consideration of the faithful performance of delivery of the specified items by the Contractor, the Owner shall pay the Contractor the sum or sums due him by reason of said faithful performance of the contract certified by the Owner, and as set forth in the bid as accepted by the Owner.

**ARTICLE 3.** It is hereby further agreed that the words "he" or "him" wherever used herein as referring to the Contractor shall be deemed to refer to said Contractor whether corporation, partnership or individual, and this contract and all covenants and agreements thereof shall be binding upon and for the benefit of the heirs, executors, administrators, successors and assigns of said Contractor.

**ARTICLE 4.** It is hereby further agreed that any reference herein to the "Contract" shall include all contract documents, specifications, and terms and conditions and are hereby made a part of this agreement as fully as if set out at length herein.

**IN WITNESS WHEREOF,** the First Party and the Second Party, respectively, have caused this agreement to be duly executed the day and year first herein written, all copies of which to all intents and purpose shall be **CONSIDERED AS THE ORIGINAL**

**ATTEST:**

  
County Clerk

OWNER, First Party  
Douglas County, Kansas

By:   
Sheriff, Kenneth M. McGovern

CONTRACTOR, Second Party

By: 

ICR - KC Motor S.M. - Service  
Position/Title of Signer



## MEMORANDUM

MEMO TO: Board of County Commissioners

FROM: Craig Weinaug, Assistant County Administrator

SUBJECT: Clarify the change order authority on Radio Project

DATE: September 14, 2012

When the Radio System was approved on September 5<sup>th</sup>, there was no discussion of the change order authority. In the past with larger capital projects, staff has been given the authority to approve change orders at a higher dollar threshold than normal expenditure limits. Change order authority should be specifically designated by the Commission. Normally, department heads have the authority to approve expenditures up to \$7,500, and Craig has the authority to approve expenditures up to \$20,000.

Staff has two options for consideration on change authority:

- Give the Director of the ECC the authority to approved change orders not to exceed \$7,500. Change orders between \$7,500 and \$50,000 would be approved by the County Administrator.
- Give the County Administrator the authority to approve change orders up to \$20,000 per change order, but not to exceed a total of \$50,000.

The change order totals will not exceed project total including contingency, and for all credit and no cost amounts. Please let us know if you have any questions or concerns.

# Memorandum

## City of Lawrence

### Planning & Development Services

**TO:** Board of County Commissioners

**FROM:** Mary Miller, AICP  
City/County Planner

**CC:** Craig Weinaug, County Administrator  
Scott McCullough, Director of Planning and Development Services

**Date:** For September 19 , 2012 meeting

**RE:** Revised language for text amendment, TA-8-11-11, adding the use 'Agritourism' to the list of permitted uses in the A District.

#### **ATTACHMENTS:**

Attachment A: Draft language.

Attachment B: Board of County Commissioners Meeting Minutes

Attachment C: Draft language recommended for approval by Planning Commission

Attachment D: Planning Commission Meeting Minutes

Attachment E: Agritourism Committee Report and Recommendation

#### **BACKGROUND:**

The Planning Commission considered the text amendment referenced above on the dates below and took the following actions:

1. July 27, 2011 Initiated the text amendment based on the recommendation and report of the Agritourism Committee.
2. February 29, 2012 Received draft language and returned the amendment to the Committee with direction for revisions.
3. March 26, 2012 Voted unanimously to forward the revised amendment to the Board of County Commissioners with a recommendation for approval

The Board of County Commissioners considered the draft language for the text amendment creating the use 'Agritourism' at their April 25, 2012 meeting and returned the language to the Agritourism Committee with direction for revisions.

Following the April meeting, members of the committee met with Commissioner Flory to discuss the draft language and with Zoning and Codes staff to discuss the building code exemption. Evan Ice, the County Counselor, provided comments including the recommendation that the language regarding 'exempt agricultural uses' be omitted from the

text amendment. Additional changes were made following review by the Planning Director. Attachment A contains 2 versions of the revised draft language: one with the changes incorporated and the other showing the changes.

## **DISCUSSION OF CHANGES:**

### **12-303-1.92 Ancillary Retail Sales**

The County Counselor suggested that the definition state that this definition applies to this section only as this term is not used elsewhere in the Regulations. Language was added to specify that the definition applies to this section only. Ancillary retail sales are permitted only when registered as an agritourism use.

### **12-319-7.01 Agritourism**

In the list of typical uses in Subsection B, the following changes were made:

1. 'Wineries' were removed from the list of typical agritourism uses to clarify that the tourism aspect occurs with the tours or tasting events rather than with the winery itself.
2. The use 'local products retail operations (local crafts, food products),' was removed based on the Planning Director's concern with the difficulty of determining what would be considered 'local crafts or products'. If the sale of these products is permitted as an agritourism use without limitation on the amount of retail sales area, it would be possible to open a retail store in the A District without rezoning or site planning. If the sale of 'local products, local crafts' were ancillary to an agritourism use, the use 'ancillary retail sales' would apply. Requiring the sale of these products to be ancillary to an agritourism use would insure that the use would remain agritourism, rather than strictly retail.
3. The terms 'historical' and 'cultural' were added to 'educational and learning experiences' and to 'events, fairs, festivals' to clarify that these events are not limited to agricultural activities. These changes were based on the discussion at the meeting with Commissioner Flory, but were not suggested by him.

The Planning Commission discussed the definition of agritourism at their February 29 and March 26, 2012 meetings. These minutes are included in Attachment D. The original draft language included a requirement that the Agritourism activity be located on a 'working farm or ranch or other agricultural land'. The Committee had been divided as to whether agritourism should be restricted to farm or agricultural land within the Agricultural Zoning District. The Commission was in favor of removing this provision as a means of encouraging agritourism and voted to remove this provision. As a result, agritourism uses may occur on any property within the Agricultural Zoning District if the determination is made that the use meets the definition of agritourism provided in Section 12-319-7.01.

The current language allows the Directors to make a determination as to whether a use is Agritourism based on the definition and the list of typical uses in 12-319-7.01, and the zoning of the property. Based on this definition, agritourism activities such as social gatherings, u-pick berry patches, and farm tours would be classified as agritourism as well as larger operations such as The Woods on N 1800 Road, or Sadies Lake on E 1300

Road. The Woods proposed a 48,000 sq ft conference center with a restaurant and bar. A bar requires commercial zoning; however, the other uses would be permitted as agritourism. Based on the Planning Commission's discussion on the definition of agritourism, no limitation was placed on scale or intensity of the proposed use.

Sub-section (i) "These agritourism provisions do not apply to camping." was added based on concerns with sanitary provisions which would apply with camping. The camping use would require approval of a CUP to insure proper disposal of waste and provision of suitable drinking water. If standards for 'camping' are included in the revised zoning regulations, the use 'camping' may be added to the list of agritourism uses, subject to the standards in the Code.

### **12-319-7.02 Registration and Approval Process of Agritourism Uses**

Agritourism would be added to the list of permitted uses in the Agricultural Zoning District with this amendment. As a permitted use the initiation of or change to an agritourism use does not require notification to the public.

Sections 12-319-7.02 (b), and (c) were added following the April Board of County Commission meeting.

**12-319-7.02(a)** This section outlines the registration process. It had previously stated that the agritourism use was exempt from further review under 'These Regulations'. This was revised to note the agritourism use was exempt from the site plan and cup sections to clarify that a site plan or conditional use permit are not required for these uses; however, other provisions in the Code may apply such as building setbacks, building permits, etc.

**12-319-7.02(b)** This section provides for the Planning Director and Director of Zoning and Codes to make a joint determination as to whether the agritourism uses and activities listed/described on the registration form meet the definition of agritourism in the Zoning Regulations. In response to concerns from the public, a 7 day time limit was set on that determination.

In some cases, the state registration form alone may not provide the information needed for the determination so language was added to note that if additional information was necessary, it would be provided by the agritourism operator and kept as part of the registration. The purpose of this is to insure that the agritourism uses that are in operation meet the definition of agritourism and that the permitted uses are clearly identified.

The determination shall be referred to the Board of County Commissioners in cases where the Planning Director and the Director of Zoning and Codes are not able to make a determination.

Appeals from the director's determination may be made to the Board of County Commissioners within 30 working days of notification of determination to the applicant. This language was revised to increase the appeal period from 7 to 30 working days and to clarify that the applicant is the only party who may file an appeal from the determination.

These revisions are intended to provide a process for the determination of an Agritourism use which includes an appeal provision to the County Commission.

**12-319-7.02(c)** This section clarifies that only the uses which are listed on the registration form are permitted as agritourism uses.

Subsection (i) was added to note the process for changing the agritourism use.

**12-319-7.02(d)** Re-registration with the County is required whenever the use is re-registered with the state, 5 years, and any time the registration form is amended so the Zoning and Codes Office will have an up-to-date list of registered uses.

**12-319-7.02 (e) and (f)** These sections discussed uses which are exempt as 'agricultural uses'. These were deleted in response to the County Counselor's comments and to prevent confusion as to what constitutes an 'agriculturally exempt' use. The Zoning and Codes Director is responsible for making the determination of agriculturally exempt uses and this would continue to be the case.

**12-319-7.02(g)** This section will be renumbered due to the omitted sections above. The reference to 'agriculturally exempt uses' was deleted and Subsection (i) was added to clarify that the enforcement provisions in the Zoning Regulations would apply to any agritourism use that was operated without being listed on the registration form submitted to the county.

### **12-319-7.03 Structures and Building Codes**

The exemption allowing the use of existing agricultural buildings which meet specific criteria without requiring compliance with the building code was revised as shown following discussions with the Building Inspectors and Director of Zoning and Codes as the revised language is more in keeping with the International Building Code.

One revision made is removing the word "agricultural" since non-agricultural buildings can be used for agritourism and would benefit from this code section.

The Board of County Commissioner's directed staff to add wording regarding the safety of the buildings that are exempted from the Building Codes by this section at their April 25<sup>th</sup> meeting. The following language was considered by staff with the intent of identifying that the responsibility for insuring the safety of the building rest with the agritourism operator:

- b. "The agritourism operator shall take precautions to insure the existing agricultural building is structurally sound and in good repair."

The Zoning and Codes Director felt this language was not workable as they would have no way to enforce that the operator was taking these precautions so this language was removed. This language has not been included in the revised amendment.

The Planning Director attended a committee meeting and suggested that the County Zoning and Codes Office provide a minimal set of safety standards which would apply to

exempt agritourism buildings to insure inspection of basic safety elements of a building. This method has been used with certain uses in the City where it has been determined that full compliance with the building code is not possible. Based on this suggestion the following wording was considered:

“The Zoning and Codes Office shall conduct a complementary inspection of any building to be used for agritourism within 14 calendar days of the registration of the agritourism use with the County.

- i. A checklist of the minimum safety standards is available at the Zoning and Codes Office.”

The Zoning and Codes Inspectors indicated that because this section effectively revises the building code, any reduction in building code standard should be made in the building code and not the zoning code. If the Commission desires a safety inspection, but with a reduced review of building code standards, then staff recommends that the adopting resolution be written to amend both Chapter 3 (Building Codes) and Chapter 12 (Zoning) and that all agritourism use be held to the building code. The Agritourism text amendment could reference the building code and the building code would provide a list of minimal safety standards for agritourism uses of varying intensities. For example, for uses that are contained on the ground floor and include less than 100 people, very minimal standards would be employed. For uses that include cooking or overnight stays, all provisions of the building code might be employed. This would be worked out in the language of the building code and not the zoning code. A draft of the building code revisions is not provided at this time.

The current proposed language addresses reducing compliance with the building code for use of certain intensity, but does not ensure that structures are necessarily starting out safe because no inspection is required. Amending the building code and zoning language as noted above could address both issues.

#### **ACTION REQUESTED**

The following action steps are available to the County Commission:

- 1) Approve the revised draft language. As the wording varies from that recommended by the Planning Commission, a unanimous vote would be required for approval.
- 2) Return the draft language to the Planning Commission for consideration and recommendation. Following the Planning Commission recommendation approval would require a majority vote.
- 3) Return the draft language to the committee with recommendation for further changes.

Staff recommends that the draft language be returned to the Planning Commission for consideration of the changes and returned to the Board of County Commissioners with recommendation.

**TA-8-11-11 Agritourism  
Draft language with changes shown  
For September 19, 2012 BoCC meeting**

Draft Language recommended by PC shown in bold.

Changes made to the PC recommended version are shown as follows:

- 1) New text based on comments at BoCC meeting in **red print**
- 2) New text added as result of meetings with Commissioner Flory and Zoning and Codes staff added in **green print**
- 3) New text added as result of County Counselor's comments shown in **blue**
- 4) Changes based on discussion with Planning Director in **purple**
- 5) Deleted text shown as ~~struckthrough~~.

**Agritourism**

**12-303 DEFINITIONS**

**12-303-1.92 ANCILLARY RETAIL SALES:** **For the purpose of this section only, 'ancillary retail sales' refers to the sales of goods or services that differ from or enhance the principal use. Ancillary retail sales are subsidiary, supplementary, or secondary to the principal use.**

**12-303-1.93 FARM STAY:** **Overnight accommodations in a farm or ranch house for guests while they are vacationing at the farm/ranch as part of a registered Agritourism Use.**

**12-306 "A" AGRICULTURAL DISTRICT REGULATIONS**

**12-306-1** The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "A" Agricultural District. The purpose of this district is to provide for a full range of agricultural activities, including **agritourism**, and the processing and sale of agricultural products raised on the premises; and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses. The District is also intended for purposes of protecting watersheds and water supplies to provide for spacious development, to protect forest areas, and scenic areas, and to conserve fish and wildlife, to promote forestry, the growing of natural crops and grazing, and to prevent untimely scattering of more dense urban development. For the purpose of restricting outdoor advertising signs, the area within this district shall be considered as defined for residential purposes only.

**12-306-2.26 Agritourism – Subject to conditions in Section 12-319-7.**

**SECTION 12-319 SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES**

**12-319-7 AGRITOURISM SUPPLEMENTAL USE REGULATIONS**

Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging agritourism, while ensuring that the public health, safety, and welfare is protected.

#### **12-319-7.01 AGRITOURISM**

- a. Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.
  
- b. Typical agritourism uses include, but are not limited to, the following:
  - Farm markets/roadside stands,
  - U-pick operations,
  - ~~Wineries and Farm~~ winery tours and tastings,
  - ~~Local products retail operations (local crafts, food products),~~
  - Corn mazes,
  - Farm-related interpretive facilities, exhibits, and tours,
  - **Historical, cultural, or** agriculturally related educational and learning experiences, including volunteer workers.
  - **Historical, cultural, or** agriculturally related events/fairs/festivals,
  - Farm stays,
  - Bed and breakfast establishments,
  - Recreation related operations (fishing, hunting, bird watching, hiking, etc),
  - Horseback riding,
  - Garden, nursery tours and exhibits,
  - Pumpkin patch visits and activities,
  - Weddings, receptions and other assembly type uses,
  - Ancillary retail sales,
  - Other uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.
    - i. These Agritourism provisions do not apply to camping.

#### **12-319-7.02 REGISTRATION AND APPROVAL PROCESS OF AGRITOURISM USES**

- a. After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the agritourism use with the County. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur **as permitted in Section 12-319-7** without any additional review under ~~these Regulations~~ **Section 12-319, Conditional Use Permits, or Section 12-319A, Site Plan Regulations** ~~when registered with the State and the County,~~ although other State and local regulations shall apply.



- b. Registration forms shall be jointly reviewed by the Director of the Zoning and Codes Office and the Planning Director to determine if the proposed use(s) meet the definition of agritourism set forth in these Regulations within 7 working days of submittal.
- i. Additional descriptive information may be necessary for the determination. This information will be provided by the agritourism operator and kept as a part of the registration.
  - ii. If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.
  - iii. The applicant for the agritourism registration may file an appeal from the Director's determination. Appeals from the determination shall be made to the Board of County Commissioners. An appeal must be filed within 30 days of notification of the determination to the applicant. The appeal will be considered at the next available Commission meeting.
- c. Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as agritourism.
- i. Any change in proposed uses would require:
    - the modification of the registration with the State,
    - resubmittal of the revised registration form to the Zoning and Codes Office for a determination of compliance with the definition of agritourism provided in this Section by the Director of the Zoning and Codes Office and the Planning Director.
- d. The KS Agritourism Act requires agritourism uses to register with the State every 5 years. Agritourism uses must register with the County each time an agritourism use is registered with the State, every 5 years, or any time a registration form is amended.
- e. ~~Agritourism uses which are exempt from these Zoning Regulations by virtue of being agricultural uses [K.S.A.19-2960(d)] are not required to register with the State or County; however, registration is encouraged so the agritourism use can take advantage of incentives that have been developed for agritourism uses. Those interested in pursuing an Agritourism activity should contact the Zoning and Codes Office to determine if they are exempt as Agricultural uses or are subject to the following approval process:~~
- f. ~~Uses which are exempt from these Zoning Regulations by virtue of being agricultural uses and do not require registration include:~~
- i. ~~Temporary stands for seasonal sale of products raised on the premises;~~

- ii. ~~U-Pick Operations;~~
  - iii. ~~Farm tours;~~
  - iv. ~~Retail sale of agricultural products raised on the premises; and~~
  - v. ~~Wineries and Tasting Rooms;~~
  - vi. ~~And other uses as determined by the Director of Zoning and Codes.~~
- g. Agritourism uses ~~which are not exempted from these Zoning Regulations by virtue of being agricultural uses,~~ but that meet the definition of agritourism provided in Section 12-319-7.01, may occur in the A District ~~as permitted in Section 12-319-7~~ without any additional review under ~~these Regulations~~ Section 12-319A, Site Plan Regulations, or Section 12-319-1, Conditional Use Permits. ~~when registered with the State and the County;~~ although other State and local regulations shall apply.
- h.
- i. **Engaging in any activity not listed on the registration would be considered a violation subject to the enforcement provisions of Section 12-329.**
- i. ~~Agritourism uses which do not meet the criteria noted in this section require approval through the Conditional Use Permit process or must be located in a Zoning District in which it is a permitted use.~~

#### 12-319-7.03 STRUCTURES AND BUILDING CODES

Structures for agritourism uses ~~which are not permitted by right as Agricultural Uses, listed in Section 12-319-7.02(a),~~ are required to comply with Douglas County Building Codes with the following exception:

- a. An existing ~~agricultural~~ building used for an agritourism use is not considered a change of occupancy that requires a building permit if the ~~subordinate use of agritourism use:~~
  - i. Occupies only **the grade level of a structure that has at least one egress door that is a minimum of 32" wide.** ~~levels of the building with the following ingress/egress:~~
    - 1. ~~Two ground level points of ingress and egress for structures which exceed 250 sq ft in area.~~
    - 2. ~~One ingress/egress is permitted for structures with less than 250 sq ft in area.~~
      - 1. For the purpose of this exemption a sliding barn or shed door is considered an acceptable **ingress/egress door.**
  - ii. ~~Occupancy does not exceed 50~~ **Is limited to no more than 100** people permitted in the structure at any one time;
  - iii. ~~The use~~ Does not include overnight stays or the addition of a kitchen.
- b. ~~To assist in the determination if the agritourism use in an existing agricultural building would be considered a change of occupancy that~~

requires a building permit, the registration form must list each of the criteria above and represent compliance with all of them.

**PLANNING/AGRITOURISM 04-25-12**

The Board considered the approval of Text Amendment TA-08-11-11 to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish Agritourism as a use in the County "A" (Agriculture) District. The item was approved by the Planning Commission on March 26, 2012 with an 8-0 vote. Mary Miller, Lawrence-Douglas County Metropolitan Planning Staff, presented the item.

Flory asked for an example of an agriculture exempt usage. Miller stated selling wine produced on the property is an agricultural exempt use. Under today's requirements, adding t-shirt sales would cause the need for a CUP permit because the shirts are a non-agricultural product. Under the text amendment, the business would need to register and be approved through the State. The agritourism operator would provide a copy of the Agritourism Promotion Act Registration Form to the Douglas County Zoning and Codes department to register the business with the County. No additional review would be required under these regulations.

Miller added that not all agritourism uses have to register. A wine tasting room would be considered agritourism with the county, but the Kansas Statute says it is an agricultural exempt use. It does not fall under the zoning regulations or require a CUP and would not require a registration in our process, but the County would view it as an agritourism use.

Thellman asked what the incentives are to register with the State and County. Miller replied the County website could offer information and links regarding the registered business and events. The state offers liability waivers and financial incentives to registered agritourism uses.

Flory asked what we are trying to accomplish with the text amendment.

Miller stated we are trying to increase agritourism in the County. Farms with agritourism have a much higher income. Presently you can only do the agricultural exempt businesses, with no ancillary retails or live music. Miller cited other examples of the Pumpkin Patch, Corn Maze and Christmas tree farms which are seasonal events, but at present require approval through the CUP process because of ancillary sales. Under the text amendment, if determined an agritourism activity, these businesses would only need to be registered with the State and County.

Richard Hird, Lawrence-Douglas County Planning Commissioner, stated Douglas County has the ability to offer exceptional agritourism which helps local farms and creates economic development income for Douglas County. The Agritourism Committee originally drafted extensive language in the text amendment and decided to loosen the verbiage to promote the activity. A winery under the present system for example is an exempt activity. But if you sell a cork screw or put a picnic table outside you have to go through the entire CUP process. If a Christmas tree farm wants to sell a tree stand it would also go through the CUP process. The committee decided not to put the agritourism operator through that.

Flory asked how the County would control the activities the winery engages in.

Hird stated there are definitions for both the State and County in this ordinance.

There was discussion on the number of occupants allowed in an agricultural building during an event being 50 without requiring the building having to be upgraded to County Code standards, while meeting some ingress/egress and structure dimensions. Each registration would be reviewed on a case-by-case basis. If the business expands to include more than 50 occupants, the buildings would be required to meet County building codes. Property owners are still allowed to have private weddings receptions or private gatherings on their property without a CUP or a registration required. Natalya Lowther, Lawrence Resident and Douglas County farmer, stated she has had interaction with the committee through the process and likes the product coming from the committee. She feels the agriculture experience doesn't really fit into the building codes.

Thellman suggested inserting the word "safe" into the agritourism language for carrying out events in a "safe" existing agricultural building used for agritourism under Section A. Keith Dabney, Director of Zoning and Codes, agreed with adding the wording. Thellman directed staff to make the revisions.

Flory stated he supports agritourism but has concerns that registration through the state allowing ancillary activities could impact the neighbors with consequences such as dusty roads, increased traffic, and noise. He is concerned the County could lose control of regulating these types of situations. He wants to study the information further.

Gaughan agreed.

Flory moved to defer action on the text amendment and place on a future agenda for further discussion. Motion

was seconded by Gaughan and  
carried 3-0.

**MISCELLANEOUS**

Planning Commission Recommended draft 8-0, March 26, 2012, with changes incorporated.

(New language for the Regulations is shown in **bold** print. Deleted text is shown as ~~struckthrough~~.)

## Agritourism

### **12-303 DEFINITIONS**

**12-303-1.92 ANCILLARY RETAIL SALES:** Sales of goods or services that differ from or enhance the principal use. Ancillary retail sales are subsidiary, supplementary, or secondary to the principal use.

**12-303-1.93 FARM STAY:** Overnight accommodations in a farm or ranch house for guests while they are vacationing at the farm/ranch as part of a registered Agritourism Use.

### **12-306 "A" AGRICULTURAL DISTRICT REGULATIONS**

**12-306-1** The regulations set forth in this section, or set forth elsewhere in this Resolution, when referred to in this section are the regulations in the "A" Agricultural District. The purpose of this district is to provide for a full range of agricultural activities, including **agritourism, and** the processing and sale of agricultural products raised on the premises; and at the same time, to offer protection to agricultural land from the depreciating effect of objectionable, hazardous and unsightly uses. The District is also intended for purposes of protecting watersheds and water supplies to provide for spacious development, to protect forest areas, and scenic areas, and to conserve fish and wildlife, to promote forestry, the growing of natural crops and grazing, and to prevent untimely scattering of more dense urban development. For the purpose of restricting outdoor advertising signs, the area within this district shall be considered as defined for residential purposes only.

**12-306-2.26 Agritourism – Subject to conditions in Section 12-319.7.**

### **SECTION 12-319 SUPPLEMENTAL USE REGULATIONS-CONDITIONAL USES-TEMPORARY USES**

#### **12-319-7 AGRITOURISM SUPPLEMENTAL USE REGULATIONS**

**Agritourism is recognized as a vital tool for sustaining the family farm and represents significant economic potential for the community in general. These regulations are intended to foster and promote agritourism in keeping with the State of Kansas policy of encouraging Agritourism, while ensuring that the public health, safety, and welfare is protected.**

#### **12-319-7.01 AGRITOURISM**

- a. **Agritourism is the intersection of agriculture and tourism, when the public visits rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Agritourism uses the rural experience as a tool for economic development.**
  
- b. **Typical Agritourism uses include, but are not limited to, the following:**
  - **Farm markets/roadside stands,**
  - **U-pick operations,**
  - **Wineries and winery tours and tastings,**
  - **Local products retail operations (local crafts, food products),**
  - **Corn mazes,**
  - **Farm-related interpretive facilities, exhibits, and tours,**
  - **Agriculturally related educational and learning experiences, including volunteer workers.**
  - **Agriculturally related events/fairs/festivals,**
  - **Farm stays,**
  - **Bed and breakfast establishments,**
  - **Recreation related operations (fishing, hunting, bird watching, hiking, etc),**
  - **Horseback riding,**
  - **Garden, nursery tours and exhibits,**
  - **Pumpkin patch visits and activities,**
  - **Weddings, receptions and other assembly type uses,**
  - **Ancillary retail sales, or the ancillary sale of products made by other local producers**
  - **Other Uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.**
    - i. **These Agritourism provisions do not apply to camping.**

**12-319-7.02 REGISTRATION AND APPROVAL PROCESS OF AGRITOURISM USES**

**After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the agritourism use with the County. Agritourism uses which meet the definition set forth in these Regulations and are registered with the State and with the County may occur without any additional review under these Regulations.**

- a. **Agritourism uses which are exempt from these Zoning Regulations by virtue of being agricultural uses [K.S.A.19-2960(d)] are not required to register with the State or County; however, registration is encouraged so the agritourism use can take advantage of incentives that have been developed for agritourism uses. Those interested in pursuing an Agritourism activity should contact the Zoning and Codes Office to determine if they are exempt as Agricultural uses or are subject to the following approval process.**

- b. Uses which are exempt from these Zoning Regulations by virtue of being agricultural uses and do not require registration include:
  - i. Temporary stands for seasonal sale of products raised on the premises;
  - ii. U-Pick Operations;
  - iii. Farm tours;
  - iv. Retail sale of agricultural products raised on the premises; and
  - v. Wineries and Tasting Rooms;
  - vi. And other uses as determined by the Director of Zoning and Codes.
  
- c. Agritourism uses which are not exempted from these Zoning Regulations by virtue of being agricultural uses, but that meet the definition of Agritourism provided in Section 12-319-7.01, may occur in the A District without any additional review under these Regulations when registered with the State and the County; although other State and local regulations shall apply.
  
- d. Agritourism uses which do not meet the criteria noted in this section require approval through the Conditional Use Permit process or must be located in a Zoning District in which it is a permitted use.

**12-319-7.03 STRUCTURES AND BUILDING CODES**

Structures for agritourism uses which are not permitted by right as Agricultural Uses, listed in Section 12-319-7.02(a), are required to comply with Douglas County Building Codes with the following exception:

- a. An existing agricultural building used for agritourism is not considered a change of occupancy that requires a building permit if the subordinate use of agritourism:
  - i. Occupies only levels of the building with the following ingress/egress:
    - 1. Two ground-level points of ingress and egress for structures which exceed 250 sq ft in area.
    - 2. One ingress/egress is permitted for structures with less than 250 sq ft in area.
    - 3. For the purpose of this exemption a sliding barn or shed door is considered an acceptable ingress/egress.
  - ii. Occupancy does not exceed 50 people at any one time;
  - iii. The use does not include overnight stays or the addition of a kitchen.



PC Minutes 6/22/11

ITEM NO. 12 AGRI-TOURISM COMMITTEE RECOMMENDATIONS (MKM)

Agri-Tourism Committee recommendations

STAFF PRESENTATION

Ms. Mary Miller presented the item and said it would be heard by Planning Commission in July.

Commissioner Liese asked if this could include boating.

Ms. Miller said that was one of the uses identified as being considered.

Commissioner von Achen asked what was meant by the wording in the staff report that refers to registration of agri-tourism uses.

Ms. Miller said primarily it would be used for economic benefits where they could be noted on the Douglas County website which would include a link to their website. She stated each registration would be verified. If they register with the State it would automatically be registered with the county.

Commissioner von Achen asked if the recent food garden tour was in any way associated with this.

Ms. Miller said no.

Commissioner Hird said the committee spent a long time discussing terms because there were a lot of ways to refer to agri-tourism, agri-business, rural tourism, etc. He said the State Statute adopted several years ago said that if you registered with the State and posted a prescribed notice the landowner had certain insulation from liability. He said they did that because agri-tourism was something the state of Kansas should get behind.

Commissioner Hird thanked Mr. Pep Selvan, Blue Jacket Crossing Winery, for his participation in the process. He said regarding dust palliative treatment, the only solution that he knew of was dust palliative but that it was incredible expensive. He suggested that the County could help participate in some fashion with finances.

PUBLIC HEARING

Mr. Hank Booth, Lawrence Chamber of Commerce, discussed the Farm Tour and mixer on Friday that was a Chamber of Commerce event.

Ms. Gwen Klingenberg, said she was excited about this and the money that it will bring into the community. She thought it would be a good idea to include the information on the City website.

Commissioner Finkeldei asked what the next step was for the committee.

Commissioner Hird said they would be working on the specifics of the registration.

Commissioner Finkeldei suggested looking at language regarding signage.

Commissioner Culver suggested an additional step of how to promote it beyond Douglas County.

NO ACTION TAKEN

PC Minutes 7/27/11

ITEM NO. 10 AGRI-TOURISM COMMITTEE RECOMMENDATIONS (MKM)

Receive Agri-Tourism Committee report and recommendations. Initiate code amendments for future public hearing.

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

No public comment.

COMMISSION DISCUSSION

Commissioner Burger asked if this would open the door for something like the Wakarusa Festival.

Ms. Miller said a Special Event Permit might allow something like the Wakarusa Festival but that it would be so large that it would go to County Commission for approval.

Commissioner von Achen inquired about road dust abatement for smaller venues and felt it was a burden on land owners to pay for that.

Ms. Miller said dust abatement was an ongoing issue. She said the committee asked the Townships if they had received complaints about dust during the yearly Farm Tour that attracts hundreds of people and they had not. She said in the past they approved a dust abatement measure for a reception facility where the farmer was going to spray water on the road.

Commissioner von Achen asked if dust abatement was to protect the tourists or the neighbors.

Ms. Miller said it was typically used to protect land owners who live on the route but a dusty road could also be an issue for vehicles.

Commissioner Hird said one of the recommendations by the committee was that the county governments be involved in funding dust abatement programs because agritourism was an economic stimulus to the economy and region. He said the influx of tourists and commercial activity justifies the county government spending some money on dust abatement.

ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Culver, to:

- 1) Initiate a text amendment to the Zoning Regulations for the Unincorporated Territory of Douglas County to establish a Special Event Permit and develop application process and standards.
- 2) Initiate a text amendment to the Zoning Regulations for the Unincorporated Territory of Douglas County to establish Agritourism as a use. This would include defining the different levels of agritourism, establishing standards for each level, establishing signage regulations, and establishing a registration and approval processes for each level.

Unanimously approved 9-0.

PC Minutes 2/29/12

ITEM NO. 10 TEXT AMENDMENT TO THE DOUGLAS COUNTY ZONING REGULATIONS;  
AGRITOURISM (MKM)

TA-8-11-11: Consider a Text Amendment to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish *Agritourism* as a use in the County A (Agriculture) District.

STAFF PRESENTATION

Ms. Mary Miller presented item 10.

PUBLIC HEARING

Mr. Hank Booth, Lawrence Chamber of Commerce, thanked staff and the committee for their work. He felt like it was a solid document.

Ms. Natalya Lowther, Pinwheel Farms, said she was impressed with how the regulations had been clarified and consolidated. She thought it might be helpful to include a definition or criteria for what a working farm or ranch was. She suggested that an elected board, such as Planning Commission, determine if a use was actually agritourism instead of being determined by one individual. She wondered if regarding the structure and building codes maybe the county could take some of the responsibility with that.

COMMISSION DISCUSSION

Commissioner Hird thanked Ms. Lowther for her letter. He said there were some tradeoffs in the document and nobody got entirely everything they wanted in the process. He said one of the major things was that they included in 12-319-7.01b was an addition to the state definition that says '*In order to be considered an agritourism use under these Regulations, the activity must occur on a working farm or ranch or other agricultural land.*' He said that was not a requirement of the state statute and it was not something he was personally in favor of but that there were some members of the committee that felt it should be included. He said all of this was in the agricultural district and he felt it was unnecessary. He gave an example of an agritourism use that was recognized by the state, a bed and breakfast on the edge of the Flint Hills. He said guests can take hikes into the Flint Hills but that the bed and breakfast was not on a working farm or ranch but it was an agritourism use that drew people to the area. He said regarding 12-319-7.03 on Structures and Building Codes the committee was all over the place in discussions. He said some that felt agricultural buildings should be exempt completely. He gave the example of a winery tasting room that was allowed to be built by right without any registration process. He said if it was an agricultural building it did not have to comply with the Code for things such as sprinkler systems, egress, and ingress. He said it was an exempt agricultural building. He said the minute the winery sells a wine glass or t-shirt it becomes ancillary sales that draws the whole thing within the umbrella of Building Codes. He did not feel that made sense that the sale of a wine opener should somehow make the entire use subject to a set of Codes that did not apply if they just sold wine. He said they needed to meet middle ground on it. He said the Maryland statute that staff found had language about exemptions which was okay. He said if they had to comply with Building Code there had to be two ingress and egress doors. He said that many morton buildings only had one side entrance door, one window, and a big sliding door. He said the entrance door would count as ingress and egress but the 15' wide sliding door wouldn't count because it slides instead of opening out and doesn't have panic hardware. He said anyone with that type of building would have to supply a second egress door in order to have kids come in to watch them milk cows. He felt that a sliding barn door should count as an ingress and egress point. He felt they could do some fine tuning of the Building Code. He said a sliding barn door ought to be enough to get people in and out. He referenced the exceptions in 12-319-7.03

Structures and Building Codes that state '*Occupies only levels of the building with two ground-level points of ingress and egress.*' He did not have a problem with that if a barn door was considered one of those doors. He said regarding the exception '*Occupancy does not exceed 50 people at any one time.*' he thought that number was taking out of thin air because that's what was in the Maryland statute. He thought they may want to thoroughly discuss that. He said regarding the exception '*The use does not include overnight stays or the addition of a kitchen.*' it was fine but he thought there could be structures that had catering kitchens that were not full kitchens. He said he would like to see Planning Commission give direction and send back to the committee for one more final look at it.

Commissioner Finkeldei said some of the comments at the Mid-Month meeting were focused on the balancing between encouraging agritourism versus protecting neighbors. He asked if the committee had discussions regarding that.

Commissioner Hird said that was a topic of discussion for well over a year. He said there was currently a sound/nuisance ordinance that would protect neighbors from each other. He said they elected not to add additional requirements since the point of this was to facilitate agritourism.

Commissioner Liese referenced a business named Art's Mexican Products that makes salsa and other foods out of an apartment that qualified as an agritourism use. He wondered how they would protect agritourism from people who would take advantage of it.

Commissioner Hird said if Art's Mexican Products was located in the agricultural district of Douglas County then they would fall under this text amendment. He said the problem with Art's Mexican Products was that it was located on Southwest Boulevard in Kansas City, KS with no connection to agritourism. He said the text amendment would only apply in the agri-district to begin with.

Commissioner Liese inquired about putting agritourism in other districts.

Commissioner Hird said he had not given any thought to doing that.

Ms. Miller said staff did think about that at first but there weren't many other districts where it would apply. She said they decided agriculture seemed like the one district it would fit in.

Commissioner Britton asked Commissioner Hird if he would like Planning Commission to recommend the removal of the extra local definition of agritourism.

Commissioner Hird said that would be his preference.

Commissioner Britton said maybe the reason the local definition was proposed was to prevent someone who had a house on land zoned agricultural from qualifying for this promotion, and to restrict it to folks who were actually using the land for agricultural purposes.

Commissioner Hird said it would need to be tied to a use and fall within the definition.

Commissioner Burger said this was a program that was trying to promote people to use their land in a different way and she did not want to create criteria that would have to be met before they would qualify when they were trying to encourage them to develop something new. She said she would support the elimination of the criteria in 12-319-7.01b.

Commissioner Culver said he would also support eliminating that bullet point b because it may be more prohibitive than promoting of agritourism.

Commissioner Britton asked if the committee discussed conservation as a goal.

Commissioner Hird said they talked about it in the context of keeping people out on the land. He said someone could have the most beautiful spot in Kansas but if they can't use it in such a fashion to make money chances are it would be difficult to stay.

Ms. Miller said they were trying to balance a lot of different things and it depended on how you looked at it. She said when you look at some of the State uses there was someone who had a four wheel drive truck rally who held races on their land. She said it did not help a farm and people weren't really benefiting from the rural experience so that was why they tried to link it to agriculture in some way.

Commissioner Finkeldei said the fundamental question was what they were trying to accomplish with the Text Amendment. He said if they could agree with what they were trying to accomplish with the Text Amendment then the answer becomes easier. He said if their goal was to promote agritourism in Douglas County then they need to take out bullet point b. He said adding bullet point b and adding in some of the things in 703 were all about trying to make that balance a little different. He said it depended where you fell on that spectrum on how much additional regulation you put in there. He said he agreed with Commissioner Hird and would rather have a Code that encourages agritourism but if they discover people abusing it they will have to change the Code.

Commissioner Blaser agreed that a sliding barn door should count as an ingress and egress point.

Commissioner Liese suggested working on the language regarding ingress and egress points.

#### ACTION TAKEN

Motioned by Commissioner Liese, seconded by Commissioner Britton, to defer Text Amendment (TA-8-11-11) to consider 12-319-7.03 on Structures and Building Codes, the registration approval process of 12-319-7.01b, and the definition of working farm or ranch

Commissioner Britton said he would like to see subpart b removed but would also like to work in some other control so that locally they could have an opt out.

Mr. McCullough referenced language in 12-319-7.02 that says '*After the use has been registered with the State, a copy of the Agritourism Promotion Act Registration Form shall be provided to the Douglas County Zoning and Codes Office to register the agritourism use with the County.*'

Motion carried 8-0. Student Commissioner Davis voted in the affirmative.

PC Minutes 3/26/12

ITEM NO. 3 TEXT AMENDMENT TO THE DOUGLAS COUNTY ZONING REGULATIONS;  
AGRITOURISM (MKM)

TA-8-11-11: Consider a Text Amendment to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish *Agritourism* as a use in the County A (Agriculture) District. *Deferred by Planning Commission on 2/29/12.*

STAFF PRESENTATION

Ms. Mary Miller presented the item.

PUBLIC HEARING

Ms. Natalya Lowther, Pinwheel Farms, did not feel it should be the job of the Douglas County Zoning & Codes Administrator to decide what is and isn't an agricultural activity in situations where agritourism is involved. She felt it added to the duties of one already very busy individual in an area that was not their main field of work and training. She said putting one individual in charge of making that decision was a violation of Kansas State Statute.

Ms. Marci Francisco, League of Women Voters, said the intention of the committee in recommending the language was not to have one person make the determination. The language recommended talks about contacting the Zoning & Codes office. She said their concern was that it was confusing and they didn't want someone to assume they had an agricultural use and then be told they should have started the process through the County. The League felt this was a fuzzy area for determination between what was an agricultural use and what was not.

COMMISSION DISCUSSION

Commissioner Belt asked if there was sufficient guidance from the committee for the definition of agritourism.

Commissioner Hird put two definitions of agritourism on the overhead. One was the definition from the State Statute and the other was the definition they settled on for the Text Amendment language. He said the State Statute defines agritourism activity in a very general way, which was intentional to encourage it. He felt the State Statute and Text Amendment language were enough to indicate to someone what was and was not agritourism. He stated saving the family farm was one of the goals of agritourism but another component was the economic development component. He stated it was not purely for farms in the traditional sense, but it was also to stimulate economic activity based upon a rural experience.

Commissioner Belt said he liked the definition to provide as many opportunities as possible. He expressed concern about when the decision maker position changes their perspective might be different.

Mr. McCullough said the Zoning Official was charged through the Codes of the County with making those decisions. He said determinations were made by looking at case law, State Statutes, local Codes, and there was always an appeal process as well.

Commissioner Blaser said the committee tried to keep the definition simple. He felt simple was better. He hoped they could approve this and send it on and tweak later if needed.

Commissioner Liese asked Ms. Francisco if the League of Women Voters was satisfied.

Ms. Francisco said she could not represent the committee because they did not see the language staff was suggesting. She said this was a general definition and would be confusing for an individual to make that determination. She said the language presented by staff seemed appropriate based on the comments made by the League of Women Voters.

Commissioner Finkeldei said he would support the changes. He said if they adopt it tonight they were saying they want to encourage agritourism. He felt it sent the right message to County Commission. He said if the County Commission wants to regulate it more than the State they will send it back.

#### ACTION TAKEN

Motioned by Commissioner Hird, seconded by Commissioner Blaser, to approve the Text Amendment, TA-8-11-11, to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish *Agritourism* as a use in the County A (Agriculture) District, as outlined in the staff report with the additional language staff drafted to accommodate the concern of the League of Women Voters.

Commissioner Blaser asked if everyone would need to check with the County Zoning & Codes office before deciding to do agritourism.

Commissioner Hird said he thought it was reasonable step and could prevent problems.

Commissioner Blaser said it was still an interpretation.

Commissioner Hird said when the committee first drafted language it looked more like typical zoning regulations than something to promote an activity, so they backed off and started over.

Ms. Miller said the language was only a recommendation that they 'should check' not that they need to. She said if they are agriculturally exempt they do not have to look at the zoning regulations.

Mr. McCullough said it was a way for a person not to invest in something that wasn't agritourism. He said it was better to get that determination upfront.

Commissioner Blaser inquired about the appeal process.

Mr. McCullough said if someone gets a determination of one category or another that could be appealed to the Board of Zoning Appeals. He said they could find out upfront if they are Code compliant moving forward.

Unanimously approved 8-0.

**LAWRENCE DOUGLAS COUNTY PLANNING COMMISSION  
AGRITOURISM COMMITTEE  
REPORT AND RECOMMENDATIONS**

The Agritourism Committee of the Lawrence Douglas County Metropolitan Planning Commission was formed in January of 2010 to study agritourism and make recommendations to the Planning Commission regarding options which could be undertaken to promote and facilitate agritourism activities as well as possible revisions to the Zoning Regulations which would ensure the public health, safety, and welfare is protected while agritourism is facilitated. Agritourism is one means of promoting economic development in Douglas County, although there are certainly other benefits, such as providing additional income for residents engaged in agritourism activities, allowing them to maintain the rural/agricultural lifestyle, and increasing the long-term sustainability of family farms in Douglas County.

**Members of the Agritourism Committee include:**

Nancy Thellman, Douglas County Commissioner  
Chuck Blaser, Planning Commission Chair  
Rick Hird, Planning Commissioner and Committee Chair  
Mary Miller, Planning Staff  
Judy Billings, Freedoms Frontier Chair  
Clint Hornberger, Farm Bureau and Chamber of Commerce Representative  
Hank Booth, Lawrence Chamber of Commerce  
Becky Rhodes, Kansas Department of Commerce  
Pep Selvan, Bluejacket Crossing Winery  
Linda Finger, Douglas County Planning Resource Coordinator  
Keith Dabney, Douglas County Zoning and Codes Director

**PROCESS:**

The early meetings of the Agritourism Committee focused on defining agritourism and identifying the agritourism uses that currently exist in Douglas County. A draft definition of agritourism was developed and amended as the meetings progressed. A map showing where the agritourism uses identified by the committee are located is included in Figure 1 at the end of this report.

Township trustees and the County Engineer were invited to the November, 2010 meeting for a discussion on rock roads and agritourism uses. Keith Browning stated that Calcium Chloride is the cheapest and most effective dust palliative treatment available. A map showing where dust palliative was applied in 2010 is included in Figure 2 at the end of this report. The following is a summary of the discussion on the dust palliative program:

Residents pay for the dust palliative treatment and also for the cost of the township to prepare the road. Cost of the dust palliative is \$1.60 per linear foot with 60 cents a linear foot going to the township for preparation costs. The township prepares the road to stabilize it, and to create a crown to insure adequate drainage so when



the palliative has been applied they will not need to work it again. Dust palliative usually lasts through the summer and most of the year. It is applied in 2 applications, once in May and again about a month later. For areas that do it 4 to 5 years in a row, there is a residual effect. They could even skip a year and still have effective dust treatment.

Dust palliative is available all year, but the County may not have enough on hand if a person didn't sign up in January. It would be possible for them to go through the County's contact to get dust palliative, but they would need to make arrangements with the township about the road preparation.

Agritourism operators in Douglas County were invited to the January, 2011 stakeholder meeting. The meeting's goal was to identify issues that stakeholders felt presented the greatest challenges to establishing and operating agritourism businesses, and what changes would be most beneficial in supporting and encouraging agritourism. The principal concern noted was the process involved with the Conditional Use Permit (CUP). Suggestions for improvement included the following:

- remove the time-limit on CUPs but have administrative reviews at regular intervals,
- develop a Special Event Permit for infrequent or more temporary agritourism uses.
- allow low-intensity agritourism uses through registration.

**This report is divided into five sections:**

1. Mission Statement
2. Definition of Agritourism
3. Economic Impact of Agritourism
4. Applicable Zoning, Permits, Codes and Other Laws and Regulations now in effect
5. Issues and Recommendations

**1. MISSION STATEMENT**

The Mission Statement adopted by the Agritourism Committee is as follows:

The Agritourism Committee will study existing laws, regulations and procedures and propose changes designed to foster and promote Agritourism in Douglas County. The Agritourism Committee will:

- Establish a definition of Agritourism
- Evaluate the economic impact of Agritourism activities
- Evaluate the effect of zoning regulations, building codes and other laws and regulations on the development of Agritourism activities
- Make recommendations to the Planning Commission to assist in the promotion of Agritourism

## 2. DEFINITION OF AGRITOURISM

Agritourism is defined in several different ways by various agencies and groups. In 2004, the Kansas Legislature adopted the Agritourism Promotion Act, K.S.A. 74-50,165, *et seq* (the "Act"). The purpose of the Act is described as:

The purpose of this act is to promote rural tourism and rural economic development by encouraging owners or operators of farms, ranches, and rural attractions, including historic, cultural, and natural attractions, to invite members of the public to view, observe and participate in such operations and attractions for recreational or entertainment purposes. This act shall be liberally construed to effectuate that purpose. K.S.A. 74-50,166.

The Act provides a manner for registration of agritourism activities with the Kansas Secretary of Commerce and, with appropriate posted signage, provides some insulation from liability for agritourism operators. The Act defines agritourism as:

...[A]ny activity which allows members of the general public, for recreational, entertainment or educational purposes, to view or enjoy rural activities, including but not limited to, farming activities, ranching activities or historic, cultural or natural attractions. An activity may be an agritourism activity whether or not the participant pays to participate in the activity. An activity is not an agritourism activity if the participant is paid to participate in the activity. K.S.A. 74-50,167(a)

The Committee was somewhat divided regarding the scope of activities that should be considered within the umbrella of agritourism. The following definition adopted by the Committee is a combination of the statutory definition and the definition used by the Kansas Department of Commerce and other authors:

Agritourism: The intersection of agriculture and tourism. When the public goes to rural areas for recreation, education, enjoyment, entertainment, adventure or relaxation. Using the rural experience as a tool for economic development.

Using that definition, the Committee suggests the following as examples (although not exhaustive) of agritourism activities:

- Recreation
  - Hiking
  - Hunting, fishing
  - Equestrian
  - Bicycling
- Education
  - Agricultural operations
  - Food production
  - Ranching operations
  - Historical farms
  - Preserved prairies and other natural areas

- Entertainment
  - Demonstrations of agricultural operations
  - Integration of music, theatre, arts to enhance rural experience
  - Gatherings, events, and festivals
  - Shopping
  - Farmer’s Markets
- Adventure
  - Discovery of new areas
  - Experiencing wildlife
  - Hands-on involvement in agriculture or ranching
- Relaxation
  - Enjoyment of rural settings, vistas
  - Change of pace
  - Escape from urban environment
  - Bird Watching

**3. ECONOMIC IMPACT OF AGRITOURISM**

The following information was taken from the K-State report "Agritourism: If We Build it Will They Come?" written by Dan Bernardo, Luc Valentin, and John Leatherman (Professor and Department Head, Research Assistant, and Associate Professor, respectively, Department of Agricultural Economics, Kansas State University).

“Despite its relative infancy, agritourism represents a significant revenue source for many farmers across the nation. To lend perspective to the importance of agritourism as a revenue source, estimates of total and average annual income generated from on-farm recreation are reported in Table 2 for eight USDA regions” (page 4) Kansas is included in the ‘Prairie Gateway’ group in the following table along with Western Oklahoma, Nebraska, and Central Texas.

**Table 2.** Total Annual and Average Income (Gross Receipts) Generated by On-Farm Recreation, By Region

Region	Annual Total Income	Average Income/Farm	% of Farms w/ Recreation Income	Avg. Income for Farms w/ Recreation
Heartland	\$38,500,000	\$90	7%	\$1,286
Northern Crescent	\$298,000,000	\$963	2%	\$48,150
Northern Plains	\$14,000,000	\$138	5%	\$2,760
<b>Prairie Gateway</b>	<b>\$79,000,000</b>	<b>\$267</b>	<b>4%</b>	<b>\$6,675</b>
Eastern Uplands	\$5,000,000	\$14	1%	\$1,400
Southern Seaboard	\$37,800,000	\$161	3%	\$5,366
Fruitful Rim	\$278,600,000	\$1,127	3%	\$37,566
Basin & Range	\$36,700,000	\$437	6%	\$7,283
Mississippi Portal	\$8,000,000	\$69	1%	\$6,900
<b>TOTAL</b>	<b>\$796,000,000</b>	<b>\$368</b>	<b>2%</b>	<b>\$9,200</b>

The report stated that "Agritourism is being proposed as a local and statewide economic development strategy. As such, it is useful to estimate the economic impact of this industry on the state's economy. An economic impact analysis was conducted to determine both the direct economic impacts of spending by visitors participating in agritourism and the indirect effects arising from the new income generated by that spending." (page 11, *Agritourism: If We Build It Will They Come?*)

Staff contacted the authors of the report who clarified that the information in Table 3 was a model estimation of spending associated with agritourism uses in Kansas. Table 2 shows the total income for the Prairie Gateway and the authors estimated Kansas' share at \$18,000,000. The information in Table 3 shows approximately \$18,000,000 of farm income (farm products + farm services). The other figures are associated estimated expenditures that would occur in conjunction with agritourism uses.

<b>Table 3.</b>		
<b>Category</b>	<b>Total Expenditure Profile</b>	<b>Out-of-State Expenditure Profile</b>
Farm Products	\$8,017,000	\$2,565,440
Farm Services	\$9,342,000	\$2,989,440
Travel Costs	\$37,223,000	\$12,047,426
Lodging	\$8,017,000	\$2,565,440
Eating & Drinking	\$7,466,000	\$2,388,980
Other Retail	\$3,895,000	\$1,246,458
Other	\$3,947,000	\$1,263,122
<b>TOTAL</b>	<b>\$77,907,000</b>	<b>\$25,066,306</b>

"The combined direct and indirect economic impact associated with agri-tourism in 2000 was estimated to be between \$25 and \$78 million (in 2004 dollars). The low estimate arises from spending generated from out-of-state sources and the high estimate is spending originating from both in-state and out-of-state sources. To the extent that spending by Kansas residents would likely not occur in rural regions had it not been spent on an agritourism activity, the high estimate can be construed as an estimate of the economic impact on the state's rural economy." (page 12, *Agritourism: If We Build It Will They Come?*)

In addition, it was estimated that the federal government collected approximately \$2.9 million in tax revenues and that state and local governments garnered approximately \$2 million from the varied activities associated with agritourism spending by out-of-state visitors in 2000. If in-state tourism activities are included, then tax collections increase to \$9.06 and \$6.25 million, respectively.

**In summary, agritourism has a positive economic impact not only on the farm family involved in the activity, but the community as a whole.**

#### 4. APPLICABLE ZONING, PERMITS, CODES AND OTHER LAWS AND REGULATIONS

##### A) ZONING

The following are examples of agritourism uses that are permitted by right, that is no CUP is required:

- Pick Your Own Fruit/Vegetables Patches
- Agricultural Demonstrations
- Seasonal Sale of Products Raised on the Site
- Commercial Hunting and Fishing
- Commercial Riding Stable (site plan is required)
- Country Club (site plan is required)

##### B) CUP

Some Agritourism uses which are not permitted by right can be approved with a Conditional Use Permit. Uses listed in Section 12-319-4 of the Zoning Regulations require a CUP. These include the following agritourism uses:

- Farmer's Market,
- Dude Ranch,
- Fruit or Vegetable Stand,
- Recreation Facility.

##### **Outline of the CUP process:**

A pre-application meeting with staff is recommended to outline the process and identify possible challenges/opportunities.

##### — **Application.**

If the application is filed before the deadline, the Planning Commission may consider it at the meeting following their next meeting. For instance, if a CUP is filed by June 20, 2011 the Commission will consider it at their August 22, 2011 meeting. (Approximately 60 day review period.)

##### — **Review.**

60 days Minimum

The application is distributed to County Staff, Utility Providers, Township Trustees, Drainage District Representatives, and Fire Departments. A letter is then mailed to the applicant listing any concerns which were raised regarding the proposal or the plans which were provided. Revisions to the proposal or revised plans may be requested.

##### — **Public Hearing.**

Notice is mailed to property owners within 1000 ft of the property included in the CUP and a public hearing is held with the Planning Commission. If the property is within 3 miles of Eudora, Baldwin City, or Lecompton a joint Planning Commission meeting is held.

##### — **Planning Commission.**

The Planning Commission conducts a public hearing and votes to forward the item to the County Commission with a recommendation for approval, approval with conditions, approval with revised conditions or denial. The Commission may also vote to defer the item if additional information is needed.

— **Protest Period.**

14 days

A mandatory 14 day waiting period is provided before the CUP request is scheduled for consideration by the Board of County Commissioners to allow time required by State Statutes for the filing of a 'protest petition'. If a valid protest petition is filed, approval of the CUP requires a unanimous vote of the County Commission (3/4 majority required).

— **County Commission.**

The County Commission considers the CUP request and accepts public comment. The County Commission could take one of the following actions: approve, approve with conditions or deny the CUP. They may also vote to defer the CUP if necessary.

— **Building Permits.**

Building permits may be applied for concurrently with the CUP request and are required for any new building or change of use of an existing building.

— **Conditional Use Permit.**

A permit for the Conditional Use is issued by the Douglas County Zoning and Codes Office.

C) BUILDING AND OTHER COUNTY CODES

- Agricultural buildings - K.S.A. 74-50,167(b)
- Douglas County Sanitary Code
- Uniform Building, Uniform Mechanical, and Uniform Plumbing Codes and the National Electrical Codes

D) OTHER LAWS/STATUTES

- Agritourism Promotion Act, K.S.A. 74-50,165,

## 5. ISSUES AND RECOMMENDATIONS

### A. ROAD DUST.

Issue: The generation of dust by travelers to agritourism activities has been raised as a concern. Opinions vary from the expectation that travel on rural roads will be dusty, to the expectation that properties with increased activity should mitigate the dust created by traffic to the site.

Recommendation: note the areas where agritourism uses are clustered or where larger agritourism uses are located and establish a dust palliative treatment program for roads in these areas with assistance being offered by the County

## **B. SIGNAGE.**

Issue: Signage is limited by the Zoning Regulations in the 'A' District to accessory identification signs or signs advertising goods which are raised on the premises.

Recommendation: Additional signage should be permitted to advertise agritourism uses both on- and off-site. Various options were discussed, which included the possibility of using standard signage on the highways to identify exits from which agritourism activities can be accessed.

## **C. APPROVAL PROCESS.**

Issue: Some agritourism uses are never pursued due to the time and process involved in getting approved.

Recommendation: Simplify the process for agritourism uses which would not be classified as 'high intensity'.

- i. Create a tiered level of agritourism activities with different approval process for each. For instance: Low intensity agritourism activities – registration; Medium intensity agritourism activities -- site plan; High intensity activities – conditional use permit.
- ii. Establish standards which would apply to uses which do not require a CUP, such as: attendance limited to that which can be accommodated with on-site parking (no on-street parking permitted), retail sales permitted up to a maximum area of a particular square footage and certain level of assembly without requiring a CUP or full compliance with Commercial Building Codes, (This may require an amendment to the Building Codes to facilitate the use of ag buildings for agritourism uses while requiring minimal inspections to ensure basic health, safety and welfare.)
- iii. Establish a Special Event Permit for infrequent or temporary events. Identify events which could be approved administratively, and those which would require County Commission approval and note the time frame for approval; for instance 5 business days for administrative and 14 business days for County Commission permits. Establish standards for special events. Establish time limits for particular uses, with more flexibility provided for agritourism uses.

## **D. COMMUNITY-WIDE BENEFITS OF AGRITOURISM.**

Issue: As illustrated in the economic impact section of this report, agritourism benefits not only the farm family involved in the activity, but the community as a whole. Increased spending within the county is one benefit; increased sustainability of family farms is another.

Recommendation: Promote Agritourism Activities in the County.

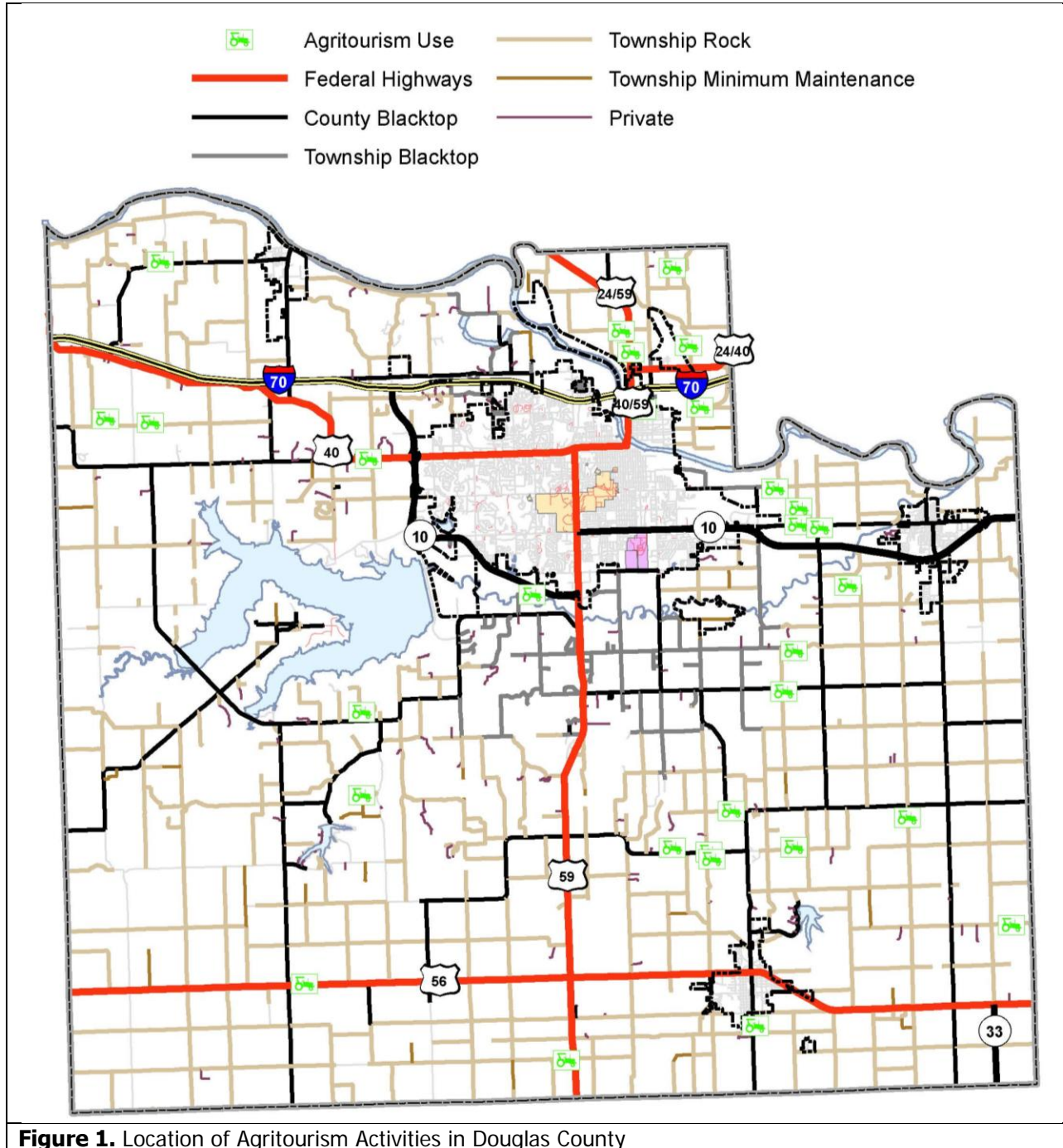
- i. Install an 'Agritourism' link on the Douglas County web-site to provide information on the agritourism uses in the county (and links to their websites) as well as the process to establish new uses. This link can provide information for future agritourism activities as well as promote existing activities.
- ii. Prepare brochures which clearly outline the process and requirements for different types of agritourism activities.

**E. IMPLEMENTATION AND MONITORING OF RECOMMENDATIONS.**

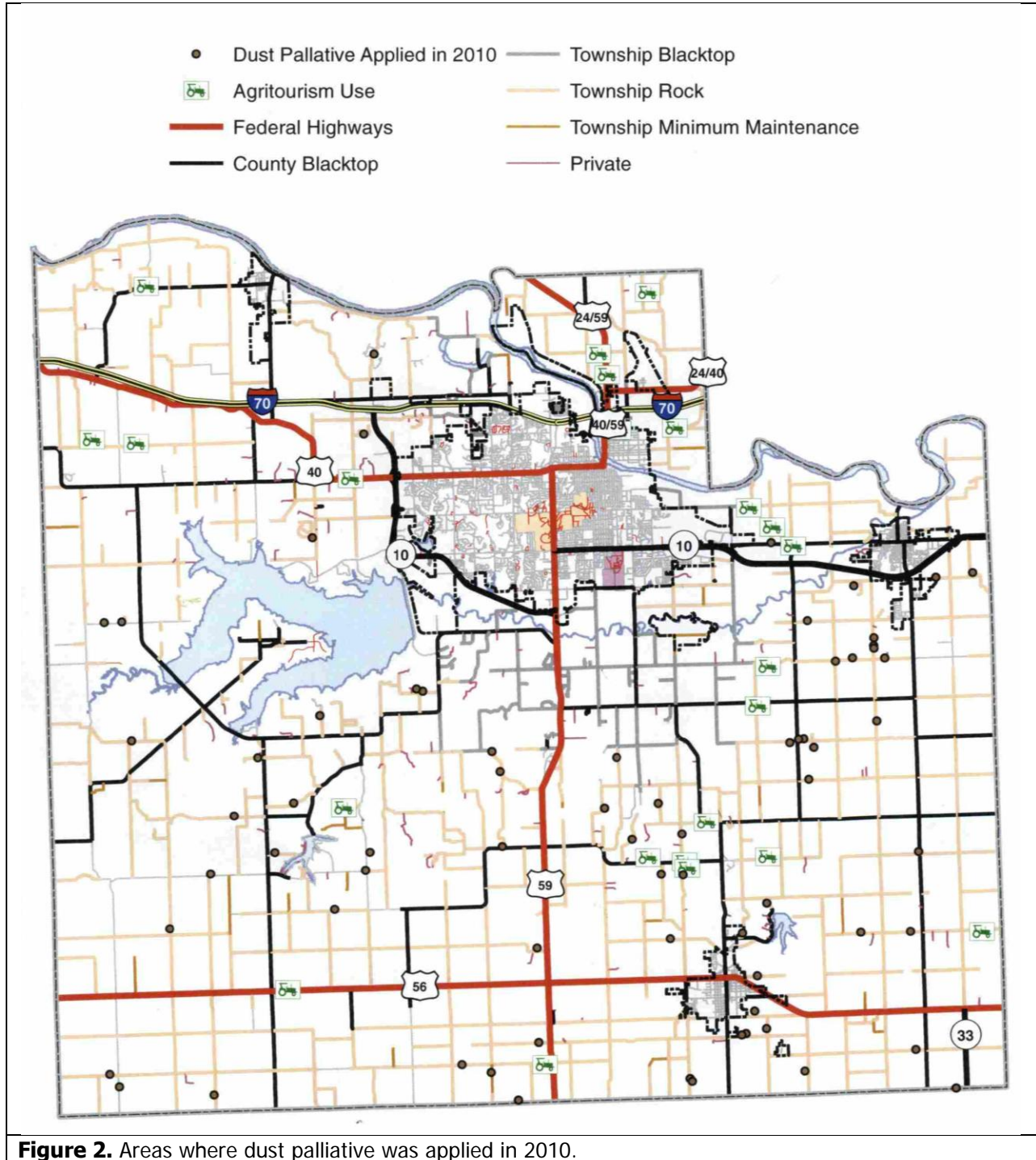
Issue: Many of the recommendations require knowledge of the existing agritourism uses.

Recommendation: Registration of Agritourism Uses. In order to qualify for the simplified approval process or other features, the use must be registered with the Douglas County Zoning and Codes Office as an Agritourism Use and with the State Chamber of Commerce. This registration will assist in the determination of dust palliative treatment program areas, the inclusion of the use on the County Website as well as the monitoring of the effectiveness of the measures adopted to encourage and foster agritourism. The State registration form should double for the County registration, if all necessary information is included on the state form.





**Figure 1.** Location of Agritourism Activities in Douglas County



**Figure 2.** Areas where dust palliative was applied in 2010.