

BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

WEDNESDAY, DECEMBER 12, 2012

4:00 p.m.

CONSENT AGENDA

- (1) (a) Consider approval of Commission Orders;
- (b) Consider Temporary Construction Easements in favor of KDOT (Evan Ice)
- (c) Consider Quit-Claim Deeds in favor of KDOT containing reversionary clauses that the real estate ceases to be used for its intended use (Evan Ice);
- (d) Notice to Township for a Cereal Malt Beverage License for the Clinton Store (Clerk's Office); and
- (e) Consider approval of agreement with KDOT for the treatment of noxious weeds on state rights-of-ways in 2013 (Keith Browning)

REGULAR AGENDA

- (2) Preliminary Work session on CIP issues (Backup to follow Monday or Tuesday)
- (3) (a) Consider approval of Accounts Payable (if necessary)
- (b) Appointments
 - Bicycle Advisory Committee 12/2012 (eligible for reappointment)**
 - Lawrence/Douglas County Advocacy Council on Aging 10/2012 (replacement)**
 - (5 positions) Codes Board of Appeals-12/31/12**
- (c) Public Comment
- (d) Miscellaneous

RECESS

RECONVENE

6:35 P.M.

- (4) Consider "Petition for Attachment of Lands to Rural Water District No. 2, Douglas County, Kansas" and receive statements of interested persons, including any testimony from city, township, county or regional planning commission having jurisdiction of the affected land.
- (5) Consider approval of "Douglas County Kansas Heritage Conservation Plan" to be submitted to the Kansas State Historical Society for designation of Douglas County as a Certified Local Government, as deferred from the 11/28/12 Meeting. (Shelley Hickman Clark)
- (6) Consider revised wording for 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 deferred from the December 5, 2012 meeting. (Mary Miller)
- (7) Consider revised wording for Text Amendment, **TA-8-10-11**, to the Douglas County Zoning Regulations for the Unincorporated Territory of Douglas County to establish a Special Event Permit and develop application process and standards, as deferred from the December 5, 2012 meeting. (Mary Miller)
- (8) Adjourn

WEDNESDAY, DECEMBER 19, 2012

4:00 p.m.

-Amend the 2012 County Budget (Debbie Sparkes)

-(4) Emerg Communication items (Scott Ruf)

4 or 6:35 p.m.?

-Review documents related to 2013 Heritage Grant Program (Jeanette Blackmar)

WEDNESDAY, DECEMBER 26, 2012 -Cancelled

WEDNESDAY, JANUARY 2, 2013

CUP-12-00099: Consider a Conditional Use Permit for sand excavation and extraction for Penny Sand Pit, approximately 434 acres located on the NE Corner of N 1500 Road & E 1850 Road. Submitted by Landplan Engineering, for William Penny & Van LLC, property owners of record. (Mary Miller will present the item.)

WEDNESDAY, JANUARY 9, 2013 – Cancelled

MONDAY, JANUARY 14, 2013

-9:00 a.m. – Swear in reelected Commissioners and appoint Chairman of the Board for 2013

WEDNESDAY, JANUARY 16, 2013

WEDNESDAY, JANUARY 23, 2013

WEDNESDAY, JANUARY 30, 2013

***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.*

KANSAS DEPARTMENT OF TRANSPORTATION

TEMPORARY EASEMENT

THIS TEMPORARY EASEMENT is made and entered into December ____, 2012, by and between

Douglas County Board of Commissioners
1100 Massachusetts St.
Lawrence, KS 66044

landowner(s), and the Secretary of Transportation of the State of Kansas.

For consideration as hereinafter set forth, the landowner(s) grant(s) to the Secretary of Transportation, his duly authorized agents, contractors and assigns the right to enter upon the following described real estate in the County of Douglas, State of Kansas, for the purpose of highway construction as shown by the plans for road project 10-23 K 8392-01:

(c) A tract of land in the Northwest Quarter of Section 18, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, described as follows: COMMENCING at the Northwest corner of said Quarter Section; thence on an assumed bearing of South 01 degree 45 minutes 36 seconds East, 154.52 feet along the West line of said Quarter Section to the Southwest corner of a tract of land described in deed recorded in Book 199 at Page 637 in the office of the Register of Deeds in and for said Douglas County, Kansas; thence South 88 degrees 33 minutes 12 seconds East, 50.08 feet along the South line of said tract of land to the Easterly right of way line of an existing public road and the POINT OF BEGINNING; FIRST COURSE, thence continuing South 88 degrees 33 minutes 12 seconds East, 160.25 feet along said South line; SECOND COURSE, thence North 01 degree 45 minutes 36 seconds West, 93.40 feet to the Southerly right of way line of an existing public road; THIRD COURSE, thence South 89 degrees 01 minute 34 seconds West, 160.02 feet along said Southerly right of way line to said Easterly right of way line; FOURTH COURSE, thence South 01 degree 45 minutes 36 seconds East, 86.63 feet along said Easterly right of way line to said South line and the POINT OF BEGINNING. The above described tract contains 0.33 acre, more or less.

And the right to enter upon the following described real estate in the County of Douglas, State of Kansas for the purpose of an entrance as shown by the plans for road project 10-23 K 8392-01:

(d) A tract of land in the Northwest Quarter of Section 18, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, described as follows: COMMENCING at the Northwest corner of said Quarter Section; thence on an assumed bearing of South 01 degree 45 minutes 36 seconds East, 154.52 feet along the West line of said Quarter Section to the Southwest corner of a tract of land described in deed recorded in Book 199 at Page 637 in the office of the Register of Deeds in and for said Douglas County, Kansas; thence South 88 degrees 33 minutes 12 seconds East, 642.14 feet along the South line of said tract of land to the POINT OF BEGINNING; FIRST COURSE, thence continuing South 88 degrees 33 minutes 12 seconds East, 112.05 feet along said South line; SECOND COURSE, thence North 04 degrees 42 minutes 50 seconds West, 116.61 feet to the Southerly right of way line of an existing public road; THIRD COURSE, thence South 89 degrees 01 minute 34 seconds West, 89.59 feet along said Southerly right of way line; FOURTH COURSE, thence South 06 degrees 33 minutes 16 seconds West, 112.60 feet to the said South line and the POINT OF BEGINNING. The above described tract contains 0.26 acre, more or less.

Said right of entrance, occupation and use to continue only during the construction and completion of the above project.

It is further agreed by and between the parties hereto that this easement is not intended to change the highway right of way line as it now exists.

Having been fully informed of the right to receive just compensation based upon an appraisal, the undersigned expressly declare the intent to dedicate the temporary easements identified above, and state that the decision to dedicate said land was made without any undue influence or coercive action of any nature, and that the right to just compensation is hereby waived.

This easement expires the earlier of (i) ninety days (90) after completion of the highway construction project for which this easement is acquired or (ii) June 30, 2017.

IN WITNESS WHEREOF the parties have signed this agreement on the day and year first above written.

Landowner(s):

Douglas County Board of Commissioners

By: _____
Mike Gaughan, Chair

ATTEST:

Jameson D. Shew,
Douglas County Clerk

Jerome T. Younger, P.E.
Deputy Secretary and
State Transportation Engineer

Recommended by:

BY: _____
WILLIAM VICORY, CHIEF
BUREAU OF RIGHT OF WAY

, Right of Way Agent

STATE OF KANSAS, DOUGLAS COUNTY, SS.

On December ____, 2012, before me, a notary public in and for said county and state, personally appeared Mike Gaughan, Chair of, and on behalf of, the Douglas County Board of Commissioners, to me known to be the person(s) named in and who executed the foregoing instrument, and duly acknowledge the execution thereof.

NOTARY PUBLIC
My commission expires

QUIT CLAIM DEED

ON THIS _____ day of December 2012,

THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS
as Grantor

QUITCLAIMS TO:

SECRETARY OF TRANSPORTATION FOR THE STATE OF KANSAS
as Grantee

ALL OF THE FOLLOWING-DESCRIBED REAL ESTATE:

That part of the Northwest Quarter (NW ¼) of Section 17, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, described as follows:

BEGINNING at the Southwest corner of said Quarter Section; FIRST COURSE thence on an assumed bearing of North 01 degree 22 minutes 47 seconds West, 1280.08 feet along the West line of said Quarter Section; SECOND COURSE, thence South 87 degrees 16 minutes 10 seconds East, 92.63 feet; THIRD COURSE, thence South 87 degrees 06 minutes 59 seconds East, 323.44 feet to the East line of a tract of land described in a deed recorded in Book 454 at Page 546 in the office of the Register of Deeds in and for said Douglas County, Kansas; FOURTH COURSE, thence South 24 degrees 10 minutes 47 seconds East, 972.24 feet along said East line; FIFTH COURSE, thence South 01 degree 32 minutes 32 seconds East, 335.94 feet to the South line of said Quarter Section; SIXTH COURSE, thence South 87 degrees 22 minutes 44 seconds West, 792.83 feet along said South line to the POINT OF BEGINNING. The above described tract contains 18.83 acres, more or less.

SUBJECT TO: (A) COVENANTS, RESTRICTIONS, DECLARATIONS, EASEMENTS, RIGHTS-OF-WAY, RESERVATIONS, AND OTHER AGREEMENTS AND MATTERS OF RECORD; (B) TAXES AND ASSESSMENTS, GENERAL AND SPECIAL, NOT NOW DUE AND PAYABLE; (C) RIGHTS OF THE PUBLIC IN AND TO THE PARTS THEREOF IN STREETS, ROADS, OR ALLEYS; AND (D) THE FOLLOWING DEED RESTRICTION:

This deed is given and conveyance of the described real estate is made with the specific restriction that Grantee and Grantee’s successors shall use said real estate as environmental mitigation areas, including the location, establishment, construction, reestablishment reconstruction, repair, maintenance and use of habitats for plant and animal life and ancillary access roads, structures, educational facilities and other improvements to mitigate against the damage to and loss of existing wetlands and habitats. If at any time this real estate is used for other than the purposes set out herein, this deed shall be forfeited and the real estate herein described and all of the rights herein conveyed shall at once revert to and revest in and become the property of the Grantor, without any declaration of forfeiture or act of re-entry and without any other act by Grantor to be performed and without any right of said real estate to reclamation or compensation for monies paid or improvements made, as absolutely, fully, and perfectly as if this deed had never been made.

FOR THE SUM OF: Gift, donation and contribution.

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

By: _____
Mike Gaughan, Chair

Attest:

Jamie Shew, County Clerk

**[PURSUANT TO K.S.A. 79-1437e(a), a real estate validation questionnaire is not required
due to exception No. 4.]**

STATE OF KANSAS) /
) ss: /
COUNTY OF DOUGLAS) /
) /
) /

RESERVED FOR REGISTER OF DEEDS:

This instrument was acknowledged /
before me this ____ day of December 2012, /
by Mike Gaughan, as Chair of The Board of /
County Commissioners of Douglas County, /
Kansas. /

Notary Public /
My appointment expires: /

QUIT CLAIM DEED

ON THIS _____ day of December 2012,

THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS
as Grantor

QUITCLAIMS TO:

SECRETARY OF TRANSPORTATION FOR THE STATE OF KANSAS
as Grantee

ALL OF THE FOLLOWING-DESCRIBED REAL ESTATE:

That part of the Northwest Quarter (NW ¼) of Section 17, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, described as follows:

COMMENCING at the Southwest corner of said Quarter Section; thence on an assumed bearing of North 87 degrees 22 minutes 44 seconds East, 792.83 feet along the South line of said Quarter Section to the POINT OF BEGINNING; FIRST COURSE, thence continuing North 87 degrees 22 minutes 44 seconds East, 139.03 feet along said South line to the Southeast corner of a tract of land described in a deed recorded in Book 454 at Page 546 in the office of the Register of Deeds in and for said Douglas County, Kansas; SECOND COURSE, thence North 24 degrees 10 minutes 47 seconds West, 361.15 feet along the East line of said tract of land; THIRD COURSE, thence South 01 degree 32 minutes 32 seconds East, 335.94 feet to the South line of said Quarter Section and the PONT OF BEGINNING. The above described tract contains 0.54 acre, more or less.

SUBJECT TO: (A) COVENANTS, RESTRICTIONS, DECLARATIONS, EASEMENTS, RIGHTS-OF-WAY, RESERVATIONS, AND OTHER AGREEMENTS AND MATTERS OF RECORD; (B) TAXES AND ASSESSMENTS, GENERAL AND SPECIAL, NOT NOW DUE AND PAYABLE; (C) RIGHTS OF THE PUBLIC IN AND TO THE PARTS THEREOF IN STREETS, ROADS, OR ALLEYS; AND (D) THE FOLLOWING DEED RESTRICTION:

This deed is given and conveyance of the described real estate is made with the specific restriction that Grantee and Grantee's successors shall use said real estate for public highway purposes in accordance with K.S.A. 68-413 and K.S.A. 68-413(b). If at any time this real estate is used for other than the purposes set out herein, this deed shall be forfeited and the real estate herein described and all of the rights herein conveyed shall at once revert to and re-vest in and become the property of the Grantor, without any declaration of forfeiture or act of re-entry and without any other act by Grantor to be performed and without any right of said real estate to reclamation or compensation for monies paid or improvements made, as absolutely, fully, and perfectly as if this deed had never been made.

FOR THE SUM OF: Gift, donation and contribution.

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

By: _____
Mike Gaughan, Chair

Attest:

Jameson D. Shew, County Clerk

**[PURSUANT TO K.S.A. 79-1437e(a), a real estate validation questionnaire is not required
due to exception No. 4.]**

STATE OF KANSAS)	/
) ss:	/
COUNTY OF DOUGLAS)	/
)	/
This instrument was acknowledged	/	
before me this ____ day of December 2012,	/	
by Mike Gaughan, as Chair of The Board of	/	
County Commissioners of Douglas County,	/	
Kansas.	/	
	/	
	/	
	/	
_____ Notary Public	/	
My appointment expires:	/	

RESERVED FOR REGISTER OF DEEDS:

QUIT CLAIM DEED

ON THIS _____ day of December 2012,

THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS
as Grantor

QUITCLAIMS TO:

SECRETARY OF TRANSPORTATION FOR THE STATE OF KANSAS
as Grantee

ALL OF THE FOLLOWING-DESCRIBED REAL ESTATE:

That part of the Northwest Quarter (NW ¼) of Section 17, Township 13 South, Range 20 East of the 6th P.M., Douglas County, Kansas, described as follows:

COMMENCING at the Southwest corner of said Quarter Section; thence on an assumed bearing of North 01 degree 22 minutes 47 seconds West, 1280.08 feet along the West line of said Quarter Section to the POINT OF BEGINNING; FIRST COURSE, thence continuing North 01 degree 22 minutes 47 seconds West, 550.17 feet along said West line to the Northwest corner of a tract of land described in a deed recorded in Book 454 at Page 546 in the office of the Register of Deeds in and for said Douglas County, Kansas; SECOND COURSE, thence North 88 degrees 30 minutes 43 seconds East, 170.63 feet along the North line of said tract of land to the Northeast corner of said tract of land; THIRD COURSE, thence South 24 degrees 10 minutes 47 seconds East, 630.44 feet along the East line of said tract of land; FOURTH COURSE, thence North 87 degrees 06 minutes 59 seconds West, 323.44 feet; FIFTH COURSE, thence North 87 degrees 16 minutes 10 seconds West, 92.63 feet to the West line of said Quarter Section and the POINT OF BEGINNING. The above described tract of land contains 3.76 acres, more or less.

SUBJECT TO: (A) COVENANTS, RESTRICTIONS, DECLARATIONS, EASEMENTS, RIGHTS-OF-WAY, RESERVATIONS, AND OTHER AGREEMENTS AND MATTERS OF RECORD; (B) TAXES AND ASSESSMENTS, GENERAL AND SPECIAL, NOT NOW DUE AND PAYABLE; (C) RIGHTS OF THE PUBLIC IN AND TO THE PARTS THEREOF IN STREETS, ROADS, OR ALLEYS; AND (D) THE FOLLOWING DEED RESTRICTION:

This deed is given and conveyance of the described real estate is made with the specific restriction that Grantee and Grantee's successors shall use said real estate for public highway purposes in accordance with K.S.A. 68-413 and K.S.A. 68-413(b). If at any time this real estate is used for other than the purposes set out herein, this deed shall be forfeited and the real estate herein described and all of the rights herein conveyed shall at once revert to and re-vest in and become the property of the Grantor, without any declaration of forfeiture or act of re-entry and without any other act by Grantor to be performed and without any right of said real estate to reclamation or compensation for monies paid or improvements made, as absolutely, fully, and perfectly as if this deed had never been made.

FOR THE SUM OF: Gift, donation and contribution.

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

By: _____
Mike Gaughan, Chair

Attest:

Jameson D. Shew, County Clerk

**[PURSUANT TO K.S.A. 79-1437e(a), a real estate validation questionnaire is not required
due to exception No. 4.]**

STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

RESERVED FOR REGISTER OF DEEDS:

 This instrument was acknowledged /
before me this ____ day of December 2012, /
by Mike Gaughan, as Chair of The Board of /
County Commissioners of Douglas County, /
Kansas. /

Notary Public /
My appointment expires: /

NOTICE TO THE TOWNSHIP BOARD

STATE OF KANSAS DOUGLAS COUNTY, ss

TO THE TOWNSHIP CLERK, CLINTON TOWNSHIP

This is to notify the members of your Township Board that application has been filed with the Douglas County Commission for **The Clinton Store** to sell Cereal Malt Beverages at retail for consumption off the premises: **598 N 1190 Rd.**

The Township Board may within (10) days file an advisory recommendation as to the granting of such a license and such advisory recommendation shall be considered by the Board of County Commissioners before such license is issued KSA 41-2702.

Done by the Board of County Commissioners this **12th day of December, 2012.**

CHAIRMAN

COUNTY CLERK

(SEAL)

The board of county commissions in any county shall not issue a license without giving the clerk of the township board in the township where the applicant desires to locate, written notice by registered mail, of the filing of the application.

MEMORANDUM

To : Board of Commissioners

From : Keith A. Browning, P.E. Director of Public Works/County Engineer
Doug Stephens, Operations Division Manager

Date : December 7, 2012

Re : Consent Agenda Approval of Agreement for County Treatment of Noxious Weeds on KDOT Right-of-Way

Attached is a proposed agreement between Douglas County and KDOT for the treatment of noxious weeds on state road rights-of-way in 2013. Under terms of the agreement, Douglas County treats noxious weeds and invoices KDOT for the wholesale cost of chemicals, plus labor and equipment hourly costs as shown in the agreement.

This Department has treated noxious weeds on state rights-of-way since 2006 under similar agreements. The 2013 noxious weed budget within the general fund includes sufficient funds to cover this treatment.

Action Required: Consent Agenda approval of agreement with KDOT for the treatment of noxious weeds on state rights-of-way in 2013. The BOCC chair should sign the agreement.

KANSAS DEPARTMENT OF TRANSPORTATION BUREAU OF CONSTRUCTION AND MAINTENANCE

COUNTY AGREEMENT TO TREAT NOXIOUS WEEDS

This agreement made and entered into this _____ day of _____, 20____, by and between the

Board of County Commissioners of _____ County, hereinafter referred to as County, and the Kansas Secretary of Transportation, hereinafter referred to as Secretary. The Kansas Department of Transportation hereinafter is referred to as KDOT.

WHEREAS, The Kansas Legislature has declared certain weeds to be Noxious Weeds (see Kansas Noxious Weed Law); and

WHEREAS, The County desires to treat noxious weed infested areas on State Highway Rights-of-Way within said County and the KDOT desires to retain the County to spray and treat such areas, and

WHEREAS, The Secretary and County agree to enter into a performance agreement, where in the County shall treat all noxious weeds on State Highway rights-of-way in the County. A condition of the fulfillment of the agreement requires that treatment by the County will provide a satisfactory control of the noxious weeds. Satisfactory performance is defined as preventing the production of viable seed and/or destroying the plant's ability to reproduce by vegetative means.

NOW, THEREFORE, in consideration of the premises, the parties hereto agree as follows:

1. The county will notify the KDOT District Engineer or the authorized representative, prior to each treatment on highway right-of-way, of the scheduled time and location of such treatment.
2. The County spraying operation may include a dye in the chemical mixture to allow easy identification of areas treated.
3. A representative of the KDOT shall make periodic field inspections to check treated areas. A field log and record will be maintained by the KDOT indicating dates treated and inspected, location and size of areas, type of noxious weeds, apparent affect of treatment and other pertinent comments. Approval by the KDOT representative shall be required before the County will be paid for treatment.
4. Schedule of Cost: The County shall provide all chemicals (includes herbicides, surfactants and drift control materials as required), dye, labor and equipment to treat noxious weeds. Chemicals and dye are to be provided at the County's cost. Labor and equipment costs are as follows:

LABOR COST	COST	*EQUIPMENT RENTAL TYPE AND SIZE
\$ <u>27.57</u> /hr. operator	\$ <u>28.08</u> /hr.	<u>1 ton pickup with</u> <u>sprayer</u>
\$ <u>25.65</u> /hr. operator	\$ <u>28.08</u> /hr.	<u>1 ton pickup with</u> <u>sprayer</u>

*Spraying equipment will have cab mounted flashing (or rotating) safety lights

5. Billing and Payment: The County shall submit to the KDOT District Engineer an itemized bill for wholesale cost of chemicals and dye furnished, plus actual cost of treating noxious weeds based on equipment rental and labor costs for areas of satisfactory performance. Upon receipt of proper billing and final approval, payment for treating noxious weeds will be made to the County by the KDOT.
6. Record of Work: The County representative doing the work shall:
 - Record size, location and type of noxious weed areas treated.
 - Record amount and kind of chemicals applied on each area.
 - Record dates chemicals were applied.
 - Maintain Report of Noxious Weed Treatment DOT FORM NO. 322-A, which shall be submitted to the KDOT within 1 to 2 weeks after treatment.
 - Maintain records until all claims are paid, but in no case less than the three year statutory time.
 - Make all records available for KDOT audit, when so requested by KDOT.

7. Chemicals, approved for use on highway right-of-way are listed below.

<u>CHEMICAL</u>	<u>TRADE NAME</u>	<u>RATE OF APPLICATION (metric)</u>
2, 4-D (amine or ester) (a)	numerous	1 to 2 lb. Equiv./acre (1.1 to 2.2 kg/ha)
Glyphosate (b)	numerous	1 1/2 lb. Equiv./acre (1.7 kg/ha)
MSMA	numerous	3 to 5 lb. Equiv./acre (3.8 to 5.6 kg/ha)
Sulfometuron (c)	Oust	3 to 6 ounces/acre (.21 to .42 kg/ha)
Picloram	Tordon	rate depends upon weed species
Chlorsulfuron	Telar	1/2 to 1 oz./acre (0.035 to 0.070 kg/ha)
Imazapyr	Arsenal/Habitat	1/4 lb. Active/acre (0.28 kg/ha)
Metsulfuron Methyl	Escort	rate depends upon weed species
Triclopyr (d)	Garlon	1/4 to 1/2 lb./acre (0.28 to 0.56 kg/ha)
Fluizafop P butyl + Fenoxi prop	Fusion	7 to 9 fl. oz. per acre (83.8 to 107.75 ml/ha)
Imazapic (e)	Plateau	rate depends upon weed species
Quinclorac (f)	Paramount/Drive	rate depends upon weed species and desirable grass species
Sulfosulfuron (g)	Outrider	rate depends upon desirable grass species
Aminopyralid (h)	Milestone	rate depends upon weed species

- (a) May be used alone or in combination with other herbicides
- (b) (Round-up)
- (c) Spot treatment only
- (d) Sericea lespedeza
- (e) Do not use where cool season grasses are the desired species
- (f) Fall bindweed control
- (g) Do not use for more than 3 consecutive seasons
- (h) Musk, bull and Canada thistle

There may be other trade names for the herbicides listed.

- 8. Chemicals shall be mixed and applied as recommended by the manufacturer and in accordance with approved methods contained in the "Official Regulations" issued by the Kansas Department of Agriculture.
- 9. The County agrees to provide this service in a workmanlike manner, to be in strict conformance with the instructions for handling and applying noxious weed chemicals and to be responsible for any negligent acts or omissions that may occur in the performance thereof.
- 10. This agreement shall terminate December 31st of this year, except records shall be maintained in accordance with Section Six above. Termination may be sooner by a ten day written notice from either party to the other. It is agreed further that this contract can be renewed for three consecutive years at the option of the Secretary upon a 30-day written notice to the contractor prior to December 31st of the current year. The contractor and the Secretary agree that all terms of the renewal will remain the same unless either party determines that the price of the chemicals should be re-negotiated.

This agreement is officially adopted by the Board of County Commissioners and recorded in the official records of the proceedings of said Board.

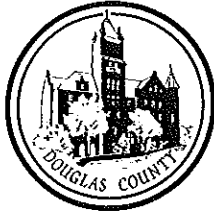
In witness whereof the parties have caused this Agreement to be executed by their duly authorized officers or representatives.

SECRETARY OF TRANSPORTATION

THE BOARD OF COUNTY COMMISSIONERS

BY _____
District Engineer

BY _____
Title:



DOUGLAS COUNTY PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
dgcopubw@douglas-county.com
www.douglas-county.com

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

MEMO TO: Board of County Commissioners

FROM: Terese A. Gorman, P.E., Engineering Division Manager

TAG

cc: Craig Weinaug, Sarah Plinsky, Keith Browning

DATE: December 7, 2012

SUBJECT: CIP Road Projects

In the traffic engineering field, crashes are analyzed on a crash rate basis rather than the pure number of crashes that have occurred along a particular segment of road. The rate is determined by the number of accidents and the number of vehicles traveling along a segment of roadway. The Kansas Department of Transportation (KDOT) determines the average rates for various categories of Kansas roads. That average rate can then be compared to crash rates for roads in that category to see if the safety performance on a particular road is better or worse than the average.

The statewide KDOT average crash rate for a 2 lane rural highway with no access control is 1.502 c/mvm (crashes per million vehicle miles traveled). KDOT also calculates a critical crash rate which is the rate that is high enough above the average to cause concern from a safety standpoint, and indicates a safety improvement should be considered. The critical crash rate for a particular segment of road is a function of the road's traffic volume and the state average number of crashes, i.e. the higher the traffic volume, the lower the critical crash rate.

Below is a table which summarizes crash information for the three county routes being considered for improvements in the CIP.

	Route 458, Banning's Corner to US-59	Route 1055, Rte 458 to Rte 460 (Vinland)	Route 1055, Rte 460 (Vinland) to Rte 12
Average Daily Traffic Volume (2012)	1780 vpd (vehicles per day)	2109 vpd	3015 vpd
Length of segment	2.5 miles	3.5 miles	3 miles
No. of crashes (2003-2011)	40	48	90
No. injury crashes (2003-2011)	10	17	17
No. property damage crashes (2003-2011)	30	31	73
Segment Crash Rate	2.74 c/mvm	1.98 c/mvm	3.03 c/mvm
Critical Crash Rate	2.58 c/mvm	2.49 c/mvm	2.32 c/mvm

MEMORANDUM
December 7, 2012

All three county route segments are above the KDOT average crash rate of 1.502 c/mvm. The crash rate for Route 458 from Banning's Corner to US-59 and Route 1055 from Route 460 to Route 12 are both above the critical crash rate for their segment. Attached are drawings for each county route segment that provides a visual representation of the accidents in that segment. Also attached is a drawing showing the traffic counts and 85% speed along each county route segment.

Based on this crash rate information, it would be desirable to include the proposed improvements to Route 458 (overlay, adding paved shoulders, regrading of roadside ditches and foreslopes) in the CIP in 2014 in the amount of \$2,000,000.

Although a significant improvement for Route 1055 from Route 460 (Vinland) to Route 12 which includes paved shoulders and vertical alignment adjustments is desirable based on the crash rate for this segment, it is not financially feasible at this time. It is prudent to include in the CIP, reconstruction of a deteriorating major culvert just north of N 500 Road, and replacement of other smaller culverts including an overlay and a half mile of pavement reconstruction to address some safety issues and preserve the road pavement. Replacement of the major culvert north of N 500 Road has been placed in the CIP in 2015 in the amount of \$500,000. Replacement of other culverts, overlay, and pavement reconstruction has been programmed in the CIP in 2015 in the amount of \$1,600,000. Complete reconstruction of this road segment which would include paved shoulders should be considered for a future CIP project.

The crash rate data indicates that improvements for Route 1055 from Route 458 to Route 460 (Vinland) are not as urgent. There are two bridges and one large culvert in the horizontal curve at N 700 Road that are not in good condition and should be replaced in the near future. While these are being replaced, it would be prudent to reconstruct this horizontal curve at the same time. After this horizontal curve is reconstructed, it would be desirable to program other improvements to this road segment which would include replacement of the other culverts, clearing trees in the right-of-way, and a pavement overlay. The horizontal curve and new bridges and culvert have been programmed in the CIP in 2017 in the amount of \$1,350,000. The remaining road improvements have been placed in the CIP in 2018 in the amount of \$850,000.



DOUGLAS COUNTY, KS PUBLIC WORKS

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
www.douglas-county.com

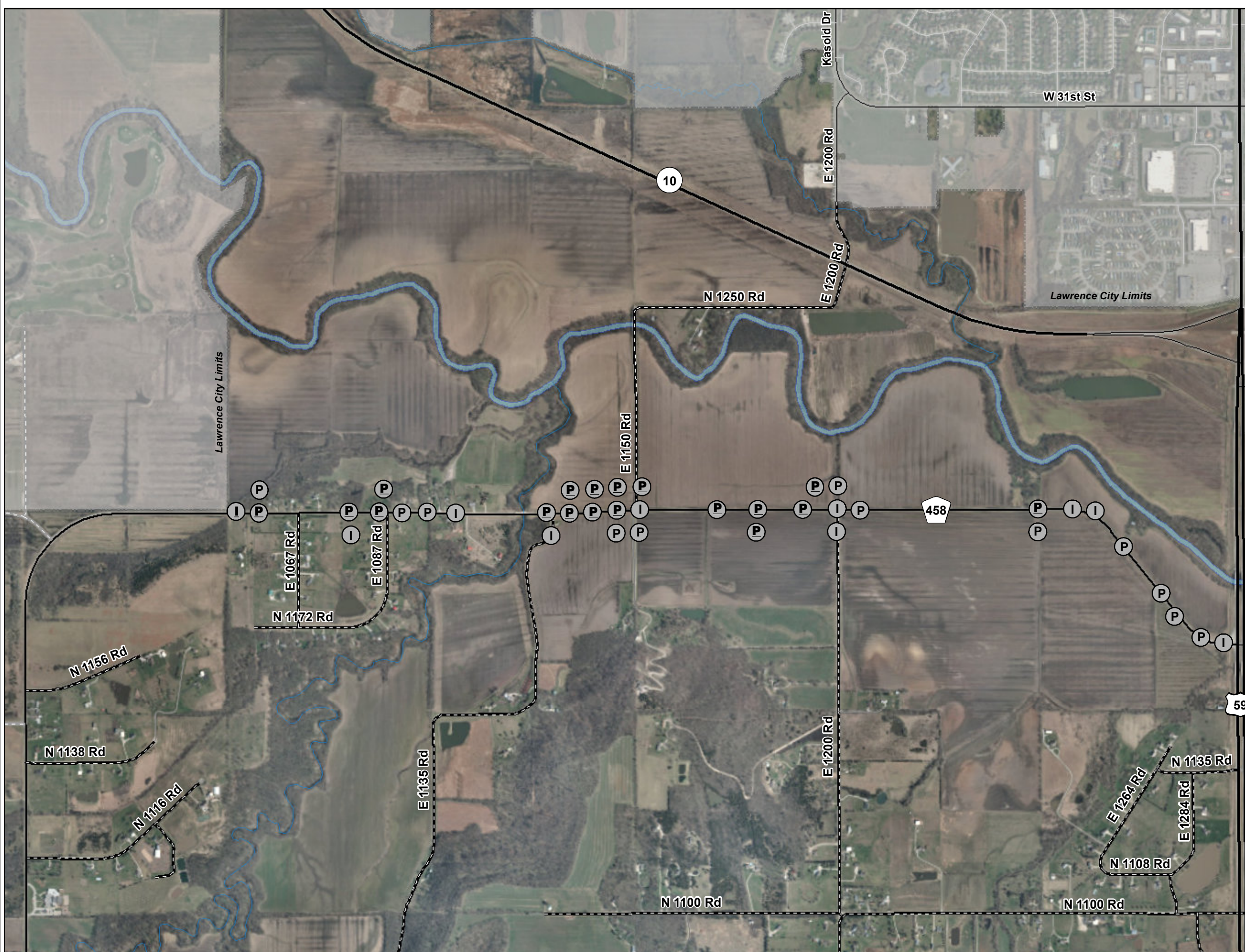
Accident Locations 2003-2011 Route 458- Bannings Corner to US-59

- P** Property Damage >\$1000
- I** Injury
- P** Deer Accident-Property Damage >\$1000
- I** Deer Accident-Injury

40 Total Accidents
19 involving deer



MAP DISCLAIMER: All data, information, and maps are provided "as is" without warranty or any representation of accuracy, timeliness of completeness. The burden for determining accuracy, completeness, timeliness, merchantability and fitness for or the appropriateness for use rests solely on the requester. Douglas County makes no warranties, express or implied, as to the use of the information obtained here. There are no implied warranties of merchantability or fitness for a particular purpose.





**DOUGLAS COUNTY
PUBLIC WORKS**

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
www.douglas-county.com



Accident Locations 2003-2011

Route 1055- Route 458 to Vinland

48 Total Accidents
18 involving deer

- P** Property Damage >\$1000
- I** Injury
- P** Deer Accident- Property Damage >\$1000
- I** Deer Accident- Injury





**DOUGLAS COUNTY
PUBLIC WORKS**

1242 Massachusetts Street
Lawrence, KS 66044-3350
(785) 832-5293 Fax (785) 841-0943
www.douglas-county.com

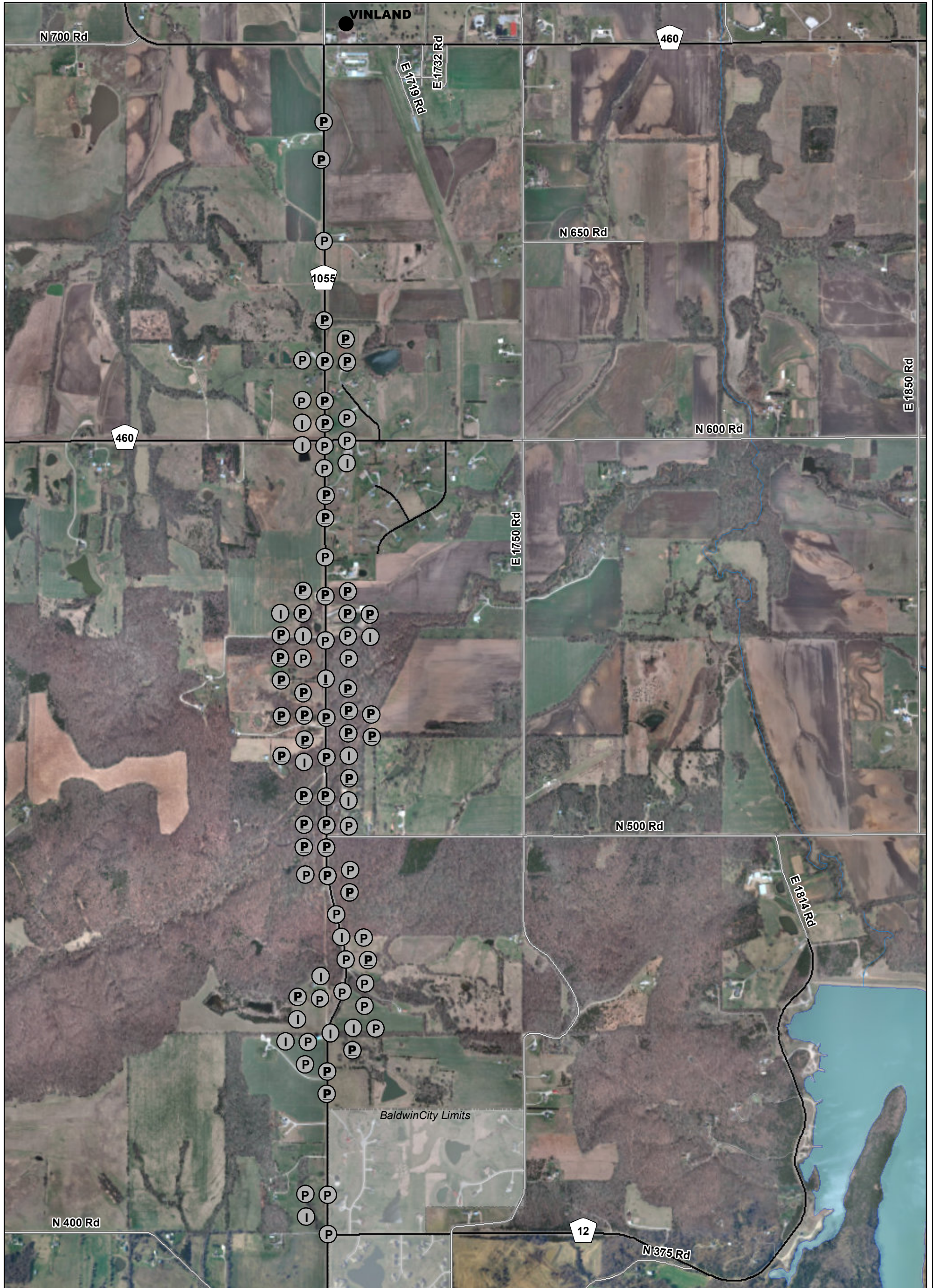


Accident Locations 2003-2011

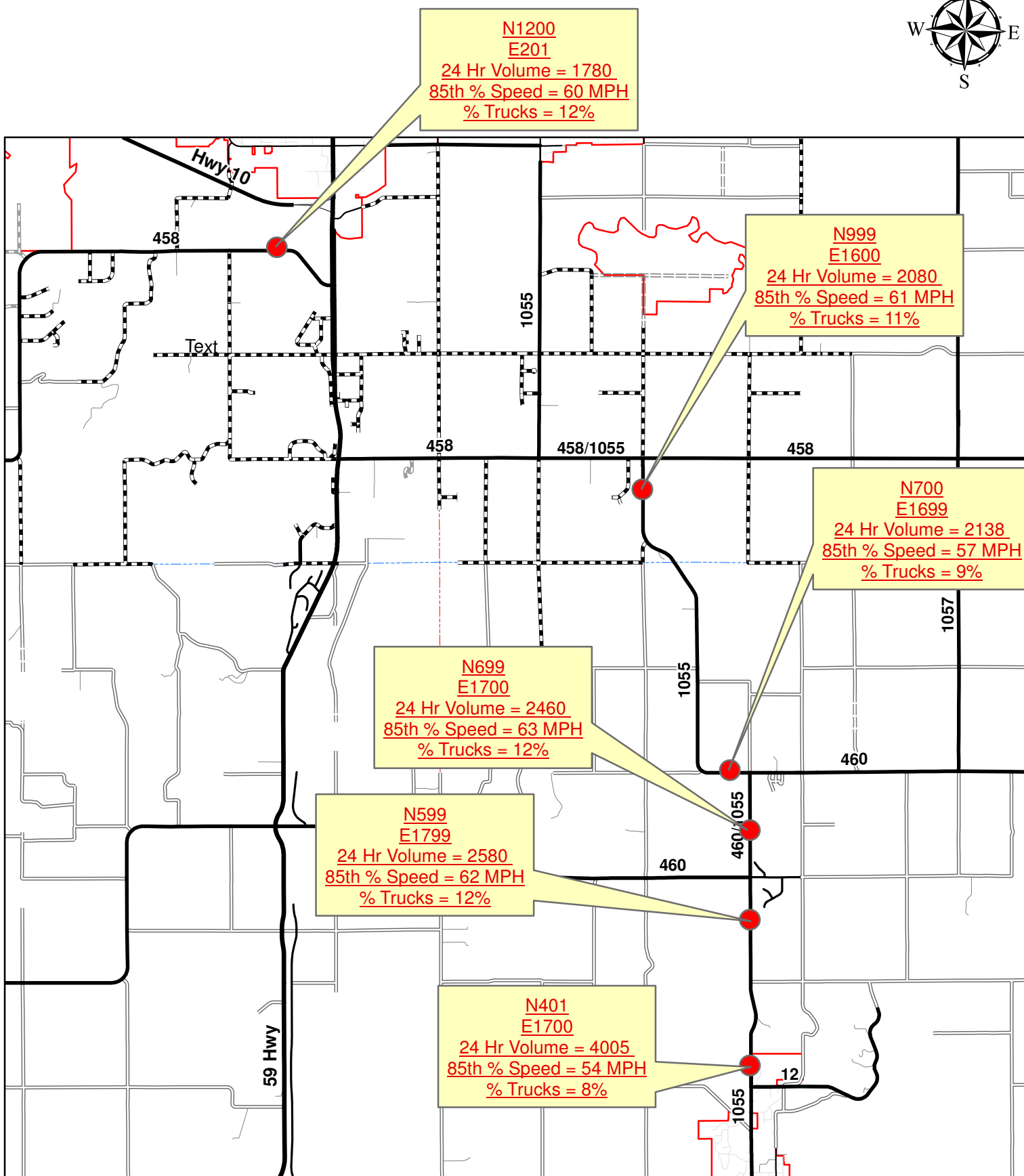
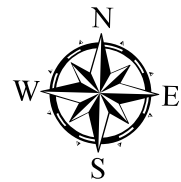
Route 1055- Vinland to Route 12

90 Total Accidents
46 involving deer

- P** Property Damage >\$1000
- I** Injury
- P** Deer Accident- Property Damage >\$1000
- I** Deer Accident- Injury



2012 24 Hour Counts





STUMBO HANSON, LLP

2887 SW MacVicar Avenue, Topeka, Kansas 66611
Telephone (785) 267-3410 Facsimile (785) 267-9516
E-Mail: quentin@stumbolaw.com

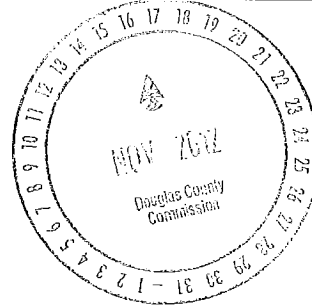
GARY H. HANSON
TOM R. BARNES II
TODD A. LUCKMAN
LEE W. HENDRICKS

KATHRYN E. SHEEDY

OF COUNSEL
QUENTIN E. KURTZ

WALTER G. STUMBO
(1911-1998)

November 14, 2012



Jameson D. Shew
County Clerk
Douglas County
1100 Massachusetts St.
Lawrence, KS 66044

**Re: Petition for Attachment of Lands to Rural Water District
No. 2, Douglas County, Kansas**

Dear Mr. Shew:

Enclosed is a Petition directed to the Board of County Commissioners, requesting their approval to an attachment of land to Rural Water District No. 2, Douglas County, Kansas. Please note that the land to be attached is within the "fringe area" of a city (i.e. Lawrence). Thus, per the provisions of K.S.A. 19-270, the Board of County Commissioners "shall receive testimony from the city, township, county or regional planning commission having jurisdiction over any of the affected land area." Based on this language, we have contacted Craig Weinaug, the County Administrator to alert him of the requested attachment. We have also spoken with: Evan Ice, the County Counselor, and Mike Lawless and Dave Wagner (Assistant Utilities Director and Utilities Director for the City of Lawrence, respectively). Those persons and the entities they represent do not oppose the proposed attachment and their respective entities do not plan to testify at the hearing.

In addition, the County Counselor, Evan Ice, has requested that you send notice of the Petition to Wakarusa Township, the City of Lawrence, and the Lawrence/Douglas County Planning Commission. As you can see from the enclosed Petition, we have also included a provision regarding publishing notice of the hearing of this matter in the official county newspaper.

This attachment is also governed by K.S.A. 82a-622 through 624. According to K.S.A. 82a-623, the County Clerk is to give notice to the County Commissioners of the filing of the Petition, and the Commissioners are to then schedule a hearing within 30 days from the date of the filing. The County Clerk is to send a notice of the hearing at least seven days before the date of the hearing, together with a copy of the Petition, by first class mail to each owner of land within the area sought to be attached. For your convenience, we have enclosed a notice that you can use for this purpose. In this instance, there is only one landowner within

the area sought to be attached. That landowner is the Kansas Secretary of Transportation.

A copy of the Petition and notice are also to be sent to the Chief Engineer, Division of Water Resources. The Chief Engineer's name and address are as follows:

David Barfield, P.E., Chief Engineer
Division of Water Resources
Kansas Department of Agriculture
109 SW 9th St., 2nd Floor
Topeka, KS 66612-1283

The statute also provides for the County Clerk to send a copy of the Petition for Attachment and a copy of the notice by first class mail to the office of the Water District to which attachment is sought. That address is as follows:

Donna Markley
RWD No. 2, Douglas County, Kansas
P.O. Box 3524
Lawrence, KS 66046

Please contact me with the date and time of the hearing after it has been set by the Commissioners. Please do not hesitate to call me if you have any questions.

Very truly yours,



QUENTIN E. KURTZ

cc: RWD No. 2, Douglas County
Evan Ice, County Counselor

Encl.

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

In the Matter of
Petition for Attachment of Lands to
Rural Water District No. 2, Douglas County, Kansas

**PETITION FOR ATTACHMENT OF LANDS
TO RURAL WATER DISTRICT NO. 2, DOUGLAS COUNTY, KANSAS**

COMES NOW, Petitioner, Quentin E. Kurtz of Stumbo Hanson, LLP and states as follows:

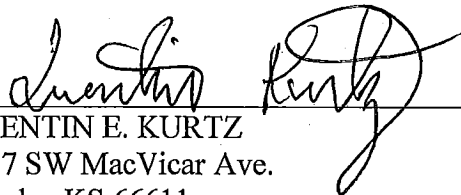
1. That Petitioner is the Attorney for Rural Water District No. 2, Douglas County, Kansas and resides at 2887 SW MacVicar Ave., Topeka, Kansas 66611. Petitioner is in receipt of a Request for Petitioning signed by the owner of at least fifty percent (50%) of the land within the boundaries and areas of Douglas County, Kansas defined by metes and bounds in the attached *EXHIBIT A* (hereinafter, "the Land").
2. That the Land is without an adequate supply of water and can be economically served by the facilities of Rural Water District No. 2, Douglas County, Kansas.
3. That the attachment to Rural Water District No. 2, Douglas County, Kansas of the Land will be conducive to and will promote the public health, convenience, and welfare.
4. The Board of Directors of Rural Water District No. 2, Douglas County, Kansas, has considered the Request for Petitioning and consents thereto.
5. That some or all of the Land is within the 3 mile fringe area of a city and, therefore, is subject to the provisions of K.S.A. 19-270.
6. To the best of Petitioner's knowledge, the parties having jurisdiction over any part of the Land have no objections per the terms of K.S.A. 19-270. Further, the City of Lawrence has no objections to the proposed attachment per the terms of that statute.

WHEREFORE, Petitioner prays that:

- (a) the Board of County Commissioners of Douglas County, Kansas fix a time and place within 30 days from the date of filing of this Petition for a hearing of the same;
- (b) the County Clerk of Douglas County, Kansas, at least 7 days before the hearing date, send written notice by first class mail of the time and place of such hearing, together with a copy of this Petition, to each of the following:
 - (i) owners of land within the Land to be attached,
 - (ii) the office of the Board of Directors of Rural Water District No. 2, Douglas County, Kansas,
 - (iii) the Chief Engineer, Division of Water Resources, State Board of Agriculture,

- (iv) the City of Lawrence,
- (v) Wakarusa Township, and
- (vi) the Lawrence/Douglas County Planning Commission;
- (c) the County Clerk of Douglas County, Kansas, at least 7 days before the hearing date, publish notice of the hearing in the official county newspaper;
- (d) the Board of County Commissioners, upon hearing, enter into its minutes, findings that: proper notice of the hearing was given as required by K.S.A. 82a-623 and K.S.A. 19-270; the statements contained in the Petition are true; the majority of the members of the Board of Directors of Rural Water District No. 2, Douglas County, Kansas, do not object to the proposed attachment of the Land; the provisions of K.S.A. 19-270 have been considered and the same are deemed to be satisfied; and the metes and bounds description of the Land shall be added to the newly-attached territory of the District.
- (e) thereupon, the Board of County Commissioners enter upon its records full minutes of such hearing, together with a declaration that henceforth the District shall include the Land in the District, all as provided in K.S.A. 82a-622 to 82a-624 inclusive, and K.S.A. 19-270.

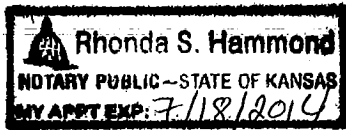
STUMBO HANSON, LLP

By 
 QUENTIN E. KURTZ
 2887 SW MacVicar Ave.
 Topeka, KS 66611
 (785) 267-3410

STATE OF KANSAS)
) SS:
 COUNTY OF SHAWNEE)

Quentin E. Kurtz, being of lawful age and after being first duly sworn on oath, states that he has read the above and foregoing Petition, and the allegations contained therein are true.

SUBSCRIBED AND SWORN TO before me this 14th day of November, 2012.




 NOTARY PUBLIC

EXHIBIT "A"

PROPERTY DESCRIPTION

The Southeast Quarter of Section 13, Township 13 South, Range 19 East of the Sixth P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Southeast Quarter, thence N90°00'00"E assumed bearing, along the North line of said Southeast Quarter 2660.48 feet to the Northeast corner of said Southeast Quarter; thence S00°30'23"W along the East line of said Southeast Quarter 2655.90 feet to the Southeast corner of said Southeast Quarter; thence N89°58'22"W along the South line of said Southeast Quarter 2654.60 feet to the Southwest corner of said Southeast Quarter; thence N00°24'49"E along the West line of said Southeast Quarter 2654.60 feet to the Point of Beginning, containing 162.04 acres, more or less. Subject to easements of record and public road rights-of-way.

ONE LANDOWNER TOTAL (PER COUNTY TAX RECORDS)

Quentin

From: tpalmer@douglas-county.com
Sent: Wednesday, September 19, 2012 2:32 PM
To: quentin@stumbolaw.com
Subject: Douglas County values and taxes page request
Attachments: 800423B.pdf; 800423D.pdf; 800423E.pdf

Attached are the three Online value and tax pages you requested. All of these parcels are located in the SE/4 of section 13 T13s R19e

Terrol

*Terrol Palmer
GIS Analyst II
Douglas County, KS
1100 Massachusetts St, Unit 301
Lawrence, KS 66044
Fax (785) 841-0021
tpalmer@douglas-county.com
Click here: Online Map Viewer*

This_email_has_been_scanned_by_the_MessageLabs_Email_Security_System.

Online Values & Taxes		print window close window
PROPERTY INFORMATION		
Year: 2011	Pin Number: 023-116-13-0-40-01-001.00-0	Plate/Record Id: 800423B
Owner 1: SECRETARY OF TRANSPORTATION		
Owner 2: (no record)		
In-Care-Of: (no record)		
Property Address: (no record), WAKARUSA TWP, KANSAS		
Delinquent Tax: No	Tax Unit: 504	School: USD 497
Sec-Twp-Rng: 13-13-19	Book: 0709	Page: 1030

Please Note: Adobe Flash Player is needed to use the 'MAP IT' button. ([Free Download](#))

VALUE INFORMATION						
Class	Appraised			Assessed		
	Land	Improvements	Total*	Land	Improvements	Total
EQ	\$1,196,000	\$0	\$1,196,000	\$0	\$0	\$0

*Market or Ag use

TAX INFORMATION				
Tax	Special Tax	Total Tax	Taxes Paid	Mill Levy
\$0.00	\$0.00	\$0.00	\$0.00	117.8360

PROPERTY DESCRIPTION
13-13-19 BEG 900(S) W & 40(S) S OF NE COR SE/4, SWLY FOLLOWING DITCH TO PT 660(S) N OF SW COR SE/4, S 660(S), E 2600(S), N 2590(S), E 900(S) TO POB 140A(R)

LEGAL DESCRIPTION
140A 13-13-19 THAT PORTION OF FOLLOWING DESC TR IN WHE DR DIST: BEG AT NE COR SE 1/4; FIRST COURSE, TH ON ASSUMED BEARING S01DEG45'30"E 2655.87 FT ALONG E LINE SD QR SEC TO SE COR THEREOF; SECOND COURSE, TH S87DEG46'56"W 2654.3 FT ALONG S LINE SD QR SEC TO SW COR THEREOF; THIRD COURSE, TH N01DEG53'27"W 2453.62 FT ALONG W LINE SD QR SECTO PT 200 FT S OF NW COR THEREOF; FOURTH COURSE, TH N87DEG44'05"E 100 FT PARA WITH N LINE SDQR SEC; FIFTH COURSE, TH N01DEG53'27"W 200 FT PARA WITH W LINESD QR SEC TO PT ON N LINE 100 FT E OF NW COR THEREOF; SIXTH COURSE, TH N87DEG44'05"E 485.31 FT ALONG SD N LINE TO PT 585.31 FT E OF NW COR SD QR SEC; SEVENTH COURSE, TH S02DEG15'55"E 361.5 FT PERPENDICULAR TO N LINE SD QR SEC; EIGHTH COURSE, TH N87DEG44'05"E 361.5 FT PARA WITH N LINE SD QR SEC; NINTH COURSE, TH N02DEG15'55"W 361.5 FT PERPENDICULAR TO N LINE SD QR SEC TO SD N LINE; TENTH COURSE, THN87DEG44'05"E 1713.66 FT ALONGSD N LINE TO PT BEG WHE WW35 (NEW LEGAL DESC 2001)

Online Values & Taxes		print window close window	
PROPERTY INFORMATION			
Year: 2011	Pin Number: 023-116-13-0-40-01-001.01-0	Plate/Record Id: 800423D	
Owner 1: SECRETARY OF TRANSPORTATION			
Owner 2: (no record)			
In-Care-Of: (no record)			
Property Address: (no record), WAKARUSA TWP, KANSAS			
Delinquent Tax: No	Tax Unit: 503	School: USD 497	
Sec-Twp-Rng: 13-13-19	Book: 0709	Page: 1030	

Please Note: Adobe Flash Player is needed to use the 'MAP IT' button. ([Free Download](#))

VALUE INFORMATION						
Class	Appraised			Assessed		
	Land	Improvements	Total*	Land	Improvements	Total
EQ	\$347,000	\$0	\$347,000	\$0	\$0	\$0

*Market or Ag use

TAX INFORMATION				
Tax	Special Tax	Total Tax	Taxes Paid	Mill Levy
\$0.00	\$0.00	\$0.00	\$0.00	117.3240

PROPERTY DESCRIPTION
13-13-19 BEG 900(S) W & 40(S) S OF NE COR SE/4, SLY FOLLOWING DITCH TO PT 660(S) N OF SW COR SE/4, N 1770(S), E 100, N 160(S), E 485(S), S 320(S), E 365.1, N 320(S), E 825(S) TO POB 16.5A(R)

LEGAL DESCRIPTION
16.54A 13-13-19 THAT PORTION OF FOLLOWING DESC TR IN NW 20A OF NW 1/4 SE 1/4: BEG AT NE CORSE 1/4; FIRST COURSE, TH ON ASSUMED BEARING S01DEG45'30"E 2655.87 FT ALONG E LINE SD QR SEC TO SE COR THEREOF; SECOND COURSE, TH S87DEG46'56"W 2654.3 FT ALONG S LINE SD QR SEC TO SW COR THEREOF; THIRD COURSE, TH N01DEG53'27"W 2453.62 FT ALONG W LINE SD QR SEC TO PT 200 FT S OF NW COR THEREOF; FOURTH COURSE, TH N87DEG44'05"E 100 FT PARA WITH N LINE SD QR SEC; FIFTH COURSE, TH N01DEG53'27"W 200 FT PARA WITH W LINE SD QR SEC TO PT ON N LINE 100 FT E OF NW COR THEREOF; SIXTH COURSE, TH N87DEG44'05"E 485.31 FT ALONG SD N LINE TO PT 585.31 FT E OF NW COR SD QR SEC; SEVENTH COURSE, TH S02DEG15'55"E 361.5 FT PERPENDICULAR TO N LINE SD QR SEC; EIGHTH COURSE, TH N87DEG44'05"E 361.5 FT PARA WITH N LINE SD QR SEC; NINTH COURSE, TH N02DEG15'55"W 361.5 FT PERPENDICULAR TO N LINE SD QR SEC TO SD N LINE; TENTH COURSE, TH N87DEG44'05"E 1713.66 FT ALONG SD N LINE TO PT BEG WW35 (NEW LEGAL DESC 2001)

Online Values & Taxes		print window close window	
PROPERTY INFORMATION			
Year: 2011	Pin Number: 023-116-13-0-40-01-002.00-0	Plate/Record Id: 800423E	
Owner 1: SECRETARY OF TRANSPORTATION			
Owner 2: STATE OF KANSAS			
In-Care-Of: (no record)			
Property Address: 1365 N 1250 RD, WAKARUSA TWP, KANSAS			
Delinquent Tax: No	Tax Unit: 503	School: USD 497	
Sec-Twp-Rng: (no record)	Book: 1008	Page: 0380	

Please Note: Adobe Flash Player is needed to use the 'MAP IT' button. ([Free Download](#))

VALUE INFORMATION						
Class	Appraised			Assessed		
	Land	Improvements	Total*	Land	Improvements	Total
EQ	\$54,000	\$193,510	\$247,510	\$0	\$0	\$0

*Market or Ag use

TAX INFORMATION				
Tax	Special Tax	Total Tax	Taxes Paid	Mill Levy
\$0.00	\$0.00	\$0.00	\$0.00	117.3240

PROPERTY DESCRIPTION
13-13-19 BEG 585.31 E & 40 S OF NW COR SE/4, E 361.5, S 320(S), W 361.5, N 320 TO POB 360(S) X 321.5

LEGAL DESCRIPTION
3A 13-13-19 BEG 585.31 FT E OFNW COR SE 1/4 TH E ALONG N LINE SD QR 361.5 FT TH S PERPENDICULAR N LINE SD QR 361.5 FT THW PARA N LINE SD QR 361.5 FT TH N 361.5 FT TO PT BEG WW35 (DIV 1982 800423A)

ONE OF ONE LANDOWNER SIGNATURE (100%)

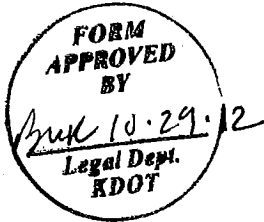
**C:\Documents and Settings\qek.STUMBOLAW\My Documents\RWDs\RWD #2, Douglas\2012 Baker Univ.
Attachment\Attach Forms Suggested by County\5. CoverSheets.doc**

REQUEST FOR PETITIONING

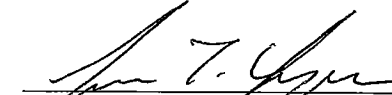
The undersigned requests that a Petition be directed to the Board of County Commissioners of Douglas County, Kansas, such Petition seeking attachment of owners' land to the territory of Rural Water District No. 2, Douglas County.

SIGNATURE OF PETITIONER:

Michael S. King
Secretary of Transportation
Of the State of Kansas



By:


Jerome T. Younger, P.E.
Deputy Secretary and
State Transportation Engineer

ADDRESS OF PETITIONER:

Kansas Department of Transportation
Dwight D. Eisenhower State Office Building
700 S.W. Harrison Street
Topeka, KS 66603-3754

LAND TO BE ATTACHED: The Southeast Quarter of Section 13, Township 13 South,
Range 19 East of the Sixth P.M., Douglas County, Kansas

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

In the Matter of the Petition for
Attachment of Lands to Rural Water District No. 2,
Douglas County, Kansas

NOTICE OF HEARING ON PETITION FOR ATTACHMENT OF LANDS
TO RURAL WATER DISTRICT NO. 2, DOUGLAS COUNTY, KANSAS

To All Persons Concerned:

You are hereby notified that a Petition addressed to the Board of County Commissioners of Douglas County, Kansas, has been filed with the County Clerk of Douglas County, Kansas, praying for attachment to existing Rural Water District No. 2, of the tracts of land in Douglas County, Kansas, owned by the Petitioner and described as: The Southeast Quarter of Section 13, Township 13 South, Range 19 East of the Sixth P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Southeast Quarter, thence N90°00'00"E assumed bearing, along the North line of said Southeast Quarter 2660.48 feet to the Northeast corner of said Southeast Quarter; thence S00°30'23"W along the East line of said Southeast Quarter 2655.90 feet to the Southeast corner of said Southeast Quarter; thence N89°58'22"W along the South line of said Southeast Quarter 2654.60 feet to the Southwest corner of said Southeast Quarter; thence N00°24'49"E along the West line of said Southeast Quarter 2654.60 feet to the Point of Beginning, containing 162.04 acres, more or less. Subject to easements of record and public road rights-of-way.

You are further notified under the authority of K.S.A. 82a-622 through 82a-624 inclusive, and K.S.A. 19-270, that the Petition for Attachment of Lands to Rural Water District No. 2, Douglas County, Kansas will be heard by the Board of County Commissioners, Douglas County, Kansas, on the **12th day of December, 2012, at 6:35 p.m.**, on the Second Floor of the Douglas County Courthouse, 1100 Massachusetts St., Lawrence, Kansas. Any interested person may present testimony before the Board.

A rural water district shall have no power or authority to levy any taxes whatsoever.

Jameson D Shew, Douglas County Clerk
1100 Massachusetts St.
Lawrence, Kansas 66044



JAMIE SHEW
 DOUGLAS COUNTY CLERK
 1100 Massachusetts
 Lawrence, KS 66044
 Phone: 785-832-5279
 Fax: 785-832-5192

Carrie F. Moore
 Chief Deputy Clerk

Benjamin Lampe
 Deputy Clerk-Elections


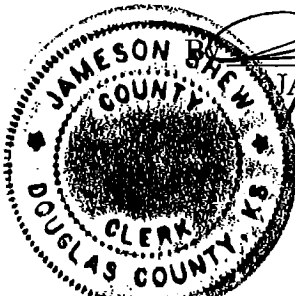
CERTIFICATE OF SUFFICIENCY SIGNATURES OF PETITION

STATE OF KANSAS)
) ss:
 COUNTY OF DOUGLAS)

I, the undersigned, County Clerk of Douglas County, Kansas, do hereby certify that the Petition titled "Petition for Attachment of Lands to Rural Water District No 2 Douglas County, Kansas" filed with the Board of County Commissioners, requesting that the Board of County Commissioners attach lands described to Rural Water District No 4 , has been signed by not less than 50% of the owners of lands to be attached. The lands sought to be attached are described as follows: The Southeast Quarter of Section 13, Township 13 South, Range 19 East of the Sixth P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Southeast Quarter, thence N90°00'00"E assumed bearing, along the North line of said Southeast Quarter 2660.48 feet to the Northeast corner of said Southeast Quarter; thence S00°30'23"W along the East line of said Southeast Quarter 2655.90 feet to the Southeast corner of said Southeast Quarter; thence N89°58'22"w along the South line of said Southeast Quarter 2654.60 feet to the Southwest corner of said Southeast Quarter; thence N00°24'49"E along the West line of said Southeast Quarter 2654.60 feet to the Point of Beginning, containing 162.04 acres, more or less. Subject to easements of record and public road rights-of-way.

WITNESS my hand and seal as of November 26, 2012.

DOUGLAS COUNTY, KANSAS


 JAMESON D. SHEW, County Clerk


BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

In the Matter of the Petition for
Attachment of Lands to Rural Water District No. 2,
Douglas County, Kansas

NOTICE OF HEARING ON PETITION FOR ATTACHMENT OF LANDS
TO RURAL WATER DISTRICT NO. 2, DOUGLAS COUNTY, KANSAS

To All Persons Concerned:

You are hereby notified that a Petition addressed to the Board of County Commissioners of Douglas County, Kansas, has been filed with the County Clerk of Douglas County, Kansas, praying for attachment to existing Rural Water District No. 2, of the tracts of land in Douglas County, Kansas, owned by the Petitioner and described as: The Southeast Quarter of Section 13, Township 13 South, Range 19 East of the Sixth P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Southeast Quarter, thence N90°00'00"E assumed bearing, along the North line of said Southeast Quarter 2660.48 feet to the Northeast corner of said Southeast Quarter; thence S00°30'23"W along the East line of said Southeast Quarter 2655.90 feet to the Southeast corner of said Southeast Quarter; thence N89°58'22"W along the South line of said Southeast Quarter 2654.60 feet to the Southwest corner of said Southeast Quarter; thence N00°24'49"E along the West line of said Southeast Quarter 2654.60 feet to the Point of Beginning, containing 162.04 acres, more or less. Subject to easements of record and public road rights-of-way.

You are further notified under the authority of K.S.A. 82a-622 through 82a-624 inclusive, and K.S.A. 19-270, that the Petition for Attachment of Lands to Rural Water District No. 2, Douglas County, Kansas will be heard by the Board of County Commissioners, Douglas County, Kansas, on the **12th day of December, 2012, at 6:35 p.m.**, on the Second Floor of the Douglas County Courthouse, 1100 Massachusetts St., Lawrence, Kansas. Any interested person may present testimony before the Board.

A rural water district shall have no power or authority to levy any taxes whatsoever.

Jameson D Shew, Douglas County Clerk
1100 Massachusetts St.
Lawrence, Kansas 66044

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY, KANSAS

In the Matter of the Petition for Approval of
Attachment of Lands to Rural Water District No. 2
Douglas County, Kansas

CERTIFICATE OF MAILING


STATE OF KANSAS)
) ss:
COUNTY OF DOUGLAS)

I, the undersigned, County Clerk of Douglas County, Kansas, do hereby certify that on November 27, 2012, I caused to be mailed by United States first class mail to each of the following, at their last known post office address, a Notice of Hearing on Petition to Attach Lands to Rural Water District No. 2, Douglas County, Kansas:

- (i) Kansas Secretary of Transportation, owner of land to be attached,
- (ii) the office of the Board of Directors of Rural Water District No. 2, Douglas County, Kansas,
- (iii) the Chief Engineer, Division of Water Resources, State Board of Agriculture,
- (iv) the City of Lawrence,
- (v) Wakarusa Township, and
- (vi) the Lawrence/Douglas County Planning Commission.

A sample copy of the form of such Notice of Hearing is attached hereto.

IN WITNESS WHEREOF, this Certificate of Mailing is signed on the date stated below.


Jameson D. Shew
County Clerk

11/27/12
Date

Affidavit in Proof of Publication

STATE OF KANSAS
Douglas County

Erika Gray of the Legal Dept. of the Lawrence Daily Journal-World being first duly sworn, deposes and says:

That this daily newspaper printed in the State of Kansas, and published in and of general circulation in Douglas County, Kansas, with a general paid circulation on a daily basis in Douglas County, Kansas, and that said newspaper is not a trade, religious or fraternal publication, and which newspaper has been admitted to the mails as periodicals class matter in said County, and that a notice of which is hereto attached, was published in the regular and entire issue of the Lawrence Daily Journal-World

Said newspaper is published daily 365 days a year; has been so published continuously and uninterruptedly in said county and state for a period of more than five years prior to the first publication of said notice and been admitted at the post office of Lawrence in said County as second class matter.

That the attached notice is a true copy thereof and was published in the regular and entire issue of said newspaper for 1 consecutive days/weeks the first publication thereof being made as aforesaid on 12/05/2012 with publications being made on the following dates:

12/05/2012

Erika Gray

Subscribed and sworn to before me this

H. D. Stein

Notary Public

My Appointment expires: March 15, 2015

Notary And Affidavit	\$0.00
Additional Copies	\$0.00
Publication Charges	\$103.80
	<u>\$103.80</u>

(Published in the Lawrence Daily Journal-World December 5, 2012)

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS

In the Matter of the Petition for Attachment of Lands to Rural Water District No. 2, Douglas County, Kansas

NOTICE OF HEARING ON PETITION FOR ATTACHMENT OF LANDS TO RURAL WATER DISTRICT NO. 2, DOUGLAS COUNTY, KANSAS

To All Persons Concerned:

You are hereby notified that a Petition addressed to the Board of County Commissioners of Douglas County, Kansas, has been filed with the County Clerk of Douglas County, Kansas, praying for attachment to existing Rural Water District No. 2, of the tracts of land in Douglas County, Kansas, owned by the Petitioner and described as: The Southeast Quarter of Section 13, Township 13 South, Range 19 East of the Sixth P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Southeast Quarter, thence N90°00'00"E assumed bearing, along the North line of said Southeast Quarter 2660.48 feet to the Northeast corner of said Southeast Quarter; thence S00°30'23"W along the East line of said Southeast Quarter 2655.90 feet to the Southeast corner of said Southeast Quarter; thence N89°58'22"W along the South line of said Southeast

Quarter 2654.60 feet to the Southwest corner of said Southeast Quarter; thence N00°24'49"E along the West line of said Southeast Quarter 2654.60 feet to the Point of Beginning, containing 162.04 acres, more or less. Subject to easements of record and public road rights-of-way.

You are further notified under the authority of K.S.A. 82a-622 through 82a-624 inclusive, and K.S.A. 19-270, that the Petition for Attachment of Lands to Rural Water District No. 2, Douglas County, Kansas will be heard by the Board of County Commissioners, Douglas County, Kansas, on the 12th day of December, 2012, at 6:35 p.m., on the Second Floor of the Douglas County Courthouse, 1100 Massachusetts St., Lawrence, Kansas. Any interested person may present testimony before the Board.

A rural water district shall have no power or authority to levy any taxes whatsoever.

Jameson D. Shew,
Douglas County Clerk
1100 Massachusetts St.
Lawrence, Kansas 66044



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

In the Matter of the Petition for Approval of
Attachment of Lands to Rural Water District No. 2
Douglas County, Kansas

**ORDER OF BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY,
KANSAS, APPROVING ANNEXATION AND ATTACHMENT
OF CERTAIN LAND TO
RURAL WATER DISTRICT NO. 2, DOUGLAS COUNTY, KANSAS**

On December 12, 2012, the same being one of the regular meeting days of the Board of County Commissioners of Douglas County, Kansas (the "Board"), the Petition for Attachment of Lands to Rural Water District No. 2, Douglas County, Kansas (the "Petition"), seeking to attach the land legally described in the attached *Exhibit A* of this Order (the "Land") to Rural Water District No. 2, Douglas County, Kansas (the "District"), came before the Board for hearing pursuant to K.S.A. Sections 19-270 and 82a-622, *et seq.*

The Board, having heard statements of the Petitioner and other evidence presented, having been duly and fully advised in the premises, and having considered the Petition, finds:

1. That a Notice of Hearing was published in the Lawrence Journal-World on December 5, 2012 and the Affidavit of Publication was duly returned to the County Clerk; that on November 27, 2012 the County Clerk mailed, by first class mail, a copy of the Petition and Notice of Hearing to each of the following: (i) owners of the Land, (ii) the office of the Board of Directors of the District, (iii) the Chief Engineer, Division of Water Resources, State Board of Agriculture, (iv) the City of Lawrence, (v) Wakarusa Township; and (vi) the Lawrence-Douglas County Planning Commission; that proper notice has been given as required by K.S.A. Sections 19-270 and 82a-623; and that the hearing on this matter was commenced and completed on December 12, 2012.

2. That the statements in the Petition are true; that a majority of the Board of Directors of the District do not object to the Petition or the requested attachment of the Land; that the Land is without an adequate supply of water and can be economically served by the facilities of the District; and that such attachment of the Land to the District will be conducive to and will promote the public health, convenience and welfare.

3. That the Petition is in conformity with the requirements of K.S.A. 82a-622 through 82a-624.

4. That the Land is located within the three-mile "fringe area" (as defined in K.S.A. 19-270) of the City of Lawrence; that at least a ¾ majority of the Board have approved the extension of the boundaries of the District within the said fringe area; that the City of Lawrence, as well as the Lawrence-Douglas County Planning Commission and Wakarusa Township were notified of the Petition and permitted to present testimony and recommendations concerning the Petition; that all such testimony has been considered.

5. That the Board has considered the criteria and provisions specified by K.S.A. 19-270.

6. That the Land should be and hereby is attached to the District.

IT IS THEREFORE, BY THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY, KANSAS, UNANIMOUSLY ORDERED AND DECLARED that, pursuant to K.S.A. Sections 19-270 and 82a-622, *et seq.*, the Land, legally described in the attached *Exhibit A* which is incorporated herein by this reference, be, and the same is, hereby approved for attachment to the District.

IT IS FURTHER ORDERED that the County Clerk enter the foregoing declaration, findings, decisions and orders in the records of the Board.

IN WITNESS WHEREOF, this Order is dated and entered this 12th day of December
2012.

**COUNTY COMMISSIONERS OF
DOUGLAS COUNTY, KANSAS**

ATTEST:

Mike Gaughan, Chair

Jameson D. Shew,
Douglas County Clerk

Nancy Thellman, Member

Jim Flory, Member

EXHIBIT A

PROPERTY DESCRIPTION

The Southeast Quarter of Section 13, Township 13 South, Range 19 East of the Sixth P.M., Douglas County, Kansas, more particularly described as follows: Beginning at the Northwest corner of said Southeast Quarter, thence N90°00'00"E assumed bearing, along the North line of said Southeast Quarter 2660.48 feet to the Northeast corner of said Southeast Quarter; thence S00°30'23"W along the East line of said Southeast Quarter 2655.90 feet to the Southeast corner of said Southeast Quarter; thence N89°58'22"W along the South line of said Southeast Quarter 2654.60 feet to the Southwest corner of said Southeast Quarter; thence N00°24'49"E along the West line of said Southeast Quarter 2654.60 feet to the Point of Beginning, containing 162.04 acres, more or less. Subject to easements of record and public road rights-of-way.

MEMO

October 30, 2012

TO: Douglas County Commission
Craig Weinaug

FROM: John Bradley, Heritage Conservation Council Chair

RE: Approval of "Douglas County Kansas Heritage Conservation Plan" to be submitted to the Kansas State Historical Society for designation of Douglas County as a Certified Local Government

As outlined in Douglas County Resolution (No. 11-19), one primary purpose of the Heritage Conservation Council is to pursue designation of Douglas County as a Certified Local Government (CLG). In Kansas, the CLG program is designed to promote the preservation of prehistoric and historic sites and districts by establishing a partnership between the local government and the Kansas State Historic Preservation Office (SHPO), a division of the Kansas Historical Society.

The Heritage Conservation Council, in close consultation with the Kansas State Historical Society's Historic Preservation Office, has prepared the *Douglas County Kansas Heritage Conservation Plan* (attached). The Plan has been reviewed and approved by County Administration. The Council seeks County Commission approval of this document to be submitted to the Kansas State Historical Society as part of the application for designation of Douglas County as a CLG. Other required documents to be submitted include a signed Certified Local Government Agreement (attached) and resumes of Heritage Conservation Council members.

The *Douglas County Kansas Heritage Conservation Plan* establishes the Heritage Conservation Council as the County's official body to advise the County on historic preservation issues and outlines a heritage conservation plan for Douglas County Kansas. Participation in the CLG program will result in many positive outcomes. Two key reasons to become a CLG are 1) access to expert technical advice from the State Historic Preservation Office (SHPO) and the National Park Service and; 2) access to federal funding. Specifically, Douglas County would be eligible to apply for competitive grants from the Historic Preservation Fund, administered by the Kansas SHPO. These funds could support ongoing Heritage Council efforts to survey Douglas County's historic and cultural resources. Such funds could also be used to support public education about historic and cultural resources.

Requirements of a CLG include submission of an annual report summarizing activities and accomplishments as well as performance evaluation once every four years conducted by the SHPO. Douglas County will incur no costs in becoming a CLG as the Heritage Conservation Council Coordinator will subsume the administrator responsibilities.

CERTIFIED LOCAL GOVERNMENT AGREEMENT

Pursuant to the provisions of the National Historic Preservation Act, as amended (Act), to applicable federal regulations (36 CFR 61), and to the Procedures for Implementation of Certified Local Governments in Kansas, as amended, Douglas County, Kansas (County) agrees to:

1. Enforce the appropriate legislation for the designation and protection of historic properties and cooperate with the State Historic Preservation Officer (SHPO) in these matters as referenced in the “Requirements for Certification of Local Governments in Kansas” section of the Procedures for Implementation of Certified Local Governments in Kansas, as amended.
2. Maintain an adequate and qualified historic preservation review commission composed of professional and lay members as described in “Requirements for Certification of Local Governments in Kansas” section of the Procedures for Implementation of Certified Local Governments in Kansas, as amended.
3. Maintain a system for the survey and inventory of historic properties as referenced in “Requirements for Certification of Local Governments in Kansas” section of the Procedures for Implementation of Certified Local Governments in Kansas, as amended.
4. Provide for adequate public participation in the historic preservation program, including the process of recommending properties to the National Register as referenced in the “Certified Local Government Participation in the National Register Process” section of the Procedures for Implementation of Certified Local Governments in Kansas, as amended.
5. Adhere to all Federal requirements for the Certified Local Government Program.
6. Adhere to all other requirements outlined in Procedures for Implementation of Certified Local Governments in Kansas, as amended, and issued by the Kansas State Historic Preservation Office.
7. Adhere to all requirements mandated by Congress regarding use of federal historic preservation funds including maintaining an adequate financial management system and requirements outlined in the Historic Preservation Fund Grants Manual.

Upon its designation as a Certified Local Government (CLG), the County shall be eligible for all rights and privileges of a CLG specified in the Act, Federal procedures, and procedures of Kansas. These rights include eligibility to apply for available CLG grant funds in competition only with other Certified Local Governments. If Historic Preservation Fund grants set aside for Certified Local Governments should be awarded to the County by the SHPO, the transfer of such funds and the requirements governing their use will be handled in a separate grant agreement.

STATE:

DOUGLAS COUNTY, KANSAS:

SHPO or Designee

Chief Elected Official

Typed Name and Title

Typed Name and Title

Date

Date

THE PURPOSE OF THE CERTIFIED LOCAL
GOVERNMENT PROGRAM

Since 1966, when Congress first established a preservation program for the United States, the national historic preservation program has operated as a decentralized partnership between the federal government and the states. Through the National Park Service, Department of the Interior, the federal government established a program of identification, evaluation, and protection of historic properties which were implemented primarily by the states and federal agencies. The success of that working relationship prompted Congress to expand the partnership to provide for participation by local governments. The National Historic Preservation Act as amended (16 U.S.C. 470 *et. seq.*) contains the legal basis for the federal-state-local preservation partnership. The federal law directs the State Historic Preservation Officer and the Secretary of the Interior to certify local governments to participate in this partnership and specifies several requirements which the local government must meet. Within federal parameters, each state tailors its Certified Local Government procedures to its circumstances.

The Certified Local Government (CLG) program is designed to promote the preservation of prehistoric and historic sites and districts by establishing a partnership between the local government on behalf of the Kansas State Government and the Kansas Historic Preservation Office (KHPO), a division of the Kansas State Historical Society. The KHPO seeks to encourage and expand local involvement in preservation issues. Some of the goals of the program are as follows:

1. Historic preservation issues should be understood and addressed at the local level and then integrated into the local planning and decision making processes at the earliest possible opportunity.
2. The interests and concerns of local governments should be integrated into the identification, evaluation, nomination, and protective processes of the Kansas Historic Preservation Office.
3. Information on local historic preservation issues should be provided to the Kansas Historic Preservation Office and to the public.
4. Historic preservation should be facilitated at the local level through the establishment of historic preservation commissions and programs.
5. The process employed in the Kansas Inventory of Historic Sites should be used to assist local communities in identifying and defining neighborhood development and conservation areas.

Through participation in the identification, evaluation, and protection of local historic resources, each Certified Local Government can assume a leadership role in the preservation of its community's prehistoric and historic sites, have a formal role in the National Register nomination process, participate in the establishment of state historic preservation objectives, and receive technical and advisory services from the Historic Preservation Office. A Certified Local Government also is eligible to apply annually to the Historic Preservation Office for subgrants from a designated Certified Local Government fund.

I. REQUIREMENTS FOR CERTIFICATION OF LOCAL GOVERNMENTS IN KANSAS

Any general purpose political subdivision of the state, such as a city or county, which meets the criteria set forth in this document, is eligible to apply for certification. The National Historic Preservation Act as amended (16 U.S.C. 470 et. seq.) contains five broad standards, all of which must be met by a local government seeking certification. The federal standards are defined and amplified below.

- A. The local government must enforce appropriate state and local legislation for the designation and protection of historic properties.
 1. The local government must observe any requirements placed on it by the protective clause of the State Historic Preservation Act (KSA 75-2724) and cooperate with the State Historic Preservation Officer in any matters arising under that statute.
 2. The local government must adopt a local historic preservation ordinance. The purpose of the ordinance must be clearly stated. The ordinance must establish an historic preservation commission, define all relevant terms, and specify the number, composition, and duties of the commission.
 3. The ordinance shall give the local preservation commission the authority either to designate local historic districts and individual landmarks or recommend such designation to the jurisdiction's governing body, which may retain final approval. The local ordinance shall clearly define a process and criteria for local landmark designation.
 4. The local ordinance shall contain provisions requiring public hearings for all designation and design review matters. Exceptions to this provision may be made for sensitive historic resources as described in Section 304 (16 U.S.C. 470w-3) of the National Historic Preservation Act as amended (16 USC 470) and the 45-221 exception of K.S.A. 45-215 - 45-223 Open Records Act of 1983 as amended in 1995.
 5. The local government is encouraged to establish provisions for reviewing effects on locally designated properties. The nature and scope of the protections offered for properties on the local register shall be at the discretion of the local government. The criteria upon which a local preservation commission reviews proposals for alteration or demolition must be clearly set forth in the ordinance or adopted by the commission under the authority of the ordinance. Such criteria must be consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Should the local government elect not to include design review under the provisions for the local register, it still must conduct such reviews on Kansas and National Register properties as required by the State Historic Preservation Act (KSA 75-2724).
 6. The local ordinance shall contain specific time limits within which the commission and the applicant shall act.
 7. Provisions for enforcing decisions and a right of appeal must exist in the ordinance or in the general zoning ordinance.

- B. The local government must establish an adequate and qualified historic preservation commission through a local ordinance.
1. Each Certified Local Government shall have a commission with a minimum of five members, whose geographic area of authority is coterminous with the boundaries of that local government's jurisdiction. The commission members must be appointed by the chief elected official of the jurisdiction.
 2. The commission shall be composed of both professional and lay members, all of whom have a demonstrated interest, knowledge, or training in historic preservation. Information on the credentials of the commission members must be kept on file and available to the public. The commission members must attempt to remain current concerning historic preservation issues and techniques.
 3. At least forty percent of the commission membership shall be drawn from the preservation-related profession defined by the National Park Service. These professions currently include Prehistoric and Historic Archeology, Architectural History, Conservation, Cultural Anthropology, Curation, Engineering, Folklore, Historic Architecture, Historic Landscape Architecture, Historic Preservation Planning, Historic Preservation, and History. Additional professions may be added to this list in the future by the National Park Service. This requirement may be waived if the local government can provide written documentation to the Historic Preservation Office that it has made a reasonable effort to fill those positions.
 4. The historic preservation commission shall review all proposed National Register nominations for properties within its jurisdiction as well as alterations, relocations, and demolitions of listed historic properties as required by law. When a commission reviews a National Register nomination or other actions which are normally evaluated by a professional in a specific discipline and that discipline is not represented on the commission, the commission shall seek expertise in that area before rendering its decision. For example, an archeological site is normally evaluated by an archeologist, a building may be evaluated by an architectural historian or an architect. Local governments are encouraged to try to find qualified individuals with expertise in the relevant disciplines to serve on their preservation commissions. If they cannot be found, commissions will need to explore the possibility of utilizing the services of consultants or other outside experts or work with the Historic Preservation Office to meet the need in another way.
 5. Terms of office of commission members shall be staggered and of at least two years duration. There need not be a limit on the number of consecutive terms served by one member.
 6. The local appointing authority shall act within sixty days to fill a vacancy, including expired terms. The Historic Preservation Office shall be provided with the resumes and qualifications of new appointments.
 7. The commission shall adopt rules of procedure or by-laws which shall be made available to the public. Included in the rules of procedure shall be sections which specify attendance requirements for members and which cover potential conflicts of interest situations unless those matters are already covered by other city ordinances. These rules of procedure must be

consistent with state and federal procedures.

8. All meetings of the commission shall be open to the public. Minutes shall be kept of each meeting and shall be available for public inspection. A copy of the minutes of each meeting shall be sent to the Historic Preservation Office at the same time that copies are distributed to commission members. Exceptions may be made as described in Section 304 (16 U.S.C. 470w-3) of the National Historic Preservation Act as amended (16 USC 470) and the 45-221 exception of K.S.A. 45-215 - 45-223 Open Records Act of 1983 as amended in 1995.
 9. The commission must meet as often as necessary to complete its work in a timely manner. The commission must meet no less than twice a year.
 10. All preservation responsibilities and activities shall be carried out by the Certified Local Government in a manner consistent with the state's comprehensive planning process.
 11. An annual report of CLG related activities of the local government shall be submitted to the Historic Preservation Office. The report shall be due no later than August 1 and shall cover the period July 1 to June 30. The report shall include, but is not limited to, such items as number and types of cases reviewed and their disposition, a list of new designations made during the year, changes in boundaries of any previous designations, resumes of new commission members, a list of all current members with their professional disciplines, attendance records, a list of educational meetings attended by commission members, and all minutes relating to National Register nominations.
 12. The State Historic Preservation Officer may, at his or her discretion and by mutual written agreement with the local government, delegate further responsibilities to the Certified Local Government.
 13. In order to stay current with developments in the field, each commission member is strongly encouraged to attend at least one informational or training meeting per year that pertains to fields associated with historic preservation or with the duties of local preservation commissions. Ongoing training of historic preservation commissions may be a factor in the awarding of Historic Preservation Fund subgrants.
 14. All responsibilities and duties assigned to local historic preservation commissions shall be complementary to and carried out in coordination with those assigned to the State in 36 C.F.R. 61.6 (e).
- C. The local government must maintain a system for the survey and inventory of historic properties.
1. The Certified Local Government shall begin or continue a survey process approved by the Historic Preservation Office to identify historic properties within its jurisdiction. All survey and inventory activities as well as other preservation responsibilities shall be carried out by the Certified Local Government in a manner consistent with the state's comprehensive historic preservation planning process which is available from the Kansas Historic Preservation Office.
 2. The Certified Local Government must maintain a detailed inventory of the districts, sites, or structures it has surveyed. All inventory materials shall be kept up to date.

3. All new surveys shall utilize the Kansas Historic Resources Inventory Reconnaissance Form.
 4. All inventory materials shall be accessible to the public except in those conditions specified in Section 304 (16 US.C. 470w-3) and the 45-221 exception of the Kansas Open Meetings Law (K.S.A. 45-215 - 45-223).
 5. Duplicate copies of materials from all survey efforts conducted by the local government shall be provided to the Historic Preservation Office unless already in the files of that office.
- D. The local government shall provide for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register.
1. All meetings of commissions shall adhere to the provisions of the Kansas Open Meetings Law (KSA 75-4318).
 2. Reasonably detailed minutes of all decisions and actions of the commissions, including the reasons for making those decisions, must be kept on file and available for public inspection except in those conditions specified in Section 304 (16 US.C. 470w-3) and the 45-221 exception of the Kansas Open Meetings Law (K.S.A. 45-215 - 45-223)..
 3. All decisions by the commission shall be made in public forum and applicants shall be given written notification of decisions of the commission.
 4. The local ordinance shall contain provisions requiring public hearing for all designation and design review matters.
- E. Local governments shall satisfactorily perform the responsibilities listed in points A through D and those others specifically delegated to them under the National Historic Preservation Act by the State Historic Preservation Officer.

II. PROCESS FOR CERTIFICATION OF LOCAL GOVERNMENTS IN KANSAS

- A. The chief elected official of the local government shall request certification from the Kansas State Historic Preservation Officer. The request for certification will contain the following:
1. A certification agreement signed by the chief elected official or a designated representative that the local government will fulfill all the standards for certification outlined above.
 2. A copy of the local historic preservation ordinance.
 3. A list and accompanying maps of any area or areas already designated as historic districts as well as individual landmarks.
 4. Resumes for each of the members of the historic preservation commission. This would include, where appropriate, credentials of members with expertise in the fields related to historic preservation.
- B. Kansas State Historic Preservation Office staff shall respond to the chief elected official within thirty days of receipt of an adequately documented written request.
- C. If the SHPO determines that the local government fulfills the requirements for certification, an agreement will be signed with the local government.
- D. The agreement with the local government will specify that it satisfies the following minimum requirements:
1. The local government must enforce appropriate state and local legislation for the designation and protection of historic properties.
 2. The local government must establish and continue to maintain an adequate and qualified historic preservation commission.
 3. The local government must establish and maintain a system for the survey and inventory of historic properties.
 4. The local government must provide for adequate public participation in the local historic preservation program, including the process of recommending properties to the National Register.
- E. The certification agreement shall specify either directly or by reference the role of the local government in the National Register nomination process and any other responsibilities delegated to the local government that have been mutually agreed upon by the State Historic Preservation Officer and the local government.
- F. After having determined the CLG application meets all of the requirements in the Kansas State procedures, the SHPO will forward the request for concurrence and the signed review checklist to the Secretary of the Interior, or his or her designee, for review. If the Secretary does not take exception to the request within fifteen working days of receipt, the local government shall be regarded as certified by the Secretary.

III. PROCESS FOR MONITORING, EVALUATING AND DECERTIFYING LOCAL GOVERNMENTS IN KANSAS

A. The Kansas Historic Preservation Office shall periodically monitor and evaluate the performance of Certified Local Governments, but no less often than once a year, to ensure that each government is fulfilling the required standards. Minutes from all commission meetings must be sent to the KHPO at the same time they are sent to the commission members. The minutes assist the state office in the ongoing monitoring of the program and allow the office to identify potential needs for assistance. Continued certification shall be based on performance.

1. The Historic Preservation Office shall review the annual reports submitted by the Certified Local Governments, minutes of the local historic preservation commission meetings, records of the administration of any federal funds received from the Historic Preservation Fund, and other documents as necessary.
2. The local certified government shall make all pertinent records available to the Historic Preservation Office on request.
3. The Historic Preservation Office also may send representatives to meetings of the local historic preservation commission.

B. The following standards shall serve as criteria for the Historic Preservation Office to prepare a written evaluation of the Certified Local Government.

1. Composition of the membership of the local historic preservation commission has been consistent with the requirements in Section I. B.1-3.
2. Members of the commission have attempted to remain current with issues within the field of historic preservation by attending one workshop or conference a year that concerns historic preservation or the disciplines of which it is composed. At least one commission member has attended an historic preservation-related workshop or training program in the reporting year.
3. Design review decisions were consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, state regulations KAR 118-3-1 through 118-3-16, and the Standards and Guidelines for Evaluating the Effect of Projects on the Environs, 1988 Edition.
4. Decisions on the eligibility of properties for the National Register were consistent with the National Park Service criteria.
5. The local preservation commission and the chief local elected official have provided opinions on all properties within their jurisdiction that are proposed for National Register nomination.
6. Public participation requirements of the Kansas Certified Local Government Program have been observed.

7. A system for initiating historic preservation surveys and recording their outcomes has been maintained. If conducted, surveys have been conducted a format consistent with KHPO inventory requirements and copies of the data provided to the Historic Preservation Office.
8. All conditions in the agreement between the Certified Local Government and the State Historic Preservation Office have been met.
9. The annual report was filed on time and contained all required information.
10. The minutes of the local historic preservation commission shall be provided the Historic Preservation Office as required by Section I. B.8.
- *11. Any work funded with Historic Preservation Fund monies was completed in a timely manner, or was on schedule, and consistent with the Secretary of the Interior's standards for that type of work, e.g., survey, planning, National Register Nominations, etc.
- *12. The fiscal management system of the Certified Local Government was in compliance with federal requirements.
- *13. The Certified Local Government properly carried out all of its obligations as a subgrantee.

* Applicable only to Certified Local Governments which receive federal Historic Preservation Fund monies.

- C. If the Historic Preservation Office's evaluation indicates that the performance of a local certified government is inadequate, the Historic Preservation Office shall document that assessment and recommend in writing to the local government specific steps to bring its performance up to an acceptable level.
 1. The Certified Local Government shall have a period of no less than thirty days to implement improvements or may, with SHPO approval, develop an adequate schedule for making necessary improvements.
 2. If the Historic Preservation Office determines that sufficient improvement has not occurred, the State Historic Preservation Officer shall recommend decertification of the local government to the Secretary of the Interior, citing the specific reasons for the recommendation.
 3. Local certified governments may file requests with the State Historic Preservation Officer to be decertified voluntarily and without prejudice.
- D. According to the National Park Service Historic Preservation Fund Grants Manual, when a local government is decertified, current HPF grants may be terminated if the terms of the subgrant can not continue to be met after decertification. If this is the case, the Historic Preservation Office shall suspend or terminate the Historic Preservation Fund assistance to that local government and implement procedures for closing out the grant as specified in the manual.

IV. CERTIFIED LOCAL GOVERNMENT PARTICIPATION IN THE NATIONAL REGISTER PROCESS

NOTE: This section addresses only properly completed National Register nomination forms, which have been prepared in accordance with the Secretary of the Interior's Standards for Registration and Guidelines for Registration (Federal Register, v. 48, no. 190, Sept 29, 1983, pp. 44726-44728) and the National Park Service's technical publication How to Complete National Register Nomination Forms.

Requests for the National Register nomination information, for preliminary opinions by the State Historic Preservation Officer on a property's eligibility, for Part 1 certifications for the preservation tax incentives, etc., will continue to be handled as they have been in the past.

- A. All documentation and materials necessary for the nomination of properties to the National Register of Historic Places shall be received by the State Historic Preservation Officer.
- B. If a property to be nominated lies within the jurisdiction of a Certified Local Government, the Historic Preservation Office shall transmit a copy of the nomination materials together with a staff review to the historic preservation commission of the Certified Local Government within thirty days after the State Historic Preservation Officer has determined that the nomination materials are complete and correct unless the Certified Local Government itself has initiated the nomination.
- C. After providing a reasonable opportunity for public comment, the Certified Local Government shall submit a report to the Historic Preservation Office regarding the eligibility of each property or district proposed for nomination to the National Register within its jurisdiction within sixty days after receipt of the nomination materials. The report shall include the recommendation of the historic preservation commission and the chief elected official and take into account any substantive new information that may be identified through the public meeting process. The report may range from a simple affirmation that the property is eligible to a lengthy research report stating why the property should or should not be nominated. The report shall concentrate on the properties eligibility under the National Register criteria of eligibility. Guidelines on how to apply these criteria will be provided by the Historic Preservation Office. The report could also reference the Certified Local Government's preservation plan or other relevant planning documents. A copy of the report submitted to the Historic Preservation Office shall be available for public inspection locally.
- D. If both the historic preservation commission and the chief elected official agree that the proposed nomination meets the criteria for listing the property in the National Register of Historic Places, the State Historic Preservation Officer will schedule the nomination for consideration by the Kansas Historic Sites Board of Review at the earliest possible opportunity.
- E. If the historic preservation commission and the chief elected official disagree on whether the proposed nomination meets the National Register criteria, the State Historic Preservation Officer will schedule the nomination for consideration by the Kansas Historic Sites Board of Review at the earliest possible opportunity.
- F. If the historic preservation commission and the chief elected official agree that the proposed nomination does not meet the criteria for listing in the National Register of Historic Places, the State Historic Preservation Officer will not schedule the nomination for consideration by the Kansas Historic Sites Board of Review unless an appeal is filed within thirty days with the State Historic Preservation Officer in accordance with the regulations established by the National Park Service on the appeals process.

- G. If the historic preservation commission and the chief elected official do not comment on the proposed nomination within sixty days, the State Historic Preservation Officer shall present the nomination for consideration by the review board at the earliest opportunity.
- H. The Kansas Historic Sites Board of Review, after considering all opinions from the local chief elected official and the historic preservation commission, shall make its recommendations to the State Historic Preservation Officer. According to the federal regulations, properties approved by the board may be forwarded by the State Historic Preservation Office to the Keeper of the National Register. The State Historic Preservation Officer has the discretion to decline to nominate properties the board approves. Either the local historic preservation commission or the chief elected official may appeal the final decision of the State Historic Preservation Officer under the appeals process referenced earlier.
- I. In order to expedite the nomination process a Certified Local Government may elect to send a supporting report with a nomination when it is first submitted by that government or local preservation commission to the State Historic Preservation Officer. The report should be submitted jointly by the chief elected official and the historic preservation commission and should at a minimum clearly state that in their opinion the property is eligible for the National Register and why. Public participation requirements still apply. In addition, the SHPO may expedite the CLG's participation in the nomination process, including the sixty day commenting period, with the concurrence of the CLG, as long as owner notification procedures have been met.
- J. Failure of the Certified Local Government to submit to the Historic Preservation Office report on all proposed nominations within its jurisdiction will be considered by the Historic Preservation Office in its annual review on the Certified Local Government.
- K. Certified Local Government notification procedures do not apply when a federal agency nominates a property under its ownership or control. CLGs are encouraged to coordinate with federal agencies to the extent practical, however, in the consideration of such nominations.
- L. The SHPO may delegate to a CLG other responsibilities pertaining to the processing of National Register nominations, as agreed to by the CLG, including responsibility for National Register owner notifications under 36 CFR 60, (or allowing the local historic preservation commission to act in place of the State Review Board for the purposes of considering nominations).

V. PROCESS FOR TRANSFERRING FUNDS TO CERTIFIED LOCAL GOVERNMENTS

- A. In order to be eligible to receive a portion of the Certified Local Government share of the Historic Preservation Fund allocation to Kansas, a Certified Local Government must meet the following conditions:
1. The Certified Local Government shall have adequate financial management systems which meet the standards of the Office of Management and Budget Circular A-102, Attachment G, which are auditable in accordance with General Accounting Office Standards, and which are periodically evaluated by the State Historic Preservation Officer. (The Historic Preservation Office will provide advice and information on developing and implementing financial management systems which meet the requirements above).
 2. The Certified Local Government shall adhere to all requirements mandated by Congress pertaining to the Historic Preservation Fund.
 3. A local government must meet the standards for certification established by the National Park Service and the state program, as confirmed by the annual report.
- B. The local share of the Kansas allocation from the Historic Preservation Fund will be available to Certified Local Governments on a matching basis for eligible historic preservation activities and projects approved by the Historic Preservation Office. At present, federal law mandates that a minimum of ten percent of the state's annual Historic Preservation Fund allocation be set aside for distribution to Certified Local Governments. Any shortfall in meeting the required ten percent distribution to CLG projects will be returned to the National Park Service for reallocation. At such times as Congress may appropriate more than sixty-five million dollars to the Historic Preservation Fund, one-half of the excess shall also be available to Certified Local Governments. Certified Local Governments may participate in the review and approval of National Register nominations whether or not they elect to receive federal historic preservation funds.
- C. All of the funds for Certified Local Governments will be awarded on a competitive basis. All local governments which have been certified are eligible to apply for funds but will not automatically receive funds. The Kansas State Historical Society requires that a portion of the grant funds be matched by the local government. Grants made from the Historic Preservation Funds cannot be used as a matching share for other federal grants, except for Community Development Block Grants monies or revenue sharing funds. Indirect costs may be charged as a part of the grant only if the Certified Local Government subgrantee meets requirements of Chapter 12 of the Historic Preservation Fund Grants Manual. Unless the Certified Local Government has a current indirect cost rate approved by the cognizant federal agency, only direct costs may be charged.
- D. The Certified Local Government which seeks to obtain a portion of the state's set-aside must complete a project application and budget by the deadline established annually by the Historic Preservation Office. Application forms, instructions, and any annual priorities or criteria for funding established by the Historic Preservation Office will be sent to all CLGs when they become available.

- E. The applications will be ranked by the Kansas Historic Sites Board of Review before recommendations for funding are made to the State Historic Preservation Officer. In general, eligible activities will include projects which further the goals of identification, evaluation, nomination, and protection of the community's historic and cultural resources. This would include survey, nomination of properties to the National Register, development of a comprehensive preservation plan, and public education programs. The applications will be evaluated according to the criteria stated in the annual HPF application. Priority for funding will be given to well-conceived projects that are in accord with the published elements of the state historic preservation plan or the stated annual priorities of the HPF grant program. Past performance on Historic Preservation Fund grants is a major factor in the awarding of funds. Poor past performance on HPF grant projects may be grounds to deny funding unless the applicant can demonstrate that the conditions that led to the difficulties on the previous grants have been resolved.
- F. Certified Local Governments can use Historic Preservation Fund monies only for activities that are identified as eligible in The Historic Preservation Fund Grants Manual.
- G. Use of federal funds will be limited by all existing restriction imposed by the federal government. The KHPO will inform grant applicants of current federal restrictions. The intent of Historic Preservation Fund assistance is to augment, not replace, existing local commitment to historic preservation.
- H. The Certified Local Government which receives Historic Preservation Fund assistance will be considered a subgrantee of the state and will be required to sign a project agreement similar to that of other subgrantees. That agreement will include the specific requirements contained in Sec. V. A. At the end of the project, the Certified Local Government will have to file a completion report and other documents which will be spelled out in the project agreement.
- I. The Certified Local Government must be responsible for including the grant project in the "single audit" completed for the city in accordance with OMB Circulars A-102 and A-133. When requesting reimbursement for expenditure of funds, the Certified Local Government will need to provide the Historic Preservation Office with sufficient documentation for that office to verify that the expenditures occurred. Such documentation may include payroll records, contract documents, invoices, vouchers, canceled checks, etc. The Historic Preservation Office must have this information since the state is responsible for verifying to the National Park Service the subgrantee's match and for the proper accounting of federal funds in accordance with OMB Circulars A-102 and A-133.
- J. The evaluation of performance by the Historic Preservation Office will include an assessment of the Certified Local Governments' fiscal management of the Historic Preservation Fund monies.
- K. No single Certified Local Government should receive a disproportionate share of the allocation. This is based on the assumption that the amount of funds available for Certified Local Governments will be sufficient to fund more than one local government's application, that more than one application will be received, and that each application funded can produce a specific product. If these assumptions are not valid, there is the possibility that only one project may be funded.

APPENDIX A

DEFINITIONS

“Certified Local Government” means a local government that has been certified to carry out the purposes of the National Historic Preservation Act (16 U.S.C. 470 et. seq.), as amended.

“Certified Local Government Share” means that the funding authorized for transfer to local governments in accordance with Sec. 103(c) of the National Historic Preservation Act (16 U.S.C. 470 et. seq.), as amended.

“Chief elected local official” means the elected head of a local government.

“Historic preservation planning” means an ongoing process that is consistent with the technical standards issued by the Department of the Interior and which produces reliable, understandable, and up-to-date information for the decision making related to identification, evaluation, protection, and treatment of historic resources.

“Historic preservation commission” means a board, council, commission, or similar body established by a local historic preservation ordinance.

“Historic Preservation Office” means the Kansas Historic Preservation Office. It is the full-time staff of the Historic Preservation Officer and a division of the Kansas State Historical Society. Its function is to implement the historic preservation program in Kansas.

“Historic Preservation Fund” means the monies accrued under the Outer Continental Shelf Lands Act, as amended, to support the program of matching grants-in-aid to the States for historic preservation programs and projects.

“Local government” means a city or county or any other general purpose political subdivision of the state.

“National Park Service” means the bureau of the Department of the Interior to which the Secretary of the Interior has delegated the authority and responsibility for administering the National Historic Preservation Program.

“National Register of Historic Places” means the national list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture, maintained by the National Park Service, Department of the Interior.

Historic Preservation Fund Grants Manual means the manual that sets forth National Park Service administrative procedures and guidelines for activities concerning the federally related historic preservation programs of the states, tribal governments, and local governments. The manual includes guidelines and procedures for the administration of the historic grants-in-aid program.

“Secretary’s Standards and Guidelines” means the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation. The Standards and Guidelines provide information about archeological and historic preservation activities and methods.

State Historic Preservation Officer” means the official in each state responsible for implementing the historic preservation program. In Kansas it is the Executive Director of the Kansas State Historical Society as designated in K.S.A. 75-2717.

“Statewide historic preservation plan” means the part of the planning process that conforms to the Secretary of the Interior’s Standards for Preservation Planning and is approved as a planning document by the National Park Service. The comprehensive plan entails the organization into a logical sequence of preservation information pertaining to identification, evaluation, registration, and treatment of historic properties, and setting priorities for accomplishing preservation activities.

“Subgrantee” means the agency, institution, organization, or individual to which a subgrant of federal funds is made by the State and which is accountable to the State for the use of the funds provided.

DOUGLAS COUNTY KANSAS HERITAGE CONSERVATION PLAN

ARTICLE 1. GENERAL PROVISIONS

101. TITLE.

This document, as amended, shall be known as the Douglas County, Kansas Heritage Conservation Plan, and is referred to herein interchangeably as this "Heritage Conservation Plan" and this "Plan".

102. ESTABLISHMENT OF HERITAGE CONSERVATION COUNCIL AND STATEMENT OF PURPOSE.

Pursuant to Douglas County Resolution No. 11-19, the Douglas County Commission established and the County Commission hereby affirms the establishment of the Douglas County Heritage Conservation Council, hereinafter referred to as the Council, and the Douglas County Commission hereby modifies Resolution No. 11-19 to amend the Council's authority and responsibilities as set forth herein. If any conflict exists between this Heritage Conservation Plan and Resolution No. 11-19, the provisions of this Plan shall prevail. The purposes of this Heritage Conservation Plan are to:

- (A) Ensure the conservation of the County's natural and cultural resources.
- (B) Identify, conserve and promote the County's natural resources, prehistoric, historic and cultural heritage through an ongoing surveys and studies of natural and cultural heritage resources.
- (C) Implement the strategies and goals contained in Chapter 11 of Horizon 2020 (the County's Comprehensive Plan) for the protection, development and utilization of historic resources.
- (D) Foster civic pride and promote tourism, particularly as related to the natural resources, pre-settlement history, settlement history, and the themes encompassed in Freedom's Frontier National Heritage Area.
- (E) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 *et seq.*, as amended.
- (F) Support education programs to increase public awareness of and support for the County's historic environment.

103. APPLICATION.

The Heritage Conservation Plan is designed to be used in the unincorporated territory of Douglas County, Kansas and is to be used in conjunction with any existing zoning regulations.

104. DEFINITIONS.

For the purpose of implementation of this Heritage Conservation Plan, certain words or terms are hereby defined. Unless specifically defined below, words or terms in this Plan shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Plan its most reasonable application. Words in the present tense include the future, words in the singular number include the plural, and words in the plural number include the singular. The word shall is mandatory and not directory. The following words or terms shall be used as defined below in the administration of this Heritage Conservation Plan. For further

clarification of commonly used historic conservation terms, refer to the Kansas Historic Preservation Act (K.S.A. 75-2715 et seq.); Kansas Administrative Regulations 118-1-1 *et seq.*; Standards and Guidelines for Evaluating the Effect of Project on Environs (1998), Kansas State Historical Society; The National Historic Preservation Act of 1966 and amendments thereto; the National Register Bulletin #16: Guidelines for Completing National Register of Historic Places Forms, NPS; National Register Bulletin #24: Guidelines for Local Surveys: A Basis for Preservation Planning, NPS; Local Historic Resources Survey Manual, Kansas Historic Preservation Department; Harris, Cyril M., Dictionary of Architecture and Construction, McGraw-Hill, New York 1975.

(A) Accessory Structure - A subordinate structure or portion of the main structure, located on the same property and the use of which is clearly incidental to that of the main structure or to the use of the property on which it is located. Customary accessory structures include, but are not limited to, garages, carports, garden houses, small storage sheds, and children's playhouses.

(B) Adaptive Use

(1) The process of changing the use of a structure or property to a use other than that for which the structure or property was originally designed.

(2) A use for a structure or property other than the use for which it was originally designed. (Sometimes called adaptive reuse.)

(C) Adjacent - A structure or parcel having a common parcel boundary with or located immediately next to a structure or parcel.

(D) Administrator - The designated individual assigned by Douglas County to administer, interpret and enforce this Plan.

(E) Archeological Site - (See Site).

(F) Area - Properties, near to or adjacent to one another, capable of being described with such definiteness that their collective location may be established and boundaries definitely ascertained.

(G) Building - A structure, such as a house, barn, church, hotel, courthouse, city hall, social hall, commercial structure, library, factory, mill, train depot, theater, school, store or similar construction, created to shelter any form of human activity. The term may also refer to a small group of buildings consisting of a main building and subsidiary buildings which constitute an historically and functionally related unit such as a courthouse and jail, house and barn, mansion and carriage house, church and rectory, and farmhouse and related outbuildings.

(H) Certified Local Government (CLG) - A program of the National Park Service designed to promote the preservation of prehistoric and historic sites, structures, objects, buildings, and historic districts by establishing a partnership between the local government, the historic preservation department, a division of the Kansas State Historical Society, and the National Park Service. A certified local government carries out the purposes of the National Historic Preservation Act, as amended. Each certified local government is required to maintain a system of ongoing surveys compatible with the Kansas Historic Preservation Department process.

(I) Conservation (See Historic Preservation).

(J) Code Enforcement – the local regulation of building practices and enforcement of safety and housing code provisions, a principal tool to ensure neighborhood upkeep.

(K) Community Development Block Grant (CDBG) – A federal funding program that provides annual funding to eligible local governments for housing and community revitalization and development programs and for social services, particularly in low- and moderate-income areas.

(L) Comprehensive Plan – A document guiding the future growth and development of a specified geographic area and/or governmental entity. It provides a vision and direction for the governing body and a cohesive framework for decision-making.

(M) Context - A conceptual framework for determining the significant patterns that individual properties represent consisting of components that surround a resource and determine its meaning more clearly.

(N) Contributing (or Contributory) - A significant building, site, structure, or object which adds to the architectural qualities, historic association, or archeological values of an historic district because:

(1) It was present during the pertinent historic time; or

(2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period.

(O) County - The governmental unit named Douglas County, Kansas.

(P) County Commission - The Governing Body of Douglas County, Kansas.

(Q) County Limits - The established governmental boundary of Douglas County, Kansas.

(R) Council - The Douglas County Heritage Conservation Council.

(S) Council Members - Members of the Heritage Conservation Council, unless otherwise indicated.

(T) Demolition - Any act or process that destroys in part or in whole a landmark or a structure within an historic district.

(U) Demolition by Neglect – The destruction of a building through abandonment or lack of maintenance or an act or process that threatens to destroy a building, structure, or object of a site by failure to maintain it in a condition of good repair and maintenance.

(V) Design Guideline - A standard of appropriate activity that guides rehabilitation and new construction efforts that preserve and enhance this historic, architectural, scenic or aesthetic character of an area.

(W) Designation – Official recognition of an historic landmark or historic district by the Council and the County Commission according to the procedures and provisions in this Heritage Conservation Plan.

(X) Developer - Any person who:

- (1) Causes real property to be used for development;
- (2) Sells, leases or develops; offers to sell, lease, or develop; or advertises for sale, lease or development any lot, plot, parcel, site, unit of interest, or structure for development; or
- (3) Engages directly or through an agent in the business or occupation of selling, leasing, developing, or offering for sale, lease or development, any lot, plot, parcel, site, unit of interest, or structure for development.

(Y) Development - A subdivision; the construction or reconstruction of streets and utilities, the construction, expansion or remodeling of structures; a change in the use of a structure or parcel, or the clearing of land.

(Z) District - (See Historic District).

105. DEFINITIONS, CONTINUED.

(A) Douglas County Register - The current Douglas County Register of Historic Places as prepared, approved and amended by the Heritage Conservation Council and authorized by resolution.

(B) Easement – A less-than-fee interest in real property acquired through donation or purchase and carried as a deed restriction or covenant to protect important open spaces, building facades, and interiors.

(C) Eminent Domain – The power of government to acquire private property for public benefit after payment of just compensation to the owners.

(D) Endangered Resource - A resource under a known or anticipated threat of damage to the integrity or existence of the resource, such as:

- (1) Immediate threat which will result in loss of or collapse of structure;
- (2) Immediate threat or destruction by private action; and
- (3) Condemnation for code violations. (Sometimes referred to as threatened resource.)

(E) Environs – Environment surrounding a historic landmark or within a district.

(F) Exterior Architectural Appearance - The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs, and appurtenant elements.

(G) Fabric – The physical material of a building, structure, or community connoting an interweaving of component parts.

(H) Facade - The exterior face of a building which is the architectural front, sometimes distinguished by elaboration or architectural or ornamental details.

(I) Green Space – Land not available for construction and designated for conservation, preservation, recreation or landscaping.

(J) Historic District - An area designated as an historic district by the Heritage Conservation Council, pursuant to procedures prescribed herein, and which may contain within definable geographic boundaries one or more significant sites, structures or objects and which may have within its boundaries other properties or structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the significant sites, structures or objects located within the historic district.

(K) Historic Preservation - The study, identification, protection, restoration and rehabilitation of natural resources, buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of the county, state or nation.

(L) Historic Resources – Historic buildings, structures, objects, districts, areas, sites and archeological sites.

(M) Historically or Architecturally Significant - Possessing that quality present in an area, site, structure, object or district because of:

(1) Its character, interest, or value as part of the development, heritage or cultural characteristics of the community, county, state, or nation;

(2) Its location as a site of a significant local, county, state, or national event;

(3) Its identification with a person or persons who significantly contributed to the development of the community, county, state, or nation;

(4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;

(5) Its identification as a work of a master builder, designer, architect, or landscape architect whose individual work has influenced the development of the community, county, state or nation;

(6) Its embodiment of elements of design, detailing, materials, or craftsmanship that render it architecturally significant;

(7) Its embodiment of design elements that make it structurally or architecturally innovative;

(8) Its unique location or singular physical characteristics that make it an established or familiar visual feature;

(9) Its character as a particularly fine or unique example of a utilitarian structure; including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

(N) Kansas Register - The current Register of Historic Kansas Places as prepared, approved and amended by the Kansas Historic Sites Board of Review and authorized by K.S.A. 75-2715 *et seq.*

(O) Key Contributing (Contributory) - A building, site, structure, or object of such an outstanding quality and state of conservation that it significantly adds to the architectural qualities, historic association, or archeological values of an historic district because:

- (1) It was present during the pertinent historic time;
- (2) It possesses integrity and reflects its significant historic character or is capable of yielding important information about the pertinent historic period; and,
- (3) It independently meets the standards and criteria of this Plan.

(P) Land Surface - The solid part of the exterior of the earth.

(Q) Landmark - A site, structure or object designated as a landmark by the Heritage Conservation Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the County.

(R) Landscape – Natural or made-made features, including, but not limited to farmland, and natural resources changed for human purposes.

(S) Landscape Feature - Any element or component of outdoor open space including, but not limited to, fences, walls, retaining walls, gates, wells, sidewalks, walkways, driveways, parking lots, patios, terraces, decks, ground cover, trees, plants, outdoor furniture, exterior light standards, fountains, statuary, detached signs and other such elements.

(T) Marker - A sign used to label or identify a designated landmark or historic district as an architecturally significant property.

(U) National Register - The current National Register of Historic Places established by passage of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470 *et seq.*, as amended.

(V) Natural Resources – Prairies, woodlands, waterways, habitats, wildlife corridors, open spaces, riparian areas, forest and environmentally sensitive areas, i.e., those areas which contain overlapping natural features such as steep slopes, woodlands, natural prairies, wetlands, hydric soils, lakes, streams and prominent ridgelines.

(W) Noncontributing (or noncontributory) - A building, site, structure, or object that does not add to the architectural qualities, historic association, or archeological values of a landmark or historic district because:

- (1) It was not present during the pertinent time; or

(2) Due to alterations, disturbances, additions, or other changes, it no longer possesses integrity nor reflects its significant historic character or is incapable of yielding important information about the pertinent historic period.

(X) Normal Maintenance and Repair - Any improvement or work for which a building permit is not required by county resolution or city ordinance, designed to correct deterioration, decay or damage and restore, as may be practical, a structure or property to the condition that existed prior to the deterioration, decay or damage.

(Y) Nuisances - Physical conditions (affecting land, water, groundwater, the air, noise levels, or other elements of the environment) that endanger human health or safety, injure persons or property, or constitute a clear danger to property.

(Z) Object - Those physical items that have functional, aesthetic, cultural, historical or scientific value and are relatively small in scale and simply constructed. While an object may be, by nature or design, movable, it should be located in a specific setting or environment appropriate to its significant historic use, role or character. Objects include, but are not limited to, sculptures, monuments, street signs, fence posts, hitching posts, mileposts, boundary markers, statuary, and fountains.

106. DEFINITIONS, CONTINUED.

(A) Owner(s) of Record - Those individuals, partnerships, firms, corporations, public agencies, or any other legal entity holding title to property but not including legal entities holding mere easements or leasehold interests. (May also be referred to as property owner(s).) Current owner(s) of record are those listed as owners on the records of the register of deeds.

(B) Period - A chronological division identified in the analysis of the historical development to an area or region (i.e., Victorian, Modern).

(C) Person - Any individual, firm, association, organization, partnership, business, trust, corporation, or company.

(D) Preservation - (See Historic Preservation).

(E) Preservation Easement - (See Easement).

(F) Project - Activities involving the issuance of a lease, permit, license, certificate or other entitlements for use, to any party by the County.

(G) Property - An area of land, undivided by any street, alley, railroad, stream, or similar physical feature, under common ownership or control, which is or will be occupied by one structure or land use, and any accessory structures and uses. A property could be made up of one or more lots of record, one or more portions of a lot or lots of record, or any combination thereof. The term shall include landscape features.

(H) Protection - The application of measures to defend, guard, cover or shield a building, site, structure, or object from deterioration, loss, attack, danger, or injury. In the case of buildings, structures or objects such measures generally are of a temporary nature and usually precede preservation measures. In the case of archeological sites, the protective measures may be temporary or permanent.

(I) Reconstruction/Reconstruct - The reproduction of the exact form and detail of a vanished building, site, structure or object or a part thereof, as it appeared at a pertinent time using both original and modern materials and based on precise historical documentation and physical evidence.

(J) Register - (See Douglas County Register.)

(K) Rehabilitation/Rehabilitate - The act of returning a building, site, structure or object to a useful state through its repair and/or alteration while retaining the characteristic features of the property which are significant to its historical and architectural value.

(L) Remodeling - Modification and modernization of a structure or property without striving to return to or replicate the original historical and architectural character of the structure or property.

(M) Removal - Any relocation of a structure in whole or in part on its site or to another site.

(N) Repair - Any change to a structure or object that is not construction, removal or alteration.

(O) Resource - Any building, site, structure, object or area that constitutes a source of present and future usefulness.

(P) Restoration/Restore - The act of accurately recovering the form and details, based on precise historical documentation and physical evidence, of a building, site, structure or object as it appeared at a pertinent time including the removal of improvements that are not appropriate and the replacement of missing or deteriorated features.

(Q) Right-of-Way - A strip of land occupied or intended to be occupied by a street, crosswalk, footpath, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use.

(R) Sign - Any surface, fabric, device or display designed to visually convey information to the general public.

(S) Significant - (See Historically or Architecturally Significant).

(T) Site - The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historic, cultural or archeological value regardless of the value of any existing structure. Examples of sites include habitation sites, burial sites, village sites, hunting and fishing sites, ceremonial sites, battlefields, ruins of historic buildings and structures, campsites, designed landscapes, natural features, springs, and landscapes having cultural significance.

(U) Stabilization - Taking measures to return an unsafe or deteriorated building, site, structure or object to a safe and secure condition while maintaining the existing form and detail of the building, site, structure or object.

(V) Street - A right-of-way, other than an alley, dedicated to the public use, which provides principal access to adjacent properties.

(W) Structure - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing: buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, and swimming pools.

(X) Studies – In-depth efforts to understand the history of Douglas County through surveys of buildings and natural resources with additional research into the stories of residents and communities with the County.

(Y) Style - The specific identifying characteristics of a building both as it appears to the eye and as it is known to exist in design and structure.

(Z) Survey - An architectural and historical examination of historic resources to identify historic properties within an area.

107. DEFINITIONS, CONTINUED

(A) Threatened Resource - (See Endangered Resource).

(B) Use - The specific purpose for which a structure or property is utilized.

(C) Utilitarian Structure - A category of structures intended primarily to serve a utilitarian or useful function rather than for beauty. Utilitarian structures may include, but are not limited to, structures used for agriculture, transportation and industry and certain moderate residential buildings.

ARTICLE 2. HERITAGE CONSERVATION COUNCIL

201. MEMBERSHIP

The Heritage Conservation Council shall consist of seven (7) members who are Douglas County residents, and who demonstrate an interest in historic preservation and conservation of the County's natural and cultural heritage. Efforts should be made to balance the representation of all communities and unincorporated areas in the County. All members will be appointed and approved by the Douglas County Commission. Three (3) members shall be a diversity of preservation-related professionals, as defined by the National Park Service and recognized by the relevant standards of their respective profession, such as architect, architectural historian, archeologist, historian, landscape architect, and planner. The remaining four (4) members shall be a diversity of either professionals or lay persons with interest infields closely related to agriculture, tourism, unique and significant lands, ecology, geography, natural science, economic development, history or environment. At least one (1) preservation professional shall be on each subcommittee of the Council. The requirement of preservation-related professionals may be waived if Douglas County can provide acceptable written documentation to the Historic Preservation Office that it has made a reasonable effort to fill those positions.

202 TERMS OF OFFICE

Appointments to the Heritage Conservation Council shall be for three (3) years, excepting the first Council which shall consist of two (2) members serving for one (1) year, two (2) members serving for two (2) years, and three (3) members serving for three (3) years. A member may not serve more than two (2) full consecutive terms. The County Commission shall fill vacancies within sixty (60) days. Vacancies shall be filled for the unexpired term only.

203. OFFICERS

Officers shall consist of a Chair and Vice-Chair elected by the members of the Council who shall each serve a term of one year and shall be eligible for re-election; but no member shall serve as Chair for more than two consecutive years. The Chair shall preside over meetings. In the absence of the Chair, the Vice-Chair shall perform the duties of the Chair. If both are absent, a Temporary Chair shall be elected by those present.

204. MEETINGS; QUORUM; VOTING; MINUTES

(A) A quorum shall consist of a majority of the members. Decisions or actions of the Council shall be made using the consensus decision making rule, or by a majority vote if consensus cannot be reached. Meetings shall be held at the discretion of the Council, with at least two of the meetings at the beginning of each calendar year; additional meetings shall be on the call of the Chair. No member of the Council shall vote on any matter that may materially or apparently affect the property, income, or business interest of that member. No member of the Council may vote by proxy. Final decisions regarding property will be made by the County Commission. The Chair, and in his or her absence the Acting Chair, may request the attendance of witnesses.

(B) All meetings of the Heritage Conservation Council shall be open to the public. The Council shall keep records of its examinations and other official actions, all of which shall be filed in the office of the County Planning Department, and with the State Historic Preservation Office at the same time distributed to the members, and shall be a public record.

205. POWERS & DUTIES

(A) All of the powers and duties enumerated herein are subject to the approval, denial, or modification by the County Commission. All decisions made by the County Commission are subject to appeal to the District Court, pursuant to K.S.A. 19-223. Further, all funds necessary to carry out the purpose of this Resolution shall be approved and appropriated only by the County Commission.

(B) In addition to other responsibilities, the Heritage Conservation Council shall:

(1) Adopt its own bylaws and other procedural regulations, to be made available to the public, subject to the laws of the State of Kansas and Douglas County, which shall include attendance requirements and cover potential conflicts of interests;

(2) Keep a register of all properties, lands, and structures that have been designated as landmarks or historic districts, including all information required for each designation;

(3) Administer and preside over all aspects of the Natural & Cultural Heritage Grant Program. This includes evaluating and recommending to the County Commission which projects shall receive funding;

(a) Final recommendations and decisions by the council are subject to an appeal process before the County Commission;

(4) Work in concert with the State Historic Preservation Officer and observe the State Preservation Act, contained at K.S.A. 75-2701 *et seq.*, as amended and comply with the

provisions of the National Historic Preservation Act of 1966, including the provisions protecting access to sensitive areas contained at 16 U.S. C. 470w-3(b), and the corresponding state law provisions contained in the Open Records Act, K.S.A. 45-215, *et seq.*, as amended;

(5) Comply with all requirements of the State Historic Preservation Officer to maintain its status as a Certified Local Government;

(6) Make recommendations regarding any National Register nominations upon request of the State Historic Preservation Officer;

(7) Investigate and recommend to the County Commission the adoption of County resolutions designating sites, structures, land, and objects having special historical, natural, community, or architectural value as landmarks to the Douglas County Register of Historic Places;

(8) Investigate and recommend to the County Commission the adoption of resolutions designating areas having special historic, community, agricultural, natural, or architectural value as historic districts to the Douglas County Register of Historic Places; and

(9) Review this Heritage Conservation Plan at least every two (2) years and make a report containing the following:

(a) An assessment of progress in preserving the architecturally, historically, and naturally important resources of the County;

(b) An analysis of numbers, types, locations, and dispositions of applications for designation and certificates of appropriateness, appeals, and variances as provided for in this resolution;

(c) An assessment of the progress and performance in educating the citizenry about the value of heritage preservation; and

(d) An analysis of the validity of this Heritage Conservation Plan and recommendations for changes.

(C) In addition to other responsibilities, the Heritage Conservation Council may:

(1) Conduct ongoing studies of natural and cultural heritage resources, including but not limited to historically and architecturally significant properties and lands, structures, and areas that exemplify the cultural, social, economic, political, agricultural, environment, or architectural history of the nation, region, state, or county;

(2) Determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or heritage district to another;

(3) Advise and assist owners of properties or structures within the County on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on

procedures for inclusion on the Douglas County, Kansas and National Registers of Historic Places;

(4) Review and comment on any Kansas and National Register nominations submitted to the Council upon request of the County Commission and/or the State Historic Preservation Officer;

(5) Inform and educate the citizens of the County concerning the historic, natural, and architectural heritage of the County by producing maps, newsletters, brochures, pamphlets, books, and/or other appropriate materials, and hold public programs at least twice a year available, and free of charge, to the general public;

(6) Review and comment upon proposed zoning amendments, applications for special use permits, applications for zoning variances, or subdivision applications that affect proposed or designated landmarks and heritage districts. The Director of Planning or the Director of Zoning & Codes, depending upon who is responsible for scheduling the hearing, shall cause copies of all applications for zoning amendments, subdivision approvals, and variances for sites designated as landmarks or within the area of a designated heritage district, to be sent to the Council no less than ten (10) days prior to the date of the hearing by the Lawrence-Douglas County Planning Commission or the Board of Zoning Appeals;

(7) Administer on behalf of the County any full or partial property interest in real property, including easements, that the County may have or accept as a gift or otherwise, upon acceptance of the interest in real property and authorization and approval of such administration by the County Commission;

(8) Seek, accept, and administer on behalf of the County such gifts, grants, and money as may be appropriate for the purposes of this Plan. Such money may be expended for publishing maps and brochures or for hiring a staff person(s) or consultants or performing other appropriate functions for the purpose of carrying out the duties and powers of the Council;

(9) Call upon available County staff members, citizens and other experts for technical advice;

(10) Recommend retaining such specialists or consultants or recommend the appointment of such *ad hoc* citizen advisory committees as may be required or helpful from time to time;

(11) Testify before all boards and commissions, including the Lawrence-Douglas County Planning Commission and Board of Zoning Appeals, on any matter affecting historic, natural, and architecturally significant property, structures, and areas;

(12) Confer recognition upon the owners of landmarks, property or structures within heritage districts by means of certificates, plaques or markers;

(13) Periodically review the County's Zoning Regulations and Subdivision Regulations and recommend to the Lawrence-Douglas County Planning Commission and the County Commission any amendments appropriate for the protection and continued use of landmarks or property and structures within heritage districts;

(14) Attend a heritage preservation-related workshop each year with the aid of County funds, if available; and

(15) Undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or implementation of the purpose of the Heritage Conservation Council.

ARTICLE 3. SURVEYS AND INVENTORY

301. SURVEYS.

The Council shall conduct ongoing County-wide surveys of natural and cultural heritage resources, including but not limited to historically and architecturally significant properties and lands, structures, sites and areas that exemplify the cultural, social, economic, political, agricultural, environmental, or architectural history of the nation, region, state or county. All properties surveyed shall be inventoried in a form compatible with the current Kansas Historic Resources Inventory Form and with the State comprehensive historic preservation planning process. All inventory material shall be available to the public and kept up-to-date.

ARTICLE 4. LANDMARK AND HISTORIC DISTRICT REGULATIONS

401. DOUGLAS COUNTY REGISTER OF HISTORIC PLACES.

(A) There is hereby established a Douglas County Register of Historic Places, which shall include:

(1) A description of all buildings, structures, sites, landscapes and objects designated as landmarks.

(2) A description of the boundaries of each area designated as an historic district.

(3) The boundaries of landmarks and historic districts shall be recorded on the zoning map of the County. A current copy of the Douglas County Register of Historic Places shall be kept on file in the office of the planning administrator.

(B) Landmarks may include, but are not limited to, any:

(1) Exterior of a structure;

(2) Landscape feature or object.

(C) Historic district may include, but are not limited to, two (2) or more structures and/or properties. Individual buildings, sites, structures and objects within designated historic districts shall be classified as key contributing, contributing or noncontributing.

(D) The Register shall be maintained by the Council as an Appendix to this resolution as if fully set out herein.

(E) Maps of each historic district shall be prepared by the applicants, and approved by the Council, identifying each building, site, structure and object with respective classification, and

provided to property owners within the district, and filed with the Register of Deeds of Douglas County, Kansas.

(F) Designation to the Douglas County Register of Historic Places will be made by the Douglas County Commission, on recommendation of the Council.

402. NOMINATION OF LANDMARKS AND HISTORIC DISTRICTS.

(A) Nominations may be made only by application in the form approved by the Heritage Conservation Council. Application for nomination of a site, structure or object for designation as a landmark or of an area for designation as an historic district may be made by motion of the Heritage Conservation Council or County Commission; or in the case of a landmark, by the owner(s) of record of the nominated property or structure; or in the case of an historic district, unanimous consent of the owners of record of property in a proposed historic district.

(B) The application shall contain, at the least:

- (1) The legal description and addresses of the pertinent structures and/or properties and a description of the environs thereof; and
- (2) A statement of historic significance of the nominated property, using the criteria for designation, listed below.

403. CRITERIA FOR DESIGNATION.

(A) The Heritage Conservation Council shall, upon such investigation as it deems necessary, make a determination as to whether a nominated site, structure, object or area possesses significant historical, archeological and/or architectural qualities and thus qualifies for designation pursuant to one (1) or more of the following criteria:

- (1) Its character, interest or value as part of the development, heritage or cultural characteristics of the community, county, state or nation;
- (2) Its location as a site of a significant local, county, state or national event;
- (3) Its identification with a person or persons who significantly contributed to the development of the community, county, state or nation;
- (4) Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period type, method of construction or use of indigenous materials;
- (5) Its identification as a work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, county, state or nation;
- (6) Its embodiment of elements of design, detailing, materials or craftsmanship that render it architecturally significant;
- (7) Its embodiment of design elements that make it structurally or architecturally innovative;
- (8) Its unique location or singular physical characteristics that make it an established or familiar

visual feature;

(9) Its character as a particularly fine or unique example of a utilitarian structure; including, but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance;

(10) Its significance as a site of prehistoric or historic occupation or activity possessing significant archeological value; and

(11) Its character, interest, or value as a cultural or natural resource.

(B) Any site, structure, object or area that meets one (1) or more of the above criteria shall also have sufficient integrity of location, design, materials, feeling, association and setting to make it worthy of preservation or restoration.

404. DESIGNATION OF LANDMARKS AND HISTORIC DISTRICTS.

404.1 SAME; PROCEDURES AFTER APPLICATION SUBMISSION.

Upon receipt of an application nominating a site, structure or object for designation as a landmark, or nominating an area for designation as an historic district, the following procedures shall apply:

(A) The Administrator shall set the date of a public hearing before the Council concerning the application. The hearing shall be held within sixty (60) days following receipt of a completed application. The hearing may be held during a regular meeting of the Council or during a special meeting of the Council called in part for that purpose, and may be continued for good cause shown.

(B) The Administrator shall publish a notice of the public hearing in the official County newspaper, as required. The notice shall specify the time and place of the hearing, the subject matter of the hearing, and invite all interested persons to appear and be heard.

(C) In addition to the requirements of notice by publication, set forth in subsection (B) above, when the hearing concerns a proposed historic district, the publication notice shall further specify the time and place of an informational meeting to be held by the Administrator, and state as follows:

(1) Owners of property within the proposed historic district have five days from the date of the informational hearing within which to file with the Administrator a written consent or protest to the inclusion of their property within the proposed historic district. Any owner who has received the required notices and fails to file a written consent or protest will be deemed to have consented to the inclusion of their property within the historic district.

(2) A copy of the staff report regarding the proposed historic district will be available for public inspection at the office of the County Clerk at least seven (7) days prior to the informational hearing.

(D) Within ten (10) days after publication of the public notice, the Administrator shall cause a copy of the public notice to be served as follows:

- (1) By first class mail to all record owners of property within an owner-nominated landmark or historic district;
- (2) By both certified mail and first class mail to all record owners of property within a non-owner nominated landmark or historic property;
- (3) By first class mail or hand delivery to the Lawrence-Douglas County Metropolitan Planning Commission and all organizations that have submitted a written request to the Administrator within the last year to receive such notices.

(E) When an historic district is nominated without the written consent of each of the owners, proof of receipt of actual notice of the hearing shall be required. Otherwise, failure of any other notice to actually be received by any other person shall not invalidate action on the nomination of an historic district by either the Council or the County Commission.

(F) The Administrator shall prepare a staff report in conjunction with Lawrence-Douglas County Metropolitan Planning Commission (Planning Commission). The staff report shall be completed and available to the public at the office of the Planning Commission at least seven (7) days prior to the public hearing before the Council and by the date of the informational meeting to be held by the Administrator. The staff report shall contain a legal description of the proposed landmark or historic district, public hearing date and location, name(s) of the applicant and owner(s), requested action, history summary, architectural integrity summary, context description, planning and zoning considerations, positive or negative effects of the designation, fiscal comments, summary of applicable designation criteria, and any other information deemed pertinent by the Administrator.

(G) The Administrator shall hold an informational meeting on any application to nominate an historic district at least seven (7) days prior to the public hearing before the Council. At the informational meeting the Administrator shall present a summary of the staff report and such other information as the Administrator deems relevant.

(H) Prior to the hearing of the completed application before the Council, the Administrator shall notify the Council and the Planning Commission of the case and shall transmit to them copies of the application and staff report, proof of service of notice required by subsections (D) 1, 2 and 3 above, copies of any associated correspondence, and such other reports and materials as are deemed pertinent by the Administrator. The application shall not be considered complete until each of the public notice requirements and time requirements have been met.

404.2 SAME; PUBLIC HEARING BEFORE COUNCIL.

(A) The public hearing before the Council may be adjourned from time to time. The Administrator shall make what recommendations the Administrator deems appropriate. Comments shall also be received from the Lawrence-Douglas County Planning Commission, owners of affected property, and all other persons who have an interest in the proceedings.

(B) Following the hearing, the Council shall adopt by resolution a recommendation to be submitted to the County Commission for either (a) designation as a landmark or historic district; (b) denial of designation as a landmark or historic district; or, (c) not to make a recommendation. The resolution shall be accompanied by a report to the County Commission containing the following information:

(1) Explanation of the significance or lack of significance of the nominated landmark or historic district as it relates to the criteria for designation as set forth in Section 403;

(2) Explanation of the integrity or lack of integrity of the nominated landmark or historic district;

(3) In the case of a nominated landmark found to meet the criteria for designation, the Council shall identify the significant exterior architectural features of the nominated landmark that should be protected;

(4) In the case of a nominated historic district found to meet the criteria for designation, the staff shall identify:

(a) The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;

(b) A list of all key contributing, contributing and noncontributing sites, structures, objects and natural resources within the historic district;

(5) The relationship of the nominated landmark or historic district to the ongoing effort of the Council to identify and nominate all potential areas and sites, structures, objects and natural resources that meet the criteria for designation; and

(6) A map showing the location of the nominated landmark or the boundaries of the nominated historic district.

(C) If the Council recommends denial of a nomination, the recommendation may be accompanied by a statement of the reasons for the denial. The Council may make recommendations to the applicant concerning changes, if any, in the proposed action that would cause the Council to reconsider its recommendation of denial and shall confer with the applicant and attempt to resolve as quickly as possible the differences between the owner and the Council.

(1) The applicant may resubmit an amended nomination which addresses the reasons for the denial of the Council's recommendation, or the applicant may appeal the recommendations for denial to the County Commission in accordance with the appeals procedures set out herein.

(D) The Council may recommend and the County Commission may amend or rescind designation of a landmark or historic district in the same manner and procedure as is followed in a designation of a landmark or historic district. A designated landmark or historic district may only be considered for amendment or rescission in the event that the integrity of the designated landmark or historic district is substantially impaired or destroyed by accidental or natural causes.

404.3 SAME; PUBLIC HEARING BEFORE COUNTY COMMISSION.

(A) The County Commission shall consider the application at a public hearing. The public hearing may be during a regularly scheduled meeting. If the application concerns the designation of an historic district, the County Commission shall not consider the application until the period for the filing of written consents and protests has ended. Prior to that hearing, the County Commission shall be provided with the record of the proceedings before the Council. The County Commission may approve a resolution designating a nominated site, structure or object as a landmark, or designating an area as an historic district in accordance with the findings of the Council. The County Commission may also recommend submittal of an application to nominate the proposed landmark or historic district for listing on the Kansas or National Registers of Historic Places.

404.4 SAME; NOTICE OF DESIGNATION.

(A) Within seven (7) days after approval of the nomination by the County Commission, the Administrator shall notify in writing the owner of each structure or property designated as a landmark or included within an historic district. The notice shall outline the results of such designation. The Administrator, as soon as reasonably possible, shall notify the County Building Official and the County Director of Planning of the designation in the manner requested by the county officials.

(C) The Administrator shall cause to be recorded in a timely manner at the Douglas County Register of Deeds a record of any designation of a landmark, historic district, amendment of such designation, or rescission of such a designation.

(D) The designation of a landmark or historic district shall in no way alter the uses permitted by the existing zoning classification or district of the properties so designated. A desire to change permitted uses shall require the filing of an application requesting a zoning change as provided by the County Zoning Regulations.

405. DESIGNATION PROTEST PROCEDURES.

(A) A landmark nomination may be made only with the written consent of the owner.

(B) An historic district nomination may be made only with the consent of all owners within a proposed historic district. Owners of a property within a proposed district shall be given thirty (30) days within which to file written objections to the inclusion of their property in the proposed district. Said thirty (30) days shall commence upon the conclusion of the public hearing before the Heritage Council. Each property owner of record shall be entitled to one vote. If a property owner, who has received the required notice, fails to file a written protest, they shall be deemed to have consented to the inclusion of their property in the proposed district.

406. RESERVED.

ARTICLE 5. RESERVED.

ARTICLE 6. RESERVED.

ARTICLE 7. PUBLIC HEARINGS

701. NOTICE.

Whenever a public hearing is required by this Plan, and unless otherwise provided by this Plan, notice of the time, place and subject of such public hearing shall be given as provided in this Plan and, and as otherwise required by the rules and procedures of the Douglas County Commission:

(A) By publication in the official County newspaper at least once prior to the date of such public hearing, as required.

(B) If the hearing concerns an appeal, notice of such hearing shall also be given by mail to the person(s) filing such appeal or application.

702. BURDEN OF PROOF.

(A) In all hearings the burden of establishing that the requirements and criteria are met for any action shall be upon the party requesting that such action be taken.

(B) A matter on appeal to the County Commission shall be heard de novo.

703. CONDUCT OF HEARINGS.

(A) Public hearings shall be conducted in a manner which allows all interested persons an opportunity to present relevant and non-repetitious information concerning the subject matter of the hearing. The body conducting the hearing may impose reasonable time limitation on comments by the general public.

(B) Minutes shall be kept of such hearings and shall identify the subject matter of the hearing, the persons who testified at such hearing, and the determination made by the body conducting the hearing.

(C) Applicants and appellants may be represented by counsel and shall be allowed a reasonable opportunity to rebut any information presented in opposition to their application or appeal. However, this shall not be construed to require that applicants or appellants be allowed to question opposing witnesses.

ARTICLE 8. PROPERTY OWNED BY PUBLIC AGENCIES

801 PROPERTY OWNED BY PUBLIC AGENCIES.

Many of the historically and architecturally important buildings, sites, structures, and objects are owned by government entities. The preservation of buildings, sites, structures, objects, natural resources and districts significant in American history, architecture, archeology, engineering, and culture is established as national policy in the National Historic Preservation Act of 1966, as amended. The Kansas Historic Preservation Act, as amended, declares that the historical, architectural, archeological, and cultural heritage of Kansas is an important asset of the state and that its preservation and maintenance should be among the highest priorities of government. To accomplish the adopted policies of the federal and state governments and to accomplish the purposes of this Plan, the following regulations promote the preservation of publicly-owned historically and architecturally significant buildings, sites, structures, and objects, and natural resources.

(A) For properties owned by the County and located in the unincorporated territory of the County, the Council may recommend, and the County Commission may authorize, the submittal of a proposed nomination of a building, site, structure, object, or district to the Douglas County Register of Historic Places, the Register of Historic Kansas Places, or the National Register of Historic Places.

(B) To further the purposes of this Plan, the Council may enter into agreements with other units of government. The Council may recommend and the County Commission may authorize on behalf of the County, entering into such agreements. Such agreements may address:

- (1) Designation of landmarks and historic districts;
- (2) Administration of the use of preservation fund resources;
- (3) Improvements to landmarks, properties in historic districts, and properties adjacent to landmarks or historic districts;
- (4) Efforts to encourage the maintenance of landmarks and properties in historic districts;
- (5) Other mutually acceptable provisions.

ARTICLE 9. HISTORIC RESOURCE ADMINISTRATOR

901. DUTIES OF ADMINISTRATOR.

The Administrator shall have the following responsibilities:

- (A) Develop application forms and establish procedures consistent with this Plan;
- (B) Be responsible for recording/taking minutes at each Council meeting;
- (C) Be responsible for publication and distribution of copies of the minutes, reports and decisions of the Council to the members of the Commission;
- (D) Give notice as provided in this Plan or by law for all public hearings conducted by the Council;
- (E) Advise the County Commission of vacancies on the Council and expiring terms of members;
- (F) Prepare and submit to the County Commission a complete record of the proceedings before the Council on any matter requiring County Commission consideration;
- (G) Receive, review, process, and refer to the Council and the County Commission applications for designation of landmarks and historic districts, preservation easements, and appeals provided for in this Plan;
- (H) Record and file approved landmark and historic district designations, preservation easements, and decisions on appeal;
- (I) Maintain an up-to-date copy of the map of landmarks and historic districts, as necessary;

(J) Maintain agenda, minutes, and records of all meetings of the Council including voting records, attendance, resolutions, findings, determinations, and decisions; and

(K) Educate, communicate and inform the residents of Douglas County pursuant to the purpose of this Plan.

ARTICLE 10. INCENTIVES AND EASEMENTS

1001. CONDITIONAL USE PERMIT.

To make the preservation of historically significant structures more economically feasible, the Council may recommend to the Lawrence-Douglas County Planning Commission and the County Commission that a conditional use permit be granted for landmark or historic districts as an alternative zoning category to permit appropriate functions such as bed and breakfast accommodations, house museums, art galleries, and other appropriate specialty uses.

1002. PRESERVATION EASEMENTS.

Conservation easements for land designated as landmarks or included in historic districts or preservation easements on the facades of buildings designated as landmarks or structures of merit may be acquired by the County or other appropriate groups of persons through purchase, donation or condemnation pursuant to the laws of the State of Kansas. A preservation easement would include any easement, restriction, covenant or condition running with the land designed to preserve or maintain the significant features of such landmarks or structures.

1003. RESERVED.

1004. PRESERVATION FUND.

(A) There is hereby established a preservation fund. The fund shall be administered as directed by and according to any limitations and regulations imposed by the County Commission and according to state law. The County may apply for, receive, and place in the fund any federal, state, local, or private gifts, grants, fees, grants-in-aid or bequests. The County Commission may budget and incorporate County revenues into the fund. Fees and fines imposed according to this Plan shall be placed in the fund.

(B) The Council may recommend, and the County Commission may approve, on a case by case basis, that the resources of the Douglas County preservation fund be used for:

- (1) The purchase of fee simple title to landmarks or properties located in an historic district;
- (2) The purchase of conservation or preservation easements regarding landmarks or properties located in an historic district;
- (3) The purchase of fee simple title to landmarks or properties located in an historic district with the eventual objective of property resale subject to a preservation easement;

- (4) Payment of installments and fees according to a contract to purchase fee simple title to landmarks or properties located in an historic district or a preservation easement regarding a landmark or properties located in an historic district;
- (5) Grants and/or loans to owners, developers, and organizations for preservation and/or rehabilitation of landmarks and properties in an historic district;
- (6) Grants and/or loans to organizations for programs and projects designed to achieve one or more of the purposes of this Plan;
- (7) The maintenance of landmarks and properties in historic districts or maintenance of preservation easements;
- (8) The costs of conducting and preparing surveys of historically and architecturally important buildings, sites, structures and objects;
- (9) The costs of preparing nominations of buildings, sites, structures or objects to the State Register or the National Register;
- (10) The costs of the preparation and preservation of reports, instructions, brochures, meetings, maps, press releases, conferences, and other measures designed to acquaint citizens, owners, and developers of the purposes and provisions of this Plan; and
- (11) Reasonable administrative, planning, architectural, engineering, financial, real estate, appraisal, and/or legal costs associated with the purchase of property, the purchase and enforcement of preservation easements, the sale of property, the negotiation of contracts, the preparation of a grant application, and legal actions.

(C) The Council may recommend, and the County Commission may approve, criteria, standards, rules, limitations, and regulations for projects and programs established pursuant to the requirements of this section.

1005. HISTORIC CONSERVATION AWARD PROGRAM.

Preservation-related activities may be reviewed and awards given at appropriate times and may be given in some or all of the following categories as the Council deems appropriate:

- Adaptive Use
- Preservation Project
- Restoration/Renovation
 - (A) Residential
 - (B) Commercial
- Exterior Paint
- Architectural Design
- Contractor

Real Estate Sales Person

Significant Preservation Contributor

The Council may add other appropriate categories to the award program. Winners of the awards may receive plaques and/or certificates.

ARTICLE 11. FEES

1101. FEES.

(A) There shall be a \$50 fee to be paid by the persons nominating an historic district, and a \$10 fee to be paid by persons nominating a landmark. These fees shall be paid at the time of filing the application for nomination. All fees received shall be placed in the preservation fund. Fees may be waived for good cause.

ARTICLE 12. MINIMUM MAINTENANCE REQUIREMENT

1201. MINIMUM MAINTENANCE REQUIREMENT.

All real property, and any building, structure, or utility thereon designated as an historic landmark or contributory and key contributory properties located within an historic district, whether owned or controlled privately or by any public body, shall receive reasonable care, maintenance and upkeep appropriate or its protection, preservation, enhancement, perpetuation, or use in compliance with the terms of this Plan and the applicable resolutions and other regulations of the County.

ARTICLE 13. CIVIL ACTION

1301. CIVIL ACTION.

Any person who willfully constructs, reconstructs, alters, restores, renovates, relocates, stabilizes, repairs or demolishes any building, object, site, or structure in violation of this Plan shall be required to return the building, object, site, or structure to its appearance and setting prior to the violation. Any action to enforce this provision shall be brought by the County. In the event that the cost of returning the building, object, site or structure to its appearance or setting prior to the violation exceeds fifty percent (50%) of the value of the building, object, site or structure, the offender shall make restitution in the form of either reconstructing the building, object, site or structure to its appearance and setting prior to the violation or paying to the preservation fund a dollar amount equivalent to the cost of reconstruction. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty otherwise authorized by state law or county resolution.

**TA-8-11-11 Agritourism
Draft language with changes shown
For December 12, 2012 BoCC meeting**

Draft Language as recommended by PC and revised based on BoCC direction in **bold** print with new changes based on direction at the BoCC December 5 meeting in **bold red** print.

Agritourism

12-303 DEFINITIONS

12-303-1.92 ANCILLARY RETAIL SALES: For the purpose of Section 12-319-7 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:**
 - 1) **Farm markets/roadside stands,**
 - 2) **U-pick operations,**
 - 3) **Farm winery tours and tastings,**
 - 4) **Corn mazes,**
 - 5) **Farm-related interpretive facilities, exhibits, and tours,**
 - 6) **Historical, cultural, or agriculturally related educational and learning experiences, including volunteer workers.**
 - 7) **Farm stays,**
 - 8) **Bed and breakfast establishments,**
 - 9) **Recreation related operations (fishing, hunting, bird watching, hiking, etc),**
 - 10) **Horseback riding,**
 - 11) **Garden, nursery tours and exhibits,**
 - 12) **Pumpkin patch visits and activities,**
 - 13) **Assembly type uses such as fairs or festivals which are historical, cultural, or agriculturally related; weddings; receptions; etc.,**
 - 14) **Ancillary retail sales,**
 - 15) **Other uses that may be determined on a case by case basis if it meets the purpose and intent of the regulations.**
 - a) **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 Section 12-319, Conditional Use Permits, or Section 12-319A, Site Plan Regulations, or Section **XXX** Special Use Permits, although other State and local regulations shall apply. Assembly type uses with an attendance of more than **100** persons shall require approval by the Board of County Commissioners prior to registration per process in Section 12-319-7.02(c).**

- 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.**

- 1) 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.
 - 2) If the Directors are unable to make a determination, the registration will be referred to the Board of County Commissioners.
 - 3) 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. Assembly type uses such as weddings, receptions, fairs, or festivals, that may have an attendance of more than ~~450~~ 100 persons require Board of County Commission approval prior to registration as an agritourism use through the following process:
- 1) Information regarding the assembly type use shall be included with the registration form. The registration shall include, at a minimum, the following information:
 - a) The expected attendance,
 - b) Activities associated with the assembly use,
 - c) **The number of assembly type events anticipated per year.**
 - d) Where parking will be provided on site,
 - e) Lighting location and type if assembly is to occur after dark,
 - f) Means to address health and sanitation at the site.
 - g) Information from the applicable fire department regarding access to the site/assembly use.
 - 2) The County Zoning and Codes Office shall mail notice to all property owners within 1000 ft of the proposed use and the date and time the use will be considered by the Board of County Commissioners. **For assembly type uses that will be located on an unpaved road, the Zoning and Codes Office shall mail notice to all property owners of residentially developed property on an unpaved road which would be considered the most direct route to the nearest hard-surfaced road.** A 20 day notification period is required.
 - 3) The proposed use will be placed on the first available Board of County Commissioner's agenda following the notification period. The Commission will hold a public hearing on the proposed use at the time and place listed in the public notice.

- 4) **The Board of County Commissioners may impose conditions and restrictions in conjunction with approval of the assembly type use.**
 - 5) **With County Commission approval the assembly type use, up to the attendance noted on the registration form, may continue to occur as long as registered as an agritourism use with the State and the County.**
- d. **Only those activities specifically listed in the registration form and approved by the Directors are allowed to occur as agritourism.**
- 1) **Any change in proposed uses would require:**
 - a) **the modification of the registration with the State,**
 - b) **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.**
- e. **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.**
- f. **Engaging in any activity not listed on the registration would be considered a violation subject to the enforcement provisions of Section 12-329.**

12-319-7.03 STRUCTURES AND BUILDING CODES

Structures for **assembly type agritourism uses are required to comply with Douglas County Building Codes.**

*(All language in Section 12-319-5 is new.
Changes based on BoCC comments at December 5, 2012 meeting;
deleted text is shown as ~~struckthrough~~; added text as **bold**)*

12-319-5. SPECIAL EVENTS

12-319-5.01 Purpose and Intent.

- a. The purpose of this section is to establish procedures and standards for conducting short-term special events on private property within the unincorporated area of Douglas County.
- b. The regulations in this section are intended to provide an efficient procedure for processing special event applications while promoting the health, safety and welfare of all persons in the county by ensuring that special events do not create disturbances, become nuisances, disrupt traffic, or threaten or damage persons or property.

12-319.5.02 Special Event Defined.

The term 'special event' shall mean a short-term use of land or structures which is not otherwise included as a permitted or accessory use by these Zoning Regulations.

12-319.503 Exempt Events

The following types of events are exempt from the requirement to have a Special Event Permit:

- a. Private gatherings held by the property owner or resident, (such as wedding receptions or family reunions)
- b. Garage sale, estate **or farm** auction, or similar event. A maximum of 2 of these events are permitted through this exemption per calendar year.
- c. Fundraising or non-commercial events for nonprofit religious, political, educational or community service organizations which meet the following criteria and standards:
 - 1) Event is conducted entirely on private property. ~~owned or leased by the sponsoring organization as a permanent facility.~~
 - 2) Any structure used in conjunction with the special event shall meet all applicable yard setbacks and shall be subject to a valid building permit.
 - 3) The event shall be restricted to hours of operation between 8 AM and 11 PM
 - 4) Maximum duration of 7 days,
 - 5) Maximum of 4 events on a property per calendar year, and
 - 6) Signs displayed in conjunction with use shall comply with sign regulations for the Zoning District in which the property is located.

12-319-5.04 Events which require Special Event Permits

Events which do not meet the criteria for exemption listed in Section 12-309-5.03 require a Special Event Permit.

- a. These include events which are open to the general public, whether or not an admission or entrance fee is charged. These events include, but are not limited to auctions, ~~temporary faith-based assemblies,~~ rallies, concerts, performances, festivals, fairs, carnivals, fundraisers, or similar public gatherings.

- b. Events may occur either with or without the sale or provision of alcoholic liquor or cereal malt beverages. The property owner is responsible for obtaining necessary liquor licenses.

12-319-5.05 Permit Approval Process.

- a. Special Event Permits may be approved administratively or may require approval by the Board of County Commissioners depending on the nature of the activity and the potential impacts to the surrounding properties.
- b. Special Events which do not meet the criteria listed in Section 12-319-5.06 or the standards listed in Section 12-319-5.07 or have characteristics that the Zoning and Codes Director determines may constitute a nuisance or danger shall require approval of the Board of County Commissioners.

12-319-5.06 Criteria for Administrative Approval.

The Zoning and Codes Director shall review the Special Event Permit application with the following criteria to determine if the permit may be processed administratively:

- a. The principal route to the event is on a road network suitable for the anticipated attendance, per the determination of the County Engineer or township official.
- b. Event hours between **8** 7 AM and 11 PM.
- c. The event lasts no more than 14 days.
- d. Up to 4 events within the calendar year may be permitted administratively for a property. Additional events require approval by the Board of County Commissioners.
- e. The event does not propose any overnight sleeping accommodations.

12-319.507 Standards

In addition to the criteria noted above, all special events shall comply with the following performance standards and any additional conditions deemed necessary by the Director of Zoning and Codes, or the Board of County Commissioners, if applicable, in order to minimize any negative impacts to surrounding properties and protect the public health, safety and welfare.

- a. **Noise.** The County Noise Ordinance (HR 11-7-3) shall be observed.
- b. **Parking.** Adequate parking areas (including accessible parking) are required for the event.
 - 1) Accessible parking must be located as near to the event area as possible.
 - 2) Parking shall be provided on the same property as the event to the fullest extent possible. No parking shall occur on the public right-of-way

- 3) Parking may be located on adjoining property with advance written consent of the affected landowner. A copy of the written consent shall be provided to the Zoning and Codes Director prior to approval of the permit.

c. Location of Event.

- 1) The event shall not interfere with access into the site for emergency vehicles.
- 2) No special events are permitted to be located within the regulatory floodway.

d. Health and Sanitation. All requirements of the Lawrence-Douglas County Health Department shall be met.

e. Lighting. All lighting sources shall be shielded or aimed so the direct illumination is confined to the property on which the event is located.

- 1) The operation of searchlights or similar lighting sources is prohibited.
- 2) Flashing light source is prohibited.
- 3) Animated or lighted signs are prohibited.

f. Signage.

- 1) One temporary freestanding or wall-mounted on-site sign is permitted.
- 2) The applicable sign regulations for the Zoning District in which the property is located shall apply.
- 3) Sign text and graphics, which relate only to the special event shall be removed immediately upon cessation of the event.
- 4) Off-premise directional signage, on private property, that describes the location of the use, shall be allowed with the written approval of the property owner. A map with the location of the signage shall be provided to the Zoning and Codes Office prior to event.
- 5) Under no circumstance is signage permitted within the public right-of-way.

g. Other Permits and Laws. Any required local or state permits or licenses, etc., shall be obtained before the Special Event Permit is issued and the event shall comply with all applicable sales tax and other laws of Douglas County.

h. Structures. Any structure used for a special event must comply with Douglas County Building Codes.

i. Site Restoration. The site shall be left free of debris, litter or any other unsightly evidence of the use upon completion or removal of the use and shall thereafter be used only in accordance with the applicable provisions of the zoning regulations.

12-319-5.08 Review and Approval Procedure

Special events which do not meet the exemption criteria listed in Section 12-319-5.03 shall obtain a Special Event Permit through the following procedure:

- a. Submittal of a completed Special Event Permit application, and the appropriate application fee to the Douglas County Zoning and Codes Office.
 - 1) The application must be provided at least **28** days prior to the event to allow time for a review of the application and notification of neighbors.
 - 2) The Director of Zoning and Codes shall make a determination within 7 calendar days of the submittal as to whether the permit may be approved administratively or requires Board of County Commissioners approval.
 - a) Applications which are referred to the Board of County Commissioners for approval will be reviewed and placed on the next available agenda.
- b. The applicant shall obtain a list of property owners within 1000 ft of the property on which the Special Event is proposed from the Douglas County Clerk's Office. If the foregoing area includes area within the corporate limits of a city, the list shall include owners of property extending 200 feet into the corporate limits of the city. The applicant shall mail a letter which contains the information below to the property owners on the list to advise them of the proposed event and provide them the opportunity to contact the applicant or the Zoning and Codes Office if they have any questions.

A Special Event Permit is being proposed for property located at _____ . The event will consist of (brief description of event) and will run from _____ to _____ between the hours of _____. A Special Event Permit application will be submitted to the Douglas County Zoning and Codes Office.

Please contact me at _____ with any questions regarding this event, or the Douglas County Zoning and Codes Office at 785-331-1343.

- 1) The applicant must provide a copy of the letter, the property owner list and certification of the date the letters were mailed to the addresses on the list with their application.
- c. A Special Event Permit may be administratively issued by the Director of Zoning and Codes if the criteria listed in Section 12-319-5.06 and the standards listed in Section 12-319-5.07 are met and the Director determines the event will not create a public nuisance or danger.
- d. Special Events which do not meet the criteria for administrative approval, or are determined to constitute a potential nuisance or danger to the public, shall be referred to the Board of County Commission for action.

- e. Following the approval of the Special Event, a permit shall be issued to the applicant at no additional charge. The permit shall be kept on the premises during the duration of the event.

*(Section 12-319-6 has been revised:
deleted text is shown as ~~struckthrough~~ and new text is in **bold**.
This section has been renumbered, as will be the subsequent sections.)*

**12-319-6 ~~12-319-5.01~~ TEMPORARY BUSINESS USES AND TEMPORARY BUSINESS
USE PERMITS**

Temporary business uses may be permitted in any district upon the review and finding of the Board of County Commissioners that the proposed use is in the public interest. In making such determination, the Board shall consider the intensity and duration of the use, the traffic that can be expected to be generated by the use, the applicant's plans for dealing with sanitation and other public health and safety issues, and other factors which the Board in its discretion determines will affect the public health, safety and welfare.

12-319-6.01 Definitions.

- a. "Temporary business use" shall mean the carrying on of any of the activities enumerated in subparagraph (2) of this Paragraph (b) on real property located in the unincorporated area of Douglas County, Kansas, which is not owned and regularly used by the applicant/sponsor of such activity for such purpose; provided that, "temporary business use" shall not include the activities of persons, families, groups or social or religious organizations that conduct fund raising, social or religious activities on real property which is owned and regularly used by such persons, families or groups for such activity. An activity enumerated in subparagraph (2), below, held on property which is leased or borrowed for the purpose of conducting the activity shall be presumed to be a "temporary business use" which is subject to the requirements of this Section 12-319-6.
- b. Temporary business uses shall include the following activities:
- i. Batching plant, including portland cement, concrete or asphalt.
 - ii. Construction building or construction materials yard.
 - iii. Real estate tract sales office.
 - iv. Flea market or swap meet.
 - ~~v. Concerts, musical performances, plays and other performing arts events.~~
 - ~~vi. Circus or carnival.~~
- 4) Movie or video filming operations involving a combined crew, cast and extras of greater than ten (10) persons, except that one permit may be acquired for a single movie or video filming operation at different locations over a six (6) month period provided the applicant therefor informs the Douglas County Sheriff of each filming location twenty-four (24) hours prior to commencing filming operations.
- c. Application Procedure. An applicant for a temporary business use permit shall make application to the office of the Douglas County Zoning Administrator no less than twenty-eight days before the date of the proposed temporary business use. For good cause shown, the Board of County Commissioners may allow an application to be filed on shorter notice. All applications shall be accompanied by a non-refundable application fee in an amount set by resolution of the Board of County Commissioners but not less

than one hundred dollars. In the application the applicant shall identify each sponsor of or other persons with a financial interest in the proposed activity.

- d. Temporary Business Use Plan. Each temporary business use application shall be accompanied by ten copies of a plan in which the applicant explains the activity, the number of persons anticipated to attend, the location of the ~~event~~ **temporary business use**, and detailed information concerning the applicant's plans and procedures for the following:
- 1) Controlling traffic, parking and road conditions during the ~~event~~ **temporary business use**, including provisions for off-road parking;
 - 2) Addressing health and sanitation concerns at the site, including toilet and drinking water facilities and supplies adequate to meet the anticipated crowd plus a reasonable allowance for additional persons, including certification by Lawrence-Douglas County Health Department that all sanitation and health concerns have been adequately addressed in the applicant's plans;
 - 3) Providing adequate illumination at the site if the ~~event~~ **temporary business use** is to be held at night;
 - 4) Providing security at the site, including the hiring of private security guards;
 - 5) Providing adequate fire safety precautions at the site, including consultation with the township fire department and approval prior to the activity;
 - 6) Evidence that the applicant has secured or can secure adequate general liability and property insurance coverage for the ~~event~~ **temporary business use**;
 - 7) If applicable, the serving of alcoholic beverages, including cereal malt beverage;
- e. Public Notice Requirements. Upon receipt of the application for a temporary business use permit, the Zoning Administrator shall notify the applicant of the date scheduled for a public hearing on such application before the Board of County Commissioners. No less than ten days prior to the public hearing the Zoning Administrator shall send notice of the date, time and place of the hearing by first class mail to the following persons:
- 1) The owners and occupants of properties within 1,000 feet of the boundaries of the site at which the proposed use will occur; and,
 - 2) The owners and occupants of residential structures served by driveways which take access from the public road which shall serve as the primary access to the proposed site and that are within one mile of the main entrance to such site. The public notice provided for herein also shall contain a copy of the temporary business use plan required in paragraph (d) or a summary thereof. The failure of any of the above described persons to receive the notice provided for herein shall not invalidate any proceedings held concerning a temporary business use permit application. The notice required by this subsection shall only be required to be sent to the non-owner occupants of properties described herein if the names and addresses of such persons can be ascertained from records of the County that are available to the Zoning Administrator.

- f.** Public Hearing and Decision by Board. Each application for a temporary business use permit shall be exempt from the requirements of Section 12-319-1, but the application shall be the subject of a public hearing before the Board of County Commissioners on the date and at the time and place set out in the notice required to be given under paragraph (e) of this section. After the public hearing held thereon, the Board may approve or deny the permit, or the Board may continue the hearing or a decision on the permit application until a subsequent meeting. If the permit is approved, the Board shall establish the effective time period for the permit and all conditions under which the permit is granted. Such conditions may include, but shall not be limited to, a requirement that a cash bond be posted by the applicant to reimburse Douglas County for the cost of any overtime incurred by County staff in responding to calls by law enforcement personnel and the provision of other services in connection with the permitted activity. Within 14 days after the conclusion of the use the County Administrator shall review all costs incurred by the County, shall deduct the amount of the costs from the bond, and shall refund the balance of the cash bond to the applicant.
- g.** Permit Not Assignable. Any permit issued under this section may not be assigned by the applicant to any other person without the consent of the Board of County Commissioners.